



1. Definitions

- 1.1 "Provider" shall mean Love Your Numbers Pty Ltd its successors and assigns or any person acting on behalf of and with the authority of Love Your Numbers Pty Ltd.
- 1.2 "Client" shall mean the Client or any person acting on behalf of and with the authority of the Client.
- 1.3 "Guarantor" means that person (or persons), or entity, who agrees to be liable for the debts of the Client on a principal debtor basis.
- 1.4 "Services" shall mean all services supplied by the Provider to the Client and includes any advice or recommendations.
- 1.5 "Price" shall mean the cost of the Services as agreed between the Provider and the Client subject to clause 3 of this contract.

2. Acceptance

- 2.1 Any instructions received by the Provider from the Client for the supply of Services and/or the Client's acceptance of Services supplied by the Provider shall constitute acceptance of the terms and conditions contained herein.
- 2.2 Where more than one Client has entered into this agreement, the Clients shall be jointly and severally liable for all payments of the Price.
- 2.3 Upon acceptance of these terms and conditions by the Client the terms and conditions are irrevocable and can only be amended with the written consent of the Provider.
- 2.4 The Client shall give the Provider not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client or any change in the Client's name and/or any other change in the Client's details (including but not limited to, changes in the Client's address, facsimile number, or business practice). The Client shall be liable for any loss incurred by the Provider as a result of the Client's failure to comply with this clause.
- 2.5 None of the Provider's agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the manager of the Provider in writing nor is the Provider bound by any such unauthorised statements.

3. Services

- 3.1 The Services are as described in the letter of engagement as provided by the Provider to the Client.
- 3.2 These terms and conditions are to be read in conjunction with the Provider's letter of engagement. If there are any inconsistencies between the two documents, then the terms and conditions contained in this document shall prevail.

4. Price and Payment

- 4.1 The Price shall be as indicated on invoices provided by the Provider to the Client in respect of Services supplied.
- 4.2 At the Provider's sole discretion, a deposit may be required.
- 4.3 Time for payment for the Services shall be of the essence and will be stated on the invoice or any other forms. If no time is stated, then payment shall be due seven (7) days following the date of the invoice.
- 4.4 At the Provider's sole discretion:
 - (a) payment shall be due on delivery of the Services; or
 - (b) payment shall be due before delivery of the Services; or
 - (c) payment for approved Clients shall be made by instalments in accordance with the Provider's payment schedule.
- 4.5 Payment will be made by cash, or by cheque, or by bank cheque, or by direct credit, or by any other method as agreed to between the Client and the Provider.
- 4.6 GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.

5. Delivery of Services

- 5.1 At the Provider's sole discretion delivery of the Services shall take place when:
 - (a) the Client takes possession of the Services at the Provider's address; or
 - (b) the Client takes possession of the Services at the Client's nominated address (in the event that the Services are delivered by the Provider or the Provider's nominated carrier).
- 5.2 The costs of Delivery are included in the Price.
- 5.3 The Client shall make all arrangements necessary to take delivery of the Services whenever they are tendered for delivery. In the event that the Client is unable to take delivery of the Services as arranged then the Provider shall be entitled to charge a reasonable fee for redelivery.
- 5.4 Delivery of the Services to a third party nominated by the Client is deemed to be delivery to the Client for the purposes of this agreement.
- 5.5 The Provider may deliver the Services by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions in these terms and conditions.
- 5.6 The failure of the Provider to deliver shall not entitle either party to treat this contract as repudiated.
- 5.7 The Provider shall not be liable for any loss or damage whatever due to failure by the Provider to deliver the Services (or any of them) promptly or at all.



6. Risk

6.1 If the Provider retains ownership of the Services nonetheless, all risk for the Services passes to the Client on delivery.

7. Errors and Omissions

7.1 The Client shall inspect the Services on delivery and shall within seven (7) days of delivery (time being of the essence) notify the Provider of any alleged defect, shortage in quantity, errors, omissions or failure to comply with the description or quote. The Client shall afford the Provider an opportunity to inspect the Services within a reasonable time following delivery if the Client believes the Services are defective in any way. If the Client shall fail to comply with these provisions, the Services shall be conclusively presumed to be in accordance with the terms and conditions and free from any defect or damage.

7.2 For defective Services, which the Provider has agreed in writing that the Client is entitled to reject, the Provider's liability is limited to either (at the Provider's discretion) replacing the Services or repairing the Services, except where the Client has acquired Services as a consumer within the meaning of the Trade Practices Act 1974 (CWlth) or the Fair Trading Acts of the relevant state or territories of Australia, and is therefore also entitled to, at the consumer's discretion either a refund of the purchase price of the Services, or repair of the Services, or replacement of the Services.

8. Indemnity

8.1 The Client agrees to indemnify the Provider, its partners, associates, employees, contractors and any other person who may be sought to be made liable in excess of the limit of liability described in clause 0 in respect of any activity arising from or connected with these terms in respect of any claim of whatever kind, including negligence, that may be made by any person and any costs and expenses that may be incurred by the Provider.

9. The Commonwealth Trade Practices Act 1974 ("TPA") and Fair Trading Acts ("FTA")

9.1 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the TPA or the FTA in each of the States and Territories of Australia, except to the extent permitted by those Acts where applicable.

10. Default & Consequences of Default

10.1 Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% per calendar month and such interest shall compound monthly at such a rate after as well as before any judgment.

10.2 If the Client defaults in payment of any invoice when due, the Client shall indemnify the Provider from and against all costs and disbursements incurred by the Provider in pursuing the debt including legal costs on a solicitor and own client basis and the Provider's collection agency costs.

10.3 Without prejudice to any other remedies the Provider may have, if at any time the Client is in breach of any obligation (including those relating to payment), the Provider may suspend or terminate the supply of Services to the Client and any of its other obligations under the terms and conditions. The Provider will not be liable to the Client for any loss or damage the Client suffers because the Provider exercised its rights under this clause.

10.4 If any account remains overdue after thirty (30) days, then an amount of the greater of \$20.00 or 10.00% of the amount overdue (up to a maximum of \$200) shall be levied for administration fees which sum shall become immediately due and payable.

10.5 Without prejudice to the Provider's other remedies at law the Provider shall be entitled to cancel all or any part of any order of the Client which remains unperformed and all amounts owing to the Provider shall, whether or not due for payment, become immediately payable in the event that:

- (a) any money payable to the Provider becomes overdue, or in the Provider's opinion the Client will be unable to meet its payments as they fall due; or
- (b) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
- (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.



11. Security and Charge

- 11.1 Despite anything to the contrary contained herein or any other rights which the Provider may have howsoever:
- where the Client and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Client and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to the Provider or the Provider's nominee to secure all amounts and other monetary obligations payable under the terms and conditions. The Client and/or the Guarantor acknowledge and agree that the Provider (or the Provider's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be released once all payments and other monetary obligations payable hereunder have been met;
 - should the Provider elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Client and/or Guarantor shall indemnify the Provider from and against all the Provider's costs and disbursements including legal costs on a solicitor and own client basis;
 - the Client and/or the Guarantor (if any) agree to irrevocably nominate constitute and appoint the Provider or the Provider's nominee as the Client's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 11.1.

12. Cancellation

- 12.1 The Provider may cancel these terms and conditions or cancel delivery of Services at any time before the Services are delivered by giving written notice. On giving such notice the Provider shall repay to the Client any sums paid in respect of the Price. The Provider shall not be liable for any loss or damage whatever arising from such cancellation.
- 12.2 In the event that the Client cancels delivery of Services the Client shall be liable for any loss incurred by the Provider (including, but not limited to, any loss of profits) up to the time of cancellation.

13. Privacy Act 1988

- 13.1 The Client and/or the Guarantor/s agree for the Provider to obtain from a credit reporting agency a credit report containing personal credit information about the Client and Guarantor/s in relation to credit provided by the Provider.
- 13.2 The Client and/or the Guarantor/s agree that the Provider may exchange information about the Client and the Guarantor/s with those credit providers either named as trade referees by the Client or named in a consumer credit report issued by a credit reporting agency for the following purposes:
- to assess an application by the Client; and/or
 - to notify other credit providers of a default by the Client; and/or
 - to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
 - to assess the credit worthiness of the Client and/or Guarantor/s.
- 13.3 The Client consents to the Provider being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).
- 13.4 The Client agrees that personal credit information provided may be used and retained by the Provider for the following purposes and for other purposes as shall be agreed between the Client and Provider or required by law from time to time:
- provision of Services; and/or
 - analysing, verifying and/or checking the Client's credit, payment and/or status in relation to provision of Services; and/or
 - processing of any payment instructions, direct debit facilities and/or credit facilities requested by Client; and/or
 - enabling the daily operation of Client's account and/or the collection of amounts outstanding in the Client's account in relation to the Services.
- 13.5 The Provider may give information about the Client to a credit reporting agency for the following purposes:
- to obtain a consumer credit report about the Client; and/or
 - allow the credit reporting agency to create or maintain a credit information file containing information about the Client.

14. Lien

- 14.1 The Provider reserves the right to retain possession of any documents or papers pending payment in full (plus and interest or damages if any) of any amounts outstanding.
- 14.2 On completion of any Services the Provider will retain any documents for seven (7) years after which they will be destroyed unless otherwise notified by the Client.
- 14.3 The Provider is under no obligation to release any documentation if the Client is in default of payment.



15. Liability Limitations

- 15.1 Under the Professional Standards Act 1994 and the Scheme approved under that Act, the liability of the Firm, its partners, associates and employees or contractors is limited to a maximum sum specified by the scheme as in force at the time of the relevant act or omission.
- 15.2 The Scheme does not apply to limit our liability arising from any of the following:
- death of or personal injury to a person;
 - negligence or other fault of a legal practitioner in acting for a client in a personal injury claim;
 - breach of trust;
 - fraud or dishonesty; or
 - liability which is the subject to proceedings under the Land Title Act 1994, part 9, division 2, subdivision C.
- 15.3 The exceptions listed above are not exhaustive and may include other situations such as members not meeting the requirements of the Act or the Scheme, for example, non-disclosure of the limitation of their liability, etc.
- 15.4 The Client agrees, to the extent permitted by law, that the liability to the Client of the Provider, its partners, associates and employees or contractors in any way arising from or connected with this engagement including, without limitation, liability for negligence, will be limited to a maximum of \$500,000, where the fee for the engagement is up to \$50,000, or ten times the fee (subject to a \$50 million ceiling), for fees in excess of \$50,000 and the Client realises and indemnifies the Provider, its partners associates and employees or contractors from all claims arising from or connected with the performance or purported performance of any Services arising from or connected with this agreement to the extent any such claim or claims made exceed that limit.
- 15.5 The Provider shall be under no liability whatever to the Client for any indirect loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by the Provider of these terms and conditions.

16. General

- 16.1 If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 16.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales and are subject to the jurisdiction of the courts of New South Wales.
- 16.3 The Provider shall be under no liability whatever to the Client for any indirect loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by the Provider of these terms and conditions.
- 16.4 In the event of any breach of this contract by the Provider the remedies of the Client shall be limited to damages. Under no circumstances shall the liability of the Provider exceed the Price of the Services.
- 16.5 The Client shall not be entitled to set off against or deduct from the Price any sums owed or claimed to be owed to the Client by the Provider.
- 16.6 The Provider may license or sub-contract all or any part of its rights and obligations without the Client's consent.
- 16.7 The Provider reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which the Provider notifies the Client of such change.
- 16.8 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.
- 16.9 The failure by the Provider to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect the Provider's right to subsequently enforce that provision.