

**IMAGIC CREATIVE LIMITED  
TERMS OF ENGAGEMENT**

**1. INTRODUCTION**

---

- 1.1 These terms of engagement will apply to all services provided by Imagic Creative Limited (we) subject to any different or additional terms agreed in writing with our client(s) (you).

**2. SCOPE OF THE ENGAGEMENT**

---

- 2.1 At the commencement of an engagement we will send you a letter recording our understanding of the services you require Imagic Creative Limited to deliver to you.
- 2.2 In carrying out the engagement for you we will:
- 2.2.1 keep you informed of all significant developments and information relating to you;
  - 2.2.2 take all reasonable care and skill; and
  - 2.2.3 use our best efforts to deliver the desired outcomes within agreed or anticipated timeframes and costings.
- 2.3 Our duties under these terms of engagement are owed solely to the client(s) who has engaged us. We do not accept any responsibility to any third parties who may be affected by our performance of the engagement, except as expressly agreed in writing between our client(s) and us.

**3. FEES, CHARGES AND PAYMENT TERMS**

---

- 3.1 Our fees will be calculated in accordance with our estimate or quotation (if applicable) and/ or the hourly rates we charge for the personnel working on the engagement. We will also charge you for any payments we make on your behalf to third parties (disbursements).
- We reserve the right to request payment of any fees or disbursements from you in advance.
- 3.2 Our invoices are payable 30 days from the invoice date. Unless agreed otherwise in writing, our usual practice is to issue interim invoices on a monthly basis.
- 3.3 In the event that our invoice(s) are overdue, we reserve the right to suspend the engagement until the invoices are paid, require payment for future fees in advance or terminate the engagement. We also reserve the right to set-off all amounts owing to us against monies or other property we are holding on your behalf. In the event we need to take recovery action from you, you will be liable to reimburse us our actual costs of taking that action (e.g. lawyers or debt collectors fees).

#### **4. OWNERSHIP OF DOCUMENTS, INTELLECTUAL PROPERTY AND COPYRIGHT**

---

- 4.1 You will own all documents that we create on your behalf in the course of the engagement. We will own documents that we have created for our own use in performing the engagement.
- 4.2 We will own copyright in all documents or works that we create in the course of the engagement but grant you a non-exclusive licence to use and copy the documents as you see fit for your own personal or commercial use. However, you may not permit any third party to copy, adapt or use the documents without our written permission.
- 4.3 We reserve the right to exercise a general lien over any and all documents or property we hold on your behalf while you owe us money either for services rendered or for any other reason.

#### **5. CONFIDENTIALITY AND INFORMATION PRIVACY**

---

- 5.1 The parties shall treat all information made available by or on behalf of or at the request of either party in connection with any engagement as strictly private and confidential, and neither party shall divulge such information to any third party or use it in any way for its own advantage.
- 5.2 You grant us the right to disclose your name and address to a credit agency to perform a credit reference or to undertake credit management processes if we deem necessary.
- 5.3 We will comply with all applicable provisions of the Privacy Act 1993 in respect of your personal information that we hold or collect in the course of any engagement.

#### **6. CONFLICTS OF INTEREST**

---

- 6.1 Our relationship involves a high degree of trust and confidence between us. Either party may terminate the engagement at any time if either of us believes that relationship has been undermined for any reason.

#### **7. LIABILITY AND WARRANTIES**

---

- 7.1 If an event in respect of which we have been engaged is cancelled or delayed through no fault of our own, you agree to compensate us for our performance and for any costs we have incurred in connection with the event. We agree to mitigate our loss in such a circumstance.
- 7.2 We will carry out the services with all care and diligence but we do not warrant that any advice, opinion, services or reports given will be true, correct, complete or that they will achieve your desired objectives. In the event that our services are provided for your business purposes, the provisions of the Consumer Guarantees Act 1993 will be excluded to the fullest extent permissible.

## **8. DISPUTES**

---

- 8.1 If any dispute or disagreement between you and us arises in relation to these terms or to any engagement, the party claiming that a dispute has arisen shall notify the other party in writing of the subject and details of the dispute. The parties will then endeavour in good faith to resolve the matter.
- 8.2 If the parties have been unable to resolve the dispute through negotiation within seven days of notice of the dispute, the dispute will be referred to mediation by a single mediator appointed by agreement between the parties. If the parties are unable to agree on a mediator within seven days, then the mediator will be appointed by the President for the time being of the New Zealand District Law Society.
- 8.3 If the parties have been unable to resolve the dispute through mediation within 10 working days after the appointment of a mediator, then the dispute will, by either party giving notice in writing to this effect, be submitted to arbitration in accordance with the Arbitration Act 1996. The arbitration shall be by sole arbitrator appointed by agreement between the parties or failing such agreement by the President for the time being of the New Zealand District Law Society. The arbitrator's decision shall be final and binding on the parties.

## **9. MISCELLANEOUS**

---

- 9.1 No variations to these terms shall be binding unless we have agreed to the variation in writing.
- 9.2 Failure by us to insist on strict performance by you of any of these terms shall not be a waiver of any of our rights on any subsequent occasion.
- 9.3 Neither party shall be liable for any delay or failure to perform its obligations where occasioned by any event beyond that party's reasonable control, and such party shall be entitled to a reasonable extension of time for the performance of any such obligations.
- 9.4 These terms and all agreements made between you and us will be governed by New Zealand law.