

JOYFUL COMMUNICATIONS SERVICES AGREEMENT GENERAL TERMS & CONDITIONS

1. OVERVIEW

- 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 Scope of Work, along with any subsequent Scope of Work as agreed upon from time to time.
- 1.2. The Scope of Work 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 Scope of Work, the content of the Scope of Work will prevail to the extent of the inconsistency.
- 1.4. Any variation to the Scope of Work 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 Scope of Work.
- 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 Scope of Work 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

- 2.1. We agree to perform the Services to the best of our ability and in accordance with the Key Dates.
- 2.2. You agree to provide us with all relevant Client Information we request from you, and any other information we reasonably require in order to be able to perform the Services.
- 2.3. The total scope of the Services is as set out in the Scope of Work, along with the Key Dates for delivery. If Services outside the scope are required, including any additional face-to-face meetings, these will be quoted separately at our Hourly Rate.
- 2.4. A Deposit is due on signing the T&Cs within the timeframe specified in the Scope of Work. The Services will not commence until the Deposit has been paid. The Deposit is non-refundable regardless of Service delivery.
- 2.5. 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.
- 2.6. If you require the Services to be completed within 2 working days or less, a rush loading of 25% will apply.
- 2.7. All Fees will be payable via electronic funds transfer [or credit card] to our nominated bank account within 14 days of receiving a Tax Invoice. You will receive a Tax Invoice from us prior to payment being due in each instance.

- 2.8. If you do not pay us any portion of the Fees within the stipulated timeframe, we may charge you interest at the Interest Rate set out in the Scope of Work. If unpaid Fees are recovered through an external agency, you acknowledge that you will be responsible for the costs involved in the recovery.
- 2.9. You agree to cover any out-of-pocket expenses incurred by us in the course of delivering the Services to you. These additional expenses will be approved by you in writing prior to being incurred.
- 2.10. Retainer clients will be billed monthly in advance.
- 2.11. We are entitled to vary our Hourly Rate during the Term on providing you with 14 days' written notice.

3. DELIVERABLES

- 3.1. We agree to provide the Deliverables to the best of our ability and in accordance with the Key Dates.
- 3.2. We will provide you with draft Deliverables for certain Services, as outlined in the Scope of Work. Two rounds of changes to any draft Deliverables are incorporated into the quoted Fees, and further changes will be subject to our Hourly Rate.
- 3.3. We will be guided by your instructions and brand voice guidelines, however you acknowledge that creative expression is at our discretion.
- 3.4. [For social media clients] You agree to provide us with a reasonable degree of autonomy in order to facilitate our communication with your clients and any other individuals that choose to comment on your posts.
- 3.5. [For social media clients] We will endeavour to respond to communications via social media platforms with clients and other individuals, and moderate comments posted on social media platforms, within 24 business hours of receipt. However, you acknowledge that this may not always be possible and any delay in responding to communications will not constitute a breach of this Agreement.
- 3.6. If the Services include any face-to-face meetings, a 24-hour cancellation policy will apply. If less than 24 hours' notice is provided, our Hourly Rate will be charged on your next invoice.
- 3.7. 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 7 business days of our sending the draft Deliverables to you at any stage.
- 3.8. 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.
- 3.9. You acknowledge that the Services and Deliverables are limited by the Client Information provided to us by you, and we are not responsible for confirming the accuracy of said information.
- 3.10. 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.

4. DELAYS AND NONCOMPLETION

- 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

- 5.1. On full payment of the Fees, we will assign ownership rights (excluding Moral Rights) in the Assigned IP outlined in the Scope of Work 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 Scope of Work, 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, 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 and creation of the Deliverables wherever reference to them may appear, 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 exclusive owners, and where such materials are required to perform the Services, you agree to pay the costs associated with their use.

6. TERMINATION

- 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 Information 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;
 - e. we have received no communication from you for 30 days; or
 - f. 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(f), 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 on providing 30 days' written notice, or 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

- 7.1. The Services are provided on an "as is" basis, without representation, warranty or condition of any kind (either express or implied).
- 7.2. The nature of certain Services means that we are unable to guarantee particular results, and any examples of Services or Deliverables provided to other clients is a representation of potential results only. Any results achieved will vary depending on a range of factors beyond our control.
- 7.3. The information we provide through our Services does not constitute professional business, financial or legal advice. We cannot be held liable for any action taken by you in reliance on the information we provide. You agree to consult with the relevant licensed professional/s prior to taking any action.
- 7.4. We are not responsible for any unforeseen advances in technology that may negatively impact the Services we provide.
- 7.5. We are not responsible for any content that is posted by clients or other individuals on your social media platforms, and the scope of our Services is limited to moderating said content to the extent outlined in this Agreement. This includes any content that may be defamatory in nature.
- 7.6. Any access to passwords or permission to use online accounts is granted at your own risk. You acknowledge that we cannot be held responsible for any loss incurred as a result.
- 7.7. 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.
- 7.8. 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.

- 7.9. 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.
- 7.10. 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.
- 7.11. You agree to indemnify and hold us harmless from all claims and losses arising from damage, liability, injury or infringement that arise out of any information you supply to us, or any information provided to you through our website, social media platforms or the Services we perform for you.
- 7.12. 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.
- 7.13. 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.
- 7.14. We will not be liable for any loss or damage suffered by a third party in connection with the Agreement.
- 7.15. 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.
- 7.16. 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

- 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

- 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 one 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 within 30 business days so that we can discuss the matter in the first instance. 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 Scope of Work, or by post to the residential or business address specified in the Scope of Work. 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 of Queensland. You and we submit to the exclusive jurisdiction of the courts of Queensland.
- 9.10. **Execution and Counterparts**
The Agreement will become binding when any one or more counterparts of a Scope of Work, 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.

Acceptance	means the acceptance criteria set out in the Scope of Work.
Agreed Purpose	means the purpose set out in the Scope of Work.
Agreement	means these Terms and Conditions, the Scope of Work and each Subsequent Scope of Work.
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 the party's Obligations under the Agreement.
Deposit	means the amount set out in the Scope of Work.
Business Day	means a day other than a Saturday, Sunday or public holiday in the city of Our address in the Scope of Work.
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 Scope of Work.
Client Information	means all materials, information, photography, writings and other content, including social media content, provided by You to Us for use in the performance of the Services as specified in the Scope of Work.
Commencement Date	means the date specified in the Scope of Work.
Confidential Information	means information of a confidential nature including information about a party's business, operations, strategy, administration, technology, affairs, clients, customers, employees, contractors or suppliers and includes the terms of the Agreement but does not include any information in the public domain other than through a breach of confidence.
Email Address	means Our email addresses as set out in the Scope of Work, or Your email address as set out in the Scope of Work.
Feedback Dates	means the dates set out in the Scope of Work.
Fees	means the fees set out in the Scope of Work.
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 set out in the Scope of Work.
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, which is connected with the product 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 set out in the Scope of Work.
Moral Rights	means the 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, as well as any similar rights existing under foreign laws.
Our Employees	means our employees, contractors, suppliers, advisors and personnel.
Our Obligations	means our Obligations under the Agreement.
Payment Dates	means the dates set out in the Scope of Work.
Scope of Work	means Scope of Work 1 and any Subsequent Scope of Work.
Restart Fee	means the additional fees set out in the Scope of Work.
Services	means the services set out in the Scope of Work.
T&Cs	means these General Terms and Conditions.
Tax Invoice	has the meaning as set out in A New Tax System (Goods & Services Tax) Act 1999 Cth.
Term	means the term of the Agreement starting on the Commencement Date and ending when the Agreement ends or is terminated.
Third Party Materials	means all materials, including any documents, designs, photography and information of a Third Party.
You/Client	means the party set out in the Scope of Work [the Client] and includes your employees, personnel, agents, contractors and advisors.
Your Obligations	means Your Obligations under the Agreement.
We/Us/Our/Service Provider	means the party set out in the Scope of Work [the Service Provider] and includes our employees, personnel, agents, contractors and advisors.