



Terms and Conditions

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1. Definitions and Interpretation

In these Conditions, the Rate Schedule and every Quote, Order, Plan contract, or other arrangement in connection with the supply of Goods or Services by Feather Brick Truck the following words have the following meanings:

- a. "After Hours" means from 17:30 to 09:00 hours Monday to Friday and all day Saturday and Sunday, excluding Public Holidays
- b. "Feather Brick Truck" means Feather Brick Truck Pty Ltd ABN: 31 648 125 482 and its heirs, successors and assigns;
- c. "Business Hours" means Monday to Friday from 09:00 to 17:30 hours excluding Public Holidays;
- d. "Conditions" means these terms and conditions;
- e. "Customer" or 'you" means a person who seeks or obtains a quote for, or who orders, Goods or Services from Feather Brick Truck, and includes both a person whose name is on the order or on an email attached to which is an order, a person who places an order, and a person on whose behalf an order is placed or on whose behalf it appears and order is placed, and in any case each of their heirs, successors and assigns;
- f. "Goods" means any goods and/or services sourced by Feather Brick Truck or provided by Feather Brick Truck in connection with any such goods and/or services including website development, online marketing and digital production services and any goods or services provided in connection with any of those things;
- g. "GST" has the meaning given to it under A New Tax System (Goods and Services Tax) Act 1999 (Cth);
- h. "Hours" means, where a customer agrees to buy Services from Feather Brick Truck for a specified number of hours, that number of hours;
- i. "Order" means any order provided to Feather Brick Truck for Goods or Services in any form;
- j. "Quote" means a quote provided by Feather Brick Truck;
- k. "Period" means a particular number of half-days, days, weeks, fortnights, months, or any other period, as may be agreed between Feather Brick Truck and the Customer as the period during which some Services will be provided;
- l. "Plan" means any arrangement between Feather Brick Truck and a Customer (whether alone or in conjunction with any other person) for Services (including unlimited support) and/or the provision of Goods provided by Feather Brick Truck under an arrangement in connection with Work agreed to be done or progressed for

- or on account of the Customer or any other person at the Customer's request, including as set out in a Plan Schedule;
- m. "Plan Schedule" means the key terms applicable to Plans as set, and as may be varied by, Feather Brick Truck from time to time in its absolute discretion without notice to the Customer;
 - n. "Public Holidays" means any day which is a public holiday throughout New South Wales other than a bank holiday;
 - o. "Rates" means the hourly rates and other charges for Services (including any call-out fees and any Return/Cancellation Fees) set out in the Rates Schedule, a Plan, Plan Schedule, Quote, contract or arrangement entered into by Feather Brick Truck and a Customer;
 - p. "Rate Schedule" means the schedule of rates, charges and conditions for the services of Feather Brick Truck as set, and as may be varied, by Feather Brick Truck from time to time in its absolute discretion without notice to any Customer;
 - q. "Services" means the provision of any services by Feather Brick Truck including Work, advice and recommendations;
 - r. "Software" includes software and any installation, update, associated software and any services provided in connection with any of these things; and
 - s. "Work" means anything Feather Brick Truck may do, provide, customise, produce or acquire, whether or not in connection with, or for the purposes of, a Customer or a Customer's use or benefit, and includes testing, troubleshooting, installation and configuration, consulting, scoping, planning, documenting and quoting for complex items. In these Conditions, the Rate Schedule and every Quote, Order, Plan, contract, or other arrangement in connection with the supply of Goods or Services by Feather Brick Truck, unless the contrary intention appears:
 - t. Words denoting the singular number only shall include the plural number and vice versa;
 - u. Reference to any gender shall include every other gender;
 - v. Reference to any Act of Parliament, Statute or Regulation shall include any amendment currently in force at the relevant time and any Act of Parliament, Statute or Regulation enacted or passed in substitution therefore;
 - w. Headings and words put in bold are for convenience of reference only and do not affect the interpretation or construction of these Conditions;
 - x. All references to dollars (\$) are to Australian currency;
 - y. A reference to time is to Sydney, Australia time;
 - z. A reference to an individual or person includes a corporation, partnership, joint venture, association, authority, trust, state or government and vice versa;
 - aa. A reference to a recital, clause, schedule, annexure or exhibit is to a recital, clause, schedule, annexure or exhibit of or to these Conditions;
 - bb. A recital, schedule, annexure or description of the parties forms part of these Conditions;
 - cc. A reference to any agreement or document is to that agreement or document (and, where applicable, any of its provisions), as amended, novated, supplemented or replaced from time to time;
 - dd. Where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
 - ee. A reference to "includes" means includes without limitation;
 - ff. A reference to "will" imports a condition not a warranty; and
 - gg. A reference to bankruptcy or winding up includes bankruptcy, winding up, liquidation, dissolution, becoming an insolvent under administration (as defined in section 9 of the Corporations Act), being subject to administration and the occurrence of anything analogous or having a substantially similar effect to any of those conditions or matters under the law of any applicable jurisdiction and to the procedures, circumstances and events which constitute any of those conditions or matters.

2. Application of these Conditions

Unless otherwise agreed by Feather Brick Truck in writing, these Conditions are deemed incorporated in and are applicable to (and to the extent of any inconsistency will prevail over) the terms of every Quote, Order, Plan, contract, or other arrangement in connection with the supply of Goods and/or Services by Feather Brick Truck to the Customer.

3. Quotes

- a. Term and effect: Feather Brick Truck may give a Customer a written quote for the supply of Goods and/or Services. Quotes will only be valid for 30 days unless otherwise specified in the Quote. A Quote is merely an invitation to the Customer to place an Order with Feather Brick Truck and the acceptance of a Quote by a Customer will not create a binding contract between the Customer and Feather Brick Truck.
- b. Varying or withdrawing Quotes: Feather Brick Truck may vary or withdraw a Quote at any time in its absolute discretion and without prior notice to a Customer. It may do so for any reason it considers fit, including, e.g. where the Goods or Services become unavailable or the cost price of Goods or Services increases after the date of the Quote.

4. Orders

- a. Order forms: A Customer may place an Order for Goods and/or Services with Feather Brick Truck. Normally, Feather Brick Truck will require that the Customer provides, or that the Customer completes an Order form with, the date and the details of the Customer, including the Customer's full legal name or description and any applicable ABN or ACN number (including the full name or description of any person on whose behalf the order is placed), their address (including in the case of an individual, their residential address) together with any relevant Quote number and date.
- b. Approval of Orders: Each Customer will need to sign the Order or have it duly executed on its behalf, unless the Order is sent by email, in which case the Order will be treated or deemed as if signed by or on behalf of the Customer by the person whose name appears as the sender of the email.
- c. Reliance on appearance of validity: Absent actual knowledge to the contrary, Feather Brick Truck may rely upon the apparent validity of an Order. If any Order is signed or sent by email by a named person, that person warrants that the Order is, and it is acknowledged the Order is deemed in favour of Feather Brick Truck to be:
 - i. signed by, and duly authorised by, both the person who signed the Order and the person who sent the email; and
 - ii. duly authorised by the person on whose behalf the Order is placed or apparently placed.
- d. Cancellation of Orders: Cancellation of Orders after a project has commenced will incur a prorata fee for work already completed.
- e. Processes and Procedures: Feather Brick Truck has process and procedures that it follows in the course of the provision of its Services and the supply of Goods. The Customer agrees to cooperate with Feather Brick Truck and to comply with such processes and procedures as advised to the Customer from time to time.

5. Pricing and Rates

Rates exclude GST: All rates and amounts charged or quoted for Goods and/or Services by Feather Brick Truck are exclusive of GST and any other applicable taxes or government charges (unless otherwise stated in writing by Feather Brick Truck).

- a. Rates Schedule: The Customer must pay for Goods and Services at the Rates set out in any applicable Plan and the Rate Schedule as applicable from time to time during the provision of the Goods and/or Services.
- b. Calculation of increments: Where a charge is calculated based on increments of time, e.g. 1 hour or 30 minutes, Feather Brick Truck will charge the applicable rate for the whole increment of time even if work is done during part of, but not for the whole of, that increment of time.
- c. Term: Where a Plan sets out an applicable term, e.g. six months or a year, unless you give Feather Brick Truck written notice of the cancellation of your Plan up to 30 days before the end of any applicable term, Feather Brick Truck will extend the term of your Plan automatically for another term equal to the original term (or such other term as may be agreed between Feather Brick Truck and the Customer).

6. Services and Plans

- a. Service and Plan Variations: Should the Customer wish to vary the Services provided, Feather Brick Truck may need to re-quote the Project rates and fee.
- b. Termination of Plans: Where a Plan has been entered into by Feather Brick Truck with a Customer with respect to a specific Period, Feather Brick Truck may acquire and retain resources in order to provide the Services to the Customer for the duration of the Period. In consideration of this and subject to these Conditions, the Customer may not terminate the Plan before the end of the Period.

7. Delivery, Title and Risk

- a. Delivery liability: Feather Brick Truck will use all reasonable endeavours to deliver Goods and Services by the due date, but does not accept any liability for non-delivery or failure to deliver on time where this is caused by circumstances beyond the reasonable control of Feather Brick Truck, including, for example, due to failures in supply to Feather Brick Truck or delays caused by third parties.
- b. Retention of Title: Until Feather Brick Truck receives full payment in cleared funds for any moneys due to Feather Brick Truck by a Customer on any account or for any reason:
 - i. title to, and property in, Goods supplied to such Customer remains vested in Feather Brick Truck and does not pass to the Customer;
 - ii. the Customer must hold those Goods as fiduciary bailee and agent for Feather Brick Truck and must not sell them;
 - iii. the Customer must keep those Goods separate from its other goods and maintain the Goods and their labelling and packaging intact;
 - iv. where a Customer sells the goods in breach of these Conditions, the Customer is required to hold the proceeds of any sale of those Goods on trust for Feather Brick Truck in a separate account (however any failure to do so will not affect the Customer's obligation to deal with the proceeds as trustee and remit them to Feather Brick Truck);
 - v. Feather Brick Truck may, without prior notice, enter into any premises where it suspects those Goods may be, take possession of those Goods and sever and remove those Goods (notwithstanding that they may have been attached to other goods not the property of Feather Brick Truck) and for this purpose, the Customer hereby irrevocably authorises and directs Feather Brick Truck (and its employees and agents) to enter into such premises as its duly authorised agent and the Customer hereby indemnifies and holds harmless Innovation Station from and against any costs, claims, allegations, demands, damages or expenses or any other acts or omissions arising from or in connection with, such entry, repossession or removal.

8. Payment, Late Payment and Default

- a. Payment due 14 days: Except in respect of pre-paid Plans, projects, or any other work where payment must be made before the Services are provided, Customers must pay all invoices of Feather Brick Truck within fourteen (14) days from the date of the invoice (unless otherwise agreed in writing) by cash, cheque or direct deposit in accordance with these Conditions and in the way set out in the invoice.
- b. 7 days late: Where a Customer fails to pay an invoice within seven (7) days of the due date, Feather Brick Truck may, in its absolute discretion and without prior notice, suspend or discontinue the supply of Goods and/or Services to that Customer.
- c. Recoveries: All legal and other costs and expenses incurred in connection with the recovery of late payments will be added to the amount due by the Customer to Feather Brick Truck and will be recoverable from the Customer, in addition to the original invoice cost. If the Customer defaults in payment of any invoice on time, moneys which would have become due by the Customer at a later date shall be immediately due and payable without any further notice to the Customer. Collectively, all of these moneys are referred to in these Conditions as a "Sum Due".
- d. Interest: If payment of any Sum Due is not made on time, Feather Brick Truck will charge interest daily on the Sum Due at the rate of ten (10) per centum per annum calculated and charged daily on and from the due date until the Sum Due is paid in full.
- e. Application of funds: All payments of the Sum Due made by the Customer to Feather Brick Truck will be applied as follows:
 - i. first in or towards payment of any costs (including legal costs), charges, expenses or outgoings paid by Feather Brick Truck in relation to and dishonoured cheques fees, collection costs or any other action taken by Feather Brick Truck for the recovery of any amounts owing by the Customer to Feather Brick Truck;
 - ii. secondly, in or towards payment of any interest due or payable hereunder, and
 - iii. thirdly, in or towards payment of the Customer's debts to Feather Brick Truck in order from the longest standing due to the most recently incurred.
- f. Security: Feather Brick Truck may require the Customer to provide security over the Customer's property (including the Goods or any other property of the Customer) as collateral to be held as security for any Sum Due or as a condition precedent to the continuation of supply of Goods or Services by Feather Brick Truck to the Customer.

- g. Payment arrangements: In the event that a repayment arrangement is made in relation to any Sum Due and the supply of Goods or Services is resumed, but then a repayment due under that arrangement is not made on time, Feather Brick Truck may, in its absolute discretion and without prior notice, again suspend or discontinue the supply of Goods or Services to that Customer.
- h. Other remedies: Feather Brick Truck may exercise any of its rights and remedies including taking legal action against the Customer for the recovery of any moneys due to Feather Brick Truck, notwithstanding it may have exercised other rights under these Conditions.
- i. Terminate Plan: A customer may only terminate a Plan where:
 - i. Feather Brick Truck has, in the course of the performance of its Services, committed a material breach of an express term of these Conditions or any applicable Plan, and
 - ii. Feather Brick Truck has failed to substantially remedy the breach within 21 days of a written notice served by the Customer on Feather Brick Truck specifying the breach.

9. Liability

- a. Exclusion: Except as specifically set out herein and so far as may be permitted by law, any term, condition or warranty in respect of the quality, fitness for purpose, condition, description, assembly, manufacture, design or performance of the Goods or Services, whether implied by statute, common law, trade usage, custom or otherwise, is hereby expressly excluded.
- b. No liability for program or data loss: The Customer indemnifies and holds harmless Innovation Station in respect of any allegation, claim, loss or expense of the Customer or any third party for any program or data loss or damage suffered by the Customer or that third party arising directly or indirectly from the supply of the Goods or Services by Feather Brick Truck to the Customer. The Customer acknowledges it is solely responsible for backing up its programs and data in order to mitigate its own potential loss of programs and data.
- c. Limit on consequential damage: The Customer indemnifies and holds harmless Innovation Station in respect of any allegation or claim as to any indirect or consequential losses or expenses suffered by the Customer or any third party, howsoever caused, including but not limited to loss of turnover, profits, business or goodwill or any liability to the Customer or any third party.
- d. Limit on damage from a failure in supply: The Customer indemnifies and holds harmless Feather Brick Truck for any allegation or claim for loss or damage by the Customer or a third party where Feather Brick Truck has failed to meet any delivery date or cancels or suspends the supply of Goods or Services.
- e. General limit on liability: Except as otherwise expressly stated in these terms and conditions, Feather Brick Truck is not liable for any loss or damage of any kind however caused (including, but not limited to, by the negligence of Feather Brick Truck) which is suffered or incurred by you in connection with:
 - i. Goods or Services provided to you or any Work;
 - ii. these terms and conditions;
 - iii. the non-availability of Goods or Feather Brick Truck Services or website services for any reason;
 - iv. any act or omission of Feather Brick Truck or the provision of inaccurate, incomplete or incorrect information by you, or
 - v. for any other reason whatsoever.
- f. Laws still apply: Nothing in these Conditions is to be interpreted as excluding, restricting or modifying or having the effect of excluding, restricting or modifying the application of any State or Federal legislation applicable to the supply of the Goods or Services which cannot be excluded, restricted or modified.
- g. Severance: If any provision contained in the Conditions is unlawful, invalid or unenforceable, those provisions may be severed without prejudice to the validity and enforceability of the remaining provisions of the Conditions.

10. Force Majeure

Feather Brick Truck will not be liable for any breach of contract due to any matter or thing beyond Feather Brick Truck' control, including failures by third parties to supply goods, services or transport, stoppages, transport breakdown, fire, flood, earthquake, acts of God, strikes, lock-outs, work stoppages, wars, riots or civil commotion, intervention or public authority, explosion or accident.

11. Errors and Omissions

Feather Brick Truck makes every effort to ensure that all prices and descriptions quoted are correct and accurate. In the case of an error or omission, Feather Brick Truck may rescind the affected contract by written notice to the Customer, notwithstanding that it has already accepted the Customer's Order and/or received payment from the Customer. Feather Brick Truck' liability in that event will be limited to the return of any money the Customer has paid in respect of the Order.

12. Software

- a. All Software licences are the responsibility of the Customer and not that of Feather Brick Truck. It is the duty of the Customer to store all licences for all Software used, so that that they can be reproduced if and when required.
- b. The Customer indemnifies and holds harmless Feather Brick Truck against any claim, allegation, loss, damage or expense arising directly or indirectly from:
 - i. any unauthorised Software use by the Customer;
 - ii. any breach of any Software licence in respect of Software provided to Feather Brick Truck by the Customer to be installed on a Customer's computer;
 - iii. otherwise as a result of Feather Brick Truck installing Software at the request of the Customer where the Customer is not authorised to use the Software; and
 - iv. any problem, defect or malfunction associated with any Software (or related services) supplied by third parties.
- c. All copyright in custom software remains the sole property of Feather Brick Truck unless alternate arrangements are made as part of a separate software agreement.

13. Copyright and Confidentiality

- a. Warranty and breach: The Customer warrants that any confidential or copyright information or intellectual property (of any kind and in any form held) or provided by the Customer to Feather Brick Truck belongs to the Customer. In the event of any breach of this warranty, the Customer will pay all sums due to Feather Brick Truck as if such warranty had not been breached (and regardless of any non-performance of any obligation by Feather Brick Truck on account of or in connection with the breach of such warranty). The Customer indemnifies and holds harmless Feather Brick Truck in respect of any allegations, claims, loss, costs or expenses in connection with such breach of warranty by the Customer.
- b. Unless specifically agreed in writing, any copyright material created by Feather Brick Truck (such as text, designs and artworks), is automatically protected by copyright. Copyright may be assigned to a client by written agreement.

14. Privacy Statement and Your Rights

- a. Feather Brick Truck is collecting your personal information for the fulfilment of Quotes, Orders and the provision of Goods or Services to you and it may retain and use it for any such purposes ("Authorised Purposes").
- b. You are required to provide your personal information to Feather Brick Truck for Authorised Purposes.
- c. Feather Brick Truck may disclose your personal information to other persons for the purposes of the fulfilment of Quotes, Orders and Work for you or in order to provide Goods or Services to you, to verify the information you provide, for enquiries about Goods or Services that may be suitable for your purposes, or to confirm your requirements, to anyone proposing to supply Goods or Services to you, or to acquire Goods or Services on your behalf, or in respect of enquiries relating to any of the foregoing.
- d. Otherwise Feather Brick Truck will not disclose your personal information without your consent unless authorised by law.
- e. Your personal information will be held by Feather Brick Truck at its Principal Place of Business and you can contact Feather Brick Truck to request to access or correct it.
- f. Feather Brick Truck relies on you to submit correct information and details where requested. You accept that you may incur additional expenses if you submit incorrect information.

15. Representations

The Customer acknowledges that no employee or agent of Feather Brick Truck has any right to make any representation, warranty or promise in relation to the supply of Goods or Services other than subject to and as may be contained in the Conditions.

16. Dispute Resolution and Notices

- a. Before court or arbitration proceedings other than for urgent interlocutory relief may be commenced, the following steps must be taken to attempt to resolve any dispute that arises out of or in connection with this contract (including any dispute as to the validity, breach or termination of the contract, or as to any claim in tort, in equity or pursuant to any statute).
- b. Notice (the notice of dispute) must be given in writing by the party claiming that a dispute has arisen to the other party (or parties) to this contract specifying the nature of the dispute.
- c. Upon receipt of the notice of dispute, the parties must attempt to agree upon an appropriate procedure for resolving the dispute.
- d. If within 10 business days of receipt of the notice of dispute the dispute is not resolved or an appropriate alternative dispute resolution process is not agreed, then the parties shall refer the dispute to Resolution Institute, (ACN 008 651 232; Level 2, 13-15 Bridge Street, Sydney NSW 2000; email: infoaus@resolution.institute; telephone: (61-2) 9251 3366, for facilitation of a mediation in accordance with Resolution Institute's Mediation Rules.
- e. The parties must co-operate with Resolution Institute as facilitator.
- f. If within 10 business days after referral of the dispute to Resolution Institute the parties have not agreed upon the mediator or other relevant particular the mediator and any other relevant particular will be determined in accordance with Resolution Institute's Mediation Rules.
- g. This clause will remain operative after the contract has been performed and notwithstanding its termination.

17. Governing Law

The Conditions shall be governed by and construed in accordance with the laws of New South Wales and the parties submit to the non-exclusive jurisdiction of the Courts of New South Wales.

18. Variation of these terms and conditions

Feather Brick Truck may at any time vary these terms and conditions by publishing the varied terms and conditions on Feather Brick Truck website. You accept that by doing this, Feather Brick Truck has provided you with sufficient notice of the variation. Feather Brick Truck is under no other obligation to notify you of any variation to these terms and conditions.