



## **SERVICES AGREEMENT**

### GENERAL TERMS & CONDITIONS

#### 1. OVERVIEW

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- 1.1. The Agreement between you (Client) and us (Service Provider) is made up of these General Terms and Conditions (T&Cs) and the accompanying Proposal, along with any subsequent Proposal as agreed upon from time to time.
- 1.2. The Proposal contains the specific information that is relevant to our unique arrangement with you, and is designed to be read alongside the T&Cs.
- 1.3. If there is any inconsistency between the T&Cs and the Proposal, the content of the Proposal will prevail to the extent of the inconsistency.
- 1.4. Any variation to the Proposal must be mutually agreed upon in writing.
- 1.5. The Agreement will come into effect on the Commencement Date and continue for the Term.
- 1.6. Subject to the nature of the Services being provided, additional special conditions may apply as set out in the Proposal.
- 1.7. Both parties will ensure that they hold appropriate insurance where applicable, and agree to comply with all Applicable Laws, both during and following the Term.
- 1.8. You acknowledge that you have read and understood the T&Cs and Proposal prior to signing the Agreement, and have sought professional and/or legal advice should you require clarification on any aspect of the Agreement.

#### 2. SERVICES AND FEES

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- 2.1. The total scope of the Services is as set out in the Proposal, along with the Key Dates for delivery. If Services outside the scope are required, these will be quoted separately at our Hourly Rate.
- 2.2. A Deposit is due on signing the T&Cs within the timeframe specified in the Proposal. The Services will not commence until the Deposit has been paid. The Deposit is non-refundable regardless of Service delivery.
- 2.3. The Deposit secures a start date for us to commence the Services. If you wish to delay the start date, you must provide us with a minimum of 14 days' notice, otherwise a Restart Fee may apply.

- 2.4. All Fees will be payable via electronic funds transfer to our nominated bank account within 3 days of receiving a Tax Invoice. You will receive a Tax Invoice from us prior to payment being due in each instance.
- 2.5. If you do not pay us any portion of the Fees within the stipulated timeframe, we may charge you a 2.5% interest rate. If unpaid Fees are recovered through an external agency, you acknowledge that you will be responsible for the costs involved in the recovery.
- 2.6. Retainer clients will be billed monthly in advance.
- 2.7. We are entitled to vary our Hourly Rate during the Term on providing you with 14 days' written notice.

### 3. DELIVERABLES

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- 3.1. We agree to perform the Services and provide the Deliverables to the best of our ability and in accordance with the Key Dates.
- 3.2. You agree to provide us with all relevant Client Content and any other information we request from you in order to be able to perform the Services.
- 3.3. We will provide you with one to three initial concepts. Two rounds of changes to your preferred concept are incorporated into the quoted Fees, and further changes will be subject to our Hourly Rate.
- 3.4. You acknowledge that our ability to meet the Key Dates is partially dependent on how promptly your feedback is provided. You agree to provide written feedback within three days of our sending the draft Deliverables to you at any stage.
- 3.5. You acknowledge that if feedback is not provided within this timeframe, the draft Deliverables will be deemed to be accepted and the incorporation of any additional feedback will be subject to our Hourly Rate.
- 3.6. We will not be liable for any errors or defects in the Deliverables after they have been accepted by you, and the correction of any errors or defects after completion of the Deliverables will be subject to our Hourly Rate.
- 3.7. You acknowledge that there may be slight discrepancies from the drafts provided versus the finished result. This includes brush strokes, colours, linework, placement, surface contingencies etc. We will always do our best to replicate the drafts to the best of our ability.

### 4. DELAYS AND NONCOMPLETION

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- 4.1. We will not be liable for any failure to perform the Services or meet the Key Dates to the extent that it is caused by your noncompliance with your obligations under the Agreement.
- 4.2. If we are delayed or prevented from performing the Services or meeting the Key Dates, either due to your noncompliance with your obligations

or a Force Majeure Event, we reserve the right to reschedule the Key Dates.

- 4.3. If we are unable to reschedule the Key Dates due to a Force Majeure Event, this shall not be deemed a breach of the Agreement.
- 4.4. If we are unable to perform the Services for any reason and are unable to reschedule the Key Dates, you are entitled to terminate the Agreement and receive a full refund of Fees paid, less deductions for Services already performed.

## 5. INTELLECTUAL PROPERTY

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- 5.1. On full payment of the Fees, we will assign ownership rights (excluding Moral Rights) in the Assigned IP outlined in the Proposal to you. The Assigned IP may only be used for the Agreed Purpose.
- 5.2. Where additional costs are associated with said assignment, you acknowledge that you will be responsible for covering these.
- 5.3. We retain ownership of all Intellectual Property Rights in the Retained IP outlined in the Proposal, and grant you a limited licence to use it for the Agreed Purpose on full payment of the Fees.
- 5.4. You agree not to modify the Deliverables in any way, for any reason, without our prior consent.
- 5.5. You agree not to sublicense, publish, sell or otherwise provide the Deliverables to third parties.
- 5.6. We retain the right to reproduce the Deliverables (including work in progress shots), with reference to you (including your name, business name, logo and any trade marks), on websites, social media and any other media for recognition or professional advancement purposes.
- 5.7. You agree to credit us with performance of the Services wherever reference to them may appear, and creation of the Deliverables wherever they may be reproduced, and ensure that any third party to whom you grant access to the Deliverables does the same.
- 5.8. You acknowledge that all Third Party Materials are the exclusive property of their respective owners, and where such materials are required to perform the Services, you agree to pay the costs associated with their use.

## 6. TERMINATION

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- 6.1. We may terminate the Agreement with immediate effect if:
  - a. you do not pay the Fees within the specified timeframe;
  - b. you fail to provide the Client Content or other information within a reasonable time of our request;
  - c. you otherwise breach any obligation under the Agreement;
  - d. we consider that mutual trust or confidence no longer exists; or

- e. we determine that we are no longer able to perform the Services for any reason.
- 6.2. If we terminate the Agreement in accordance with clause 6.1(e), we will, at our sole discretion:
- a. complete all work for which you have paid the associated Fees; or
  - b. refund Fees paid for work not yet performed, or not able to be performed as a result of termination.
- 6.3. You cannot request a refund if:
- a. the reason for termination is outside of our control;
  - b. you change your mind;
  - c. you fail to clearly explain your needs to us; or
  - d. you insist on the Services being performed in a way that is against our advice.
- 6.4. Either party may terminate the Agreement for any reason on providing 30 days' notice, or immediately if the other party:
- a. is unable to meet their obligations due to a Force Majeure Event for a period exceeding 30 days;
  - b. commits a material breach of the Agreement that is capable of remedy, and fails to remedy it within 7 days;
  - c. commits a material breach of the Agreement that is not capable of remedy; or
  - d. enters liquidation or administration, or becomes insolvent or bankrupt.
- 6.5. If the Agreement is terminated:
- a. our obligation to perform the Services will cease;
  - b. you must immediately pay all Fees payable for the work completed at the date of termination;
  - c. provided you have paid all Fees due, we will provide you with all work completed up to the date of termination that comprises the Services;
  - d. any Fees paid for Services not yet performed may be refunded at our sole discretion; and
  - e. each party must return or destroy (at the other party's request) all Confidential Information of the other party.

## 7. WARRANTIES AND INDEMNITIES

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- 7.1. The Services and Deliverables are provided on an "as is" basis, without representation, warranty or condition of any kind (either express or implied).
- 7.2. Any express or implied warranty or condition relating to the Agreement or its subject matter that are not contained in the Agreement are excluded to the maximum extent permitted by law.
- 7.3. We will use appropriately secure protections and protocols, however given the nature of electronic communication and data storage, we cannot be held responsible for third party interception, virus transmission, or issues with cloud-based storage facilities, including loss of data.

- 7.4. Nothing in the Agreement excludes, restricts or modifies any condition, warranty, right or remedy implied or imposed by any law that cannot be lawfully excluded, restricted or modified.
- 7.5. If any warranty or condition is implied into the Agreement and cannot be excluded, our liability is limited to resupplying the Services or payment of the cost of having the Services resupplied.
- 7.6. You agree to indemnify and hold us and our employees harmless from all claims and losses (including any third party losses) arising from damage, liability, injury or infringement due to a breach of your obligations under this Agreement or that arise out of any information you supply to us.
- 7.7. Neither party will be liable or held in breach of the Agreement for any failure to perform its obligations to the extent that said failure is caused by the other party's noncompliance, negligence or misconduct.
- 7.8. Neither party will be liable to the other for any loss or damage arising out of the Agreement, whether foreseeable or not and however caused, with the exception of confidentiality and indemnification obligations.
- 7.9. We will not be liable for any loss or damage suffered by a third party in connection with the Agreement.
- 7.10. Each party agrees to take reasonable steps to mitigate any loss, damage or expense it may suffer or incur, arising out of anything done or not done by the other party in connection with the Agreement.
- 7.11. Our liability to you (including under indemnity) is capped to the return of all Fees paid, and will be reduced to the extent that your acts or omissions contribute to or cause the liability.

## 8. CONFIDENTIALITY AND PRIVACY

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- 8.1. Each party agrees that, unless it has the prior written consent of the other party, it will:
  - a. keep the Confidential Information of the other party confidential at all times;
  - b. ensure that any person to whom Confidential Information is disclosed is aware of and complies with this clause; and
  - c. where there is prior consent, inform the other party of any proposed disclosure, including the form of disclosure, within a reasonable timeframe.
- 8.2. These obligations of confidentiality do not apply to any disclosure that:
  - a. is for the purpose of performing the Agreement or exercising a party's rights under the Agreement;
  - b. is required by Applicable Law; or
  - c. relates to Confidential Information that is publicly available through no fault of the receiving party, or was rightfully received from a third party without restriction and without the breach of any obligation of confidence.

- 8.3. Any Confidential Information supplied to us that incorporates personal information will be dealt with in accordance with our Privacy Policy, which is available on our website.

## 9. MISCELLANEOUS

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- 9.1. Relationship of Parties  
We are independent contractors, and the relationship between you and us does not constitute that of a partnership, joint venture or employer and employee.
- 9.2. Exclusivity  
We will be the exclusive provider of the Services during the Term, however we may offer similar services to others, solicit other clients and advertise our services at our discretion.
- 9.3. Subcontractors  
We may use subcontractors to perform some or all of the Services. These subcontractors may be located outside of Australia.
- 9.4. Non-Disparagement  
Without limiting either party's rights, each party agrees not to disparage the other or provide negative feedback in a public forum (such as social media or an online review platform) at any time during or following provision of the Services. Where either party is dissatisfied, the issue must be dealt with in accordance with the provision of this Agreement relating to disputes.
- 9.5. Restraint Period  
During the Restraint Period, you agree not to solicit, recruit or otherwise engage any of our subcontractors or employees on any basis. In the event of a breach of this clause, we will be entitled to an agency commission of 25% of the person's starting salary with you, which will be payable within 7 days of the engagement.
- 9.6. Disputes  
Should a dispute of any kind arise during the Term, you agree to contact us so that we can discuss the matter. Both parties will use their best efforts to resolve any dispute in good faith. Failing this, both parties will use their best efforts to resolve the dispute by engaging in mediation in the state where we reside at the time. All costs associated with the dispute, including legal, mediation or arbitration fees, will be borne by you.
- 9.7. Notices  
Where a party gives notice, it must be done in writing to the email address specified in the Proposal, or by post to the residential or business address specified in the Proposal. For email, the notice will be considered delivered on the date it was sent, unless a delivery failure notice was received. For registered or express post, the notice will be considered delivered within 5 Business Days of being sent.
- 9.8. Entire Agreement  
This Agreement constitutes our entire agreement with you about the subject matter. It supersedes all previous agreements, understandings and negotiations, whether written or verbal.

9.9. Governing Law

The formation, construction, performance and enforcement of the Agreement will be in accordance with the laws in force in the state where we reside. You and we submit to the exclusive jurisdiction of the courts of that state.

9.10. Execution and Counterparts

The Agreement will become binding when any one or more counterparts of a Proposal, individually or taken together, are signed by the parties. The Agreement may be executed by way of electronic signature, including by clicking "I consent" or similar. If the Agreement is executed in this way, it will be considered an original that has been properly executed.

9.11. Amendment or Variation

Any amendment or variation to the Agreement is not effective unless agreed by you and us in writing.

9.12. Validity

If any provision of the Agreement is held invalid or unenforceable, it will either be severed from the Agreement or replaced by a valid or enforceable provision. If applicable, any new provision will take effect immediately. All other provisions will remain in effect throughout.

9.13. Assignment

You are not permitted to assign the Agreement or otherwise deal with any benefits or rights under it without our prior written consent. Conversely, we may do so without your consent.

9.14. Interpretation

All headings are for ease of reference and do not affect the interpretation of the Agreement. Words in the singular include the plural and vice versa, and references to "including" and similar words do not imply any limit.

## DEFINITIONS

In the Agreement, the following terms have the stated meaning unless a contrary intention appears.

Agreed Purpose	means the purpose set out in the Proposal for which we are performing the Services and you are entitled to use the Deliverables.
Agreement	means these Terms and Conditions, the Proposal and any Subsequent Proposal.
Applicable Law	means any applicable statute, regulation, by-law, ordinance, policy or subordinate legislation in force from time to time in Australia, whether made by a State, Territory, the Commonwealth or local government that may apply to the Services or either party's obligations under the Agreement.
Business Day	means a day other than a Saturday, Sunday or public holiday in the city of our address in the Proposal.
Business Hours	means 9am to 5pm on any Business Day.
Cancellation Fee	means the fee that may apply for cancellation of the Services as set out in the Proposal.
Client Content	means all information and materials provided by you to us for use in the performance of the Services and/or incorporation into the Deliverables as specified in the Proposal.
Commencement Date	means the date that the Agreement comes into effect as stipulated in the Proposal.
Confidential Information	means information of a confidential nature, including information about a party's business, operations, strategy, policies, procedures, administration, technology, financial position, affairs, clients, customers, employees, contractors or suppliers, and the terms of the Agreement, but does not include any information in the public domain (other than through a breach of confidence).
Deliverables	means all content developed by or for us, as incorporated into and delivered as part of the Services.
Deposit	means the first payment made, being a non-refundable portion of the Fees as set out in the Proposal, that secures provision of the Services in accordance with the Key Dates.
Employees	means, in respect of a party, any of its employees, consultants, suppliers, subcontractors, agents or advisors.
Fees	means the amounts payable by you to us as set out in the Proposal.
Force Majeure	means illness, injury, emergency, pandemic, epidemic, war, act of God, sudden event or other circumstance beyond our control.
GST	means goods and services tax chargeable under A New Tax System (Goods & Services Tax) Act 1999 Cth.
Interest Rate	means the annual interest rate that applies to unpaid Fees as set out in the Proposal.
Intellectual Property Rights	means all current and future registered and unregistered rights in respect of patents, copyright, designs, circuit layouts, trade marks, trade secrets, know-how, confidential information, inventions (including patents), domain names, discoveries, data, databases, business strategies, digital products, templates, and all other rights resulting from intellectual activity, whether created before or after the Commencement Date and whether in Australia or otherwise, that is connected with the products or services of the Service Provider or is invented, created, produced and/or conceived by the Service Provider (independently or jointly with a third party) in the course of their engagement under the Agreement.
Key Dates	means the dates on or by which the Services and/or Deliverables will be performed and/or delivered respectively as set out in the Proposal.
Moral Rights	means the moral rights granted under the Copyright Act 1968 (Cth) including the right of attribution of authorship, the right not to have authorship falsely attributed and the right of integrity of authorship and any similar rights existing under foreign laws.
Our Assigned IP	means the Intellectual Property Rights assigned to you by us in respect of the items listed in the Proposal, to be used in accordance with the Agreed Purpose.
Our Retained IP	means the Intellectual Property Rights that we retain ownership in, whether in existence prior to the Commencement Date or created by virtue of the Agreement, as set out in the Proposal.
Payment Dates	means the dates by which payment of the Fees is due as set out in the Proposal.
Proposal	means the Proposal attached to the Agreement and any subsequent Proposal.
Services	means the scope of the services set out in the Proposal.
T&Cs	means these General Terms and Conditions.
Tax Invoice	has the meaning as set out in <i>A New Tax System (Goods &amp; Services Tax) Act 1999</i> (Cth).
Term	means the term of the Agreement starting on the Commencement Date and ending when the Services have been performed and the Deliverables have been provided, or when the Agreement is otherwise terminated.
Third Party Materials	means any materials, such as documents, designs, and information, belonging to a Third Party.



You/Client	means the party set out in the Proposal.
We/Us/Our/ Service Provider	means the party set out in the Proposal.

## PROPOSAL

Defined Term	Details
We/Us/Service Provider	Name: RAAD Designs ABN: 75 626 784 868 Address: 6/184 Radford Rd Manly West QLD 4179 Email: raadbyally@gmail.com
You/Client	Name: ABN: Address: Email:
Term and Key Dates	Non-recurring Services  The Commencement Date will be the date the 50% deposit is paid.  Concepts will be delivered within one to two weeks of the 50% deposit being made.  Draft Deliverables will be provided one to two weeks of the 50% deposit being made.  The Deliverables will be provided once design had been approved by client and finalised by us.
Deposit, Fees and Payment Dates	Non-recurring Services  50% of the Fees will be payable within 3 days of signing the Agreement and will serve as the Deposit. The Deposit is non-refundable regardless of Service delivery.  The remaining 50% will be payable upon Services delivery and within 7 days of the invoice date.  Additional Fees  Additional Fees may apply as set out below. These will be invoiced separately.  Restart Fee: 30% of invoice total amount Cancellation Fee: 50% of invoice total amount Additional hourly rate: \$100
Services and Deliverables	Non-recurring Services and Deliverables  Illustrations (For web and/or print purposes) Paintings (Paint surface subject to change according what is agreed upon with client/provider) Murals (Indoor and outdoor murals)
Client Content	Design elements (including a moodboard/reference images) Copy (if applicable) Brand assets (e.g. logo) Colour palette Details of the concept the client requires (vision, description of the project etc)
Our Assigned IP	Illustrations Paintings

