

## A. Web Development and Maintenance

### Terms and Conditions for Websites

This Web Development and Maintenance Agreement is made between the Customer referred to in the Proposal ("You") and Spinoff Digital (ABN 15 608 552 487) 45 Delawney Street Balcatta WA 6021 on the date of the acceptance of the Proposal.

#### RECITALS

- A. The Customer wishes to appoint SPINOFF DIGITAL to provide Web Development and Maintenance Services and SPINOFF DIGITAL has agreed to provide those Web Development and Maintenance Services;
- B. The parties have agreed to enter into this Agreement to govern the Web Development and Maintenance Services offered by SPINOFF DIGITAL ("Website").

#### Now this Agreement states:

##### 1. Definitions and interpretation

**Commencement Date** means the date You accept the Proposal.

**Confidential Information** means all information provided by one party to the other in connection with this Agreement where such information is identified as confidential at the time of its disclosure or ought reasonably be considered confidential based on its content, nature or the manner of its disclosure, but excluding:

- (a) information that enters the public domain or is disclosed to a party by a third party, other than through a breach of this Agreement, and
- (b) information developed independently by a party.

**Fees means the fees for the Web Development and Maintenance Services as specified in the Proposal.**

**Force Majeure Event** means any event beyond the control of the relevant party.

**GST has the meaning given in A New Tax System (Goods and Services Tax) Act 1999 (Cth), or any other similar tax.**

**Intellectual Property Rights means all intellectual property rights, including all copyright, patents, trade marks, design rights, trade secrets, domain names, know how and other rights of a similar nature, whether registrable or not and whether registered or not, and any applications for registration or rights to make such an application.**

**Maintenance means all services relevant to your website as directed by you. All maintenance will be quoted as a cost to you on a time and materials basis or performed as a service by Spinoff Digital at Spinoff Digital's discretion.**

**Moral Rights has the meaning given under the Copyright Act 1968 (Cth) and includes any similar rights existing in other countries.**

**Proposal means the web development proposal, quote or document provided by SPINOFF DIGITAL to the Customer on or before the entering into of this Agreement. If there is no written proposal document then the Proposal will be Your Site and the Fees currently being charged by SPINOFF DIGITAL to You.**

**Web Development and Maintenance Services means the Web Development and Maintenance Services described in the Proposal.**

***Web Development means the Web Development details described in the Proposal.***

***Your Site means Your website, the subject of the Web Development and Maintenance Service, as specified in the Proposal.***

***You means the entity described in this Agreement and the Proposal.***

Unless the context requires otherwise:

- (a) a reference to a person includes a corporation or any other legal entity;
- (b) the singular includes the plural and vice versa;
- (c) headings are for convenience and do not form part of this Agreement or otherwise affect the interpretation of this Agreement;
- (d) the term "includes" (or any similar term) means "includes without limitation"; and
- (e) a reference to any statute includes references to any subsequently amended, consolidated or re-enacted version of that statute and all delegated legislation or other statutory instruments made under it.

## **2. Term**

- 2.1 This Agreement begins on the Commencement Date and continues until terminated in accordance with this Agreement or upon completion of the Web Development (if clause 2.2 does not apply).

## **3. Web Development and Maintenance Services**

- 3.1 SPINOFF DIGITAL will provide You with the Web Development ***and Maintenance*** Services specified in the Proposal for Your Site. The Proposal forms part of this Agreement.
- 3.2 The Web Development detail and specifications will be set out in writing in the Proposal or another separate document which will also form part of this Agreement.
- 3.3 SPINOFF DIGITAL may provide support and Maintenance services on a time and materials basis as set out in the Proposal or as requested by You from time to time.
- 3.4 Maintenance Services will be available only during normal business hours.

## **4. Your Site**

- 4.1 You are entirely responsible for:
  - (a) the content on Your Site; and
  - (b) all dealings You have with users of Your Site.
- 4.2 You indemnify SPINOFF DIGITAL against all costs (including legal costs), expenses, damages, accounts or other losses or liability, including those from any actions, suits, proceedings, claims or demands, made against or suffered by SPINOFF DIGITAL in connection with:
  - (a) Your Site;
  - (b) the content of Your Site; and
  - (c) any failure by You to meet the responsibilities described in clause 4.1,including any and all claims made against SPINOFF DIGITAL:
  - (i) by users of Your Site;
  - (ii) by any third party alleging that the content on Your Site, or any content of Your Site, infringes any Intellectual Property Rights or Moral Rights or any person or otherwise breaches any law.
- 4.3 You acknowledge that:
  - (a) Your Site will not allow any ftp access to it;

- (b) the website is coded to display and function on current operating systems and website browsers; and
  - (c) if new operating systems or browsers are introduced or new versions of operating systems or browsers are introduced after completion of the Web Development which affects the display or operation of Your Site, the cost of addressing these issues must be borne by You.
- 4.4 Once the final invoice for the Web Development has been paid, You are granted a perpetual non-revokable licence to use the Web Development as You see fit with the following exclusions:
- (a) pages driven by the aussiehome.com or reiwa.com or MyDesktop database are reliant on the continued use of the nominated database including subscription to it and are not transferrable to another host provider;
  - (b) pages driven by Spinoff Digital hosted application (e.g. CMS editor) cannot be transferred to another host provider.

## **5. Intellectual Property Rights and Obligations**

- 5.1 Other than in clause 4.4, nothing in this Agreement constitutes a transfer of any of SPINOFF DIGITAL's Intellectual Property Rights to You. All copyright in the Web Development and Maintenance Services is owned by SPINOFF DIGITAL.
- 5.2 If any person makes any claim alleging that any material or content of any nature or any use of it by SPINOFF DIGITAL in accordance with this Agreement, infringes any Intellectual Property Right or any other right of any person or any law then, You indemnify and hold harmless SPINOFF DIGITAL from and against any such claim and from and against any loss (including reasonable legal fees) arising in connection with the claim.

## **6. Payment**

- 6.1 You must pay SPINOFF DIGITAL the Fees set out in the Proposal and on the dates set out in the Proposal. SPINOFF DIGITAL may vary the Fees for Maintenance from time to time by prior written notice to You.
- 6.2 If an invoice between Spinoff Digital and you, the client, is outstanding for ninety days or more, Spinoff Digital reserves the right to take down the client's website (i.e. the site will no longer be live) until such time as the invoice is paid in full.

## **7. GST**

- 7.1 All amounts payable under this Agreement are expressed inclusive of GST.
- 7.2 In respect of any taxable supply, You must pay to SPINOFF DIGITAL an additional amount equal to the prevailing GST rate, payable at the same time and in the same manner as the Fees, subject to the receipt by You of a valid tax invoice.

## **8. Confidentiality**

- 8.1 A party must not, without the prior written consent of the other, use or disclose the other party's Confidential Information unless expressly permitted by this Agreement or required to do so by law or any regulatory authority.
- 8.2 A party may:
- (a) use the Confidential Information of the other party solely for the purposes of complying with its obligations and exercising its rights under this Agreement; and
  - (b) disclose the Confidential Information to its personnel or advisers to the extent necessary for them to know the information for purposes related to this Agreement, but only if reasonable steps are taken to ensure that the confidentiality of the information is retained.

- 8.3 Each party must implement and maintain effective security measures to prevent unauthorised use and disclosure of the other party's Confidential Information whilst it is in the receiving party's possession or control.
- 8.4 Each party must return, or at the other party's option destroy, all Confidential Information of the disclosing party in the receiving party's possession or control, on the earlier of SPINOFF DIGITAL's request or on termination of this Agreement for any reason.

## 9. Liability

- 9.1 To the full extent permitted by law, SPINOFF DIGITAL excludes all liability in respect of loss of data, interruption of business or any consequential or incidental damages.
- 9.2 To the full extent permitted by law, SPINOFF DIGITAL excludes all representations, warranties or terms (whether express or implied) other than those expressly set out in this Agreement.
- 9.3 SPINOFF DIGITAL's total aggregate liability for all claims relating to this Agreement is limited to the Fees payable under this Agreement.
- 9.4 Either party's liability for any claim relating to this Agreement will be reduced to the extent to which the other party contributed to the damage arising from the claim.
- 9.5 This Agreement is to be read subject to any legislation which prohibits or restricts the exclusion, restriction or modification of any implied warranties, conditions, guarantees or obligations. If such legislation applies, to the extent possible, SPINOFF DIGITAL limits its liability in respect of any claim to, at SPINOFF DIGITAL's option:
- (a) in the case of goods:
    - (i) the replacement of the goods or the supply of equivalent goods;
    - (ii) the repair of the goods;
    - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
    - (iv) the payment of having the goods repaired, and
  - (b) in the case of services:
    - (i) the supply of the services again; or
    - (ii) the payment of the cost of having the services supplied again.
- 9.6 You acknowledge that SPINOFF DIGITAL gives no warranty that the Web Development will allow uninterrupted use or will not be subject to hacking attempts, denial of service attacks or subject to computer virus attacks or bugs.

## 10. Termination

- 10.1 A party may terminate this Agreement by written notice to the other if any of the following events has occurred in respect of the other party:
- (a) a material breach of this Agreement which is not remediable or if capable of remedy, where the other party fails to remedy within 14 days of written notice; or
  - (b) an insolvency event occurs, other than an internal reconstruction with notice to the other party; or
  - (c) seven (7) days prior written notice is given by one party to the other provided that upon termination all fees or milestone payments have been paid by You up to the date of termination.

## 11. Consequences of Termination

- 11.1 If this Agreement is terminated or expires for any reason, then, in addition and without prejudice to any other rights or remedies available:

- (a) the parties are immediately released from their obligations under the Agreement except those obligations in clauses 5, 6, 7, 8, 9, 11 and 13, and any other obligations that, by their nature, survive termination;
- (b) each party retains the claims it has against the other.

## **12. Dispute resolution**

- 12.1 Any dispute or difference about this Agreement must be resolved as follows:
- (a) the parties must first refer the dispute to mediation by an agreed accredited mediator or, failing agreement, by a person appointed by the President or other senior officer of the Law Society or Bar Association in Western Australia;
  - (b) the mediator must determine the rules of the mediation if the parties do not agree;
  - (c) mediation commences when a party gives written notice to the other specifying the dispute and requiring its resolution under this clause;
  - (d) the parties must negotiate in good faith to resolve the dispute within 14 days; and
  - (e) any information or documents obtained through or as part of the mediation must not be used for any purpose other than the settlement of the dispute.
- 12.2 If the dispute is not resolved within 14 days of the notice of its commencement, either party may then, but not earlier, commence legal proceedings in an appropriate court.
- 12.3 Each party must continue to perform this Agreement despite the existence of a dispute or any proceedings under this clause.
- 12.4 Nothing in this clause prevents a party from seeking urgent injunctive relief in respect of an actual or apprehended breach of this Agreement.

## **13. General**

- 13.1 You must not assign, sublicense or otherwise deal in any other way with any of Your rights under this Agreement without the prior written consent of SPINOFF DIGITAL.
- 13.2 Nothing contained in this Agreement creates any relationship of partnership or agency between the parties.
- 13.3 If a provision of this Agreement is invalid or unenforceable it is to be read down or severed to the extent necessary without affecting the validity or enforceability of the remaining provisions.
- 13.4 Each party must at its own expense do everything reasonably necessary to give full effect to this Agreement and the events contemplated by it.
- 13.5 This Agreement (and any documents executed in connection with it) is the entire Agreement of the parties about its subject matter and supersedes all other representations, arrangements or agreements. Other than as expressly set out in this Agreement, no party has relied on any representation made by or on behalf of the other.
- 13.6 A party will not be responsible for a failure to comply with its obligations under this Agreement to the extent that failure is caused by a Force Majeure Event, provided that the party keeps the other closely informed in such circumstances and uses reasonable endeavours to rectify the situation.
- 13.7 Without limiting any other right to terminate under this Agreement, if a Force Majeure Event affects a party's performance under this Agreement for more than thirty (30) consecutive days, the other party may immediately terminate this Agreement by written notice.
- 13.8 All duties and other government charges in relation to this Agreement must be paid by You.
- 13.9 This Agreement is governed by the laws of Western Australia and each party submits to the jurisdiction of the courts of Western Australia.

## 14. Amended Terms and Conditions

14.1 SPINOFF DIGITAL may amend these Terms and Conditions at any time. SPINOFF DIGITAL will make available the Terms and Conditions on its Spinoff Digital.com.au website, and any amendments will become effective once shown on its Spinoff Digital.com.au website. Continued use of the Web Development and Maintenance Services under the amended Terms and Conditions constitutes acceptance of the amended Terms and Conditions. If You do not wish to accept the amended Terms and Conditions, You may terminate in line with the Termination clause of the Terms and Conditions.

## 15. Special Conditions

15.1 Any Special Conditions set out in the Proposal prevail in the case of conflict with any other provisions in the Agreement.

## B. Web Hosting

### Terms and Conditions

This Web Hosting Agreement is made between the Customer referred to in the Schedule ("You") and **SPINOFF DIGITAL** (ABN 15 608 552 487) of 45 Delawney Street Balcatta WA 6021 on the date of the acceptance of the Proposal.

### RECITALS

- B. The Customer wishes to appoint SPINOFF DIGITAL as its Web Hosting service provider and SPINOFF DIGITAL has agreed to provide that Hosting Service.
- C. The parties have agreed to enter into this Agreement to govern the web hosting service offered by SPINOFF DIGITAL ("Website").

### Now this Agreement states:

## 16. Definitions and interpretation

**Commencement Date** means the date You are a registered user of the Hosting Service, based on the details submitted by You to SPINOFF DIGITAL.

**Confidential Information** means all information provided by one party to the other in connection with this Agreement where such information is identified as confidential at the time of its disclosure or ought reasonably be considered confidential based on its content, nature or the manner of its disclosure, but excluding:

- (a) information that enters the public domain or is disclosed to a party by a third party, other than through a breach of this Agreement, and
- (b) information developed independently by a party.

**Fees means the fees for the Hosting Services as specified in the Proposal. The Fees may be reviewed and amended from time to time.**

**Force Majeure Event** means any event beyond the control of the relevant party.

**GST has the meaning given in A New Tax System (Goods and Services Tax) Act 1999 (Cth), or any other similar tax.**

**Hosting Service means the service described in clause 3.1.**

***Intellectual Property Rights means all intellectual property rights, including all copyright, patents, trade marks, design rights, trade secrets, domain names, know how and other rights of a similar nature, whether registrable or not and whether registered or not, and any applications for registration or rights to make such an application.***

***Moral Rights has the meaning given under the Copyright Act 1968 (Cth) and includes any similar rights existing in other countries.***

***Proposal means the web hosting proposal provided by SPINOFF DIGITAL to the Customer on or before the entering into of this Agreement. If there is no written proposal document then the Proposal will be Your Site and the Fees currently being charged by SPINOFF DIGITAL to You.***

***Your Site means Your website, the subject of the Hosting Service, as specified in the Proposal.***

***You means the entity described in this Agreement and the Proposal and also refers to the Customer.***

Unless the context requires otherwise:

- (c) a reference to a person includes a corporation or any other legal entity;
- (d) the singular includes the plural and vice versa;
- (e) headings are for convenience and do not form part of this Agreement or otherwise affect the interpretation of this Agreement;
- (f) the term "includes" (or any similar term) means "includes without limitation"; and
- (g) a reference to any statute includes references to any subsequently amended, consolidated or re-enacted version of that statute and all delegated legislation or other statutory instruments made under it.

## **17. Term**

17.1 This Agreement begins on the Commencement Date and continues until terminated in accordance with this Agreement.

## **18. Hosting Service**

18.1 SPINOFF DIGITAL will provide You with the Hosting Services specified in the Proposal for Your Site (**Hosting Services**). The Proposal forms part of this Agreement. The Fees set out in the Proposal may be varied by SPINOFF DIGITAL from time to time by giving 2 months prior written notice to the Customer.

18.2 You agree the data on your site, hosted by Spinoff Digital, regardless if entered by you or a third party either through the Spinoff Digital hosted CMS system or through the reiwa.com listings database or through the MyDesktop system cannot be scraped or digitally copied in any way by you or by a third party even with your permission.

18.3 Spinoff Digital will not grant permission for a third party to scrape or digitally copy in any way the data on your site, hosted by Spinoff Digital, regardless if entered by you or a third party either through the Spinoff Digital hosted CMS system or through the reiwa.com listings database or through the MyDesktop system.

18.4 Spinoff Digital will not host any web development created by a third party.

18.5 Third party information – The terms and conditions and cost for providing information from a third party (such as delivery of Google maps) can be varied by the third party. If there are increased costs to provide such services to your website, you agree to pay Spinoff Digital the increased charges or agree to have the third party information removed from your website.

## **19. Your Site**

19.1 You are entirely responsible for:

- (a) the content on Your Site (including all content that SPINOFF DIGITAL host on Your behalf as part of the Hosting Service);
  - (b) ensuring that the content that SPINOFF DIGITAL host on Your behalf does not contain any virus or otherwise disrupt or corrupt the data or systems of any person;
  - (c) all dealings You have with users of Your Site; and
  - (d) ensuring that all content complies with and does not breach any laws that apply in Western Australia.
- 19.2 You indemnify SPINOFF DIGITAL against all costs (including legal costs), expenses, damages, accounts or other losses or liability, including those from any actions, suits, proceedings, claims or demands, made against or suffered by SPINOFF DIGITAL in connection with:
- (a) Your Site;
  - (b) the content that SPINOFF DIGITAL host for You as part of the Hosting Service; and
  - (c) any failure by You to meet the responsibilities described in clause 4.1,
- including any and all claims made against SPINOFF DIGITAL:
- (i) by users of Your Site;
  - (ii) by any third party alleging that the content on Your Site, or any content hosted by SPINOFF DIGITAL us on Your behalf, infringes any Intellectual Property Rights or Moral Rights or any person or otherwise breaches any law.

4.3 SPINOFF DIGITAL does not allow any ftp access to any of its hosted sites. The website is coded to display and function on current operating systems and website browsers. If new operating systems or browsers are introduced or new versions of operating systems or browsers are introduced after completion of the website which affects the display or operation of the website, the cost of addressing these issues will be borne by You.

## **20. Maintenance**

- 20.1 SPINOFF DIGITAL reserve the right to perform maintenance and upgrades at any time and from time to time. SPINOFF DIGITAL agrees that any scheduled maintenance will be scheduled after business hours.
- 20.2 SPINOFF DIGITAL will endeavour to provide You with reasonable notice of maintenance and upgrades through email:
- (a) at least 24 hours in advance in the case of scheduled maintenance or upgrading that will result in an outage; or
  - (b) as soon as practicable after becoming aware of the need for unscheduled maintenance.

## **21. Disaster Recovery**

- 21.1 We backup data on a regular basis for the purpose of disaster recovery and, in the event of data corruption or equipment failure, will restore Your website from the data we have retained.
- 21.2 You acknowledge that the data we have retained may be out of date.
- 21.3 To the full extent permitted by law:
- (a) clause 6.1 sets out SPINOFF DIGITAL's entire obligation with respect to disaster recovery and loss of data; and
  - (b) SPINOFF DIGITAL hereby excludes all liability to You arising from any loss of, or corruption of data, other than liability arising directly from a breach by SPINOFF DIGITAL of clause 6.1.



- 21.4 You acknowledge that Spinoff Digital cannot be held liable for interruption of data fed from a third party including but not limited to REIWA, My Desktop, REX, etc.

## **22. Intellectual Property Rights and Obligations**

- 22.1 Nothing in this Agreement constitutes a transfer of any Intellectual Property Rights.
- 22.2 If any person makes any claim alleging that any material or content of any nature or any use of it by SPINOFF DIGITAL in accordance with this Agreement, infringes any Intellectual Property right or any other right of any person or any law then, You must indemnify and hold harmless SPINOFF DIGITAL from and against any such claim and from and against any loss (including reasonable legal fees) arising in connection with the claim.

## **23. Payment**

- 23.1 You must pay SPINOFF DIGITAL the Fees set out in the Proposal and on the dates set out in the Proposal.
- 23.2 If an invoice between Spinoff Digital and you, the client, is outstanding for ninety days or more, Spinoff Digital reserves the right to take down the client's website (I.e. the site will no longer be live) until such time as the invoice is paid in full.

## **24. GST**

- 24.1 All amounts payable under this Agreement are expressed exclusive of GST.
- 24.2 In respect of any taxable supply, You must pay to SPINOFF DIGITAL an additional amount equal to the prevailing GST rate, payable at the same time and in the same manner as the Fees, subject to the receipt by You of a valid tax invoice.

## **25. Confidentiality**

- 25.1 A party must not, without the prior written consent of the other, use or disclose the other party's Confidential Information unless expressly permitted by this Agreement or required to do so by law or any regulatory authority.
- 25.2 A party may:
- (a) use the Confidential Information of the other party solely for the purposes of complying with its obligations and exercising its rights under this Agreement; and
  - (b) disclose the Confidential Information to its personnel or advisers to the extent necessary for them to know the information for purposes related to this Agreement, but only if reasonable steps are taken to ensure that the confidentiality of the information is retained.
- 25.3 Each party must implement and maintain effective security measures to prevent unauthorised use and disclosure of the other party's Confidential Information whilst it is in the receiving party's possession or control.
- 25.4 Each party must return, or at the other party's option destroy, all Confidential Information of the disclosing party in the receiving party's possession or control, on the earlier of SPINOFF DIGITAL's request or on termination of this Agreement for any reason.

## **26. Liability**

- 26.1 To the full extent permitted by law, SPINOFF DIGITAL excludes all liability in respect of loss of data, interruption of business or any consequential or incidental damages.
- 26.2 To the full extent permitted by law, SPINOFF DIGITAL excludes all representations, warranties or terms (whether express or implied) other than those expressly set out in this Agreement.
- 26.3 SPINOFF DIGITAL's total aggregate liability for all claims relating to this Agreement is limited to the Fees payable under this Agreement.
- 26.4 Either party's liability for any claim relating to this Agreement will be reduced to the extent to which the other party contributed to the damage arising from the claim.

26.5 This Agreement is to be read subject to any legislation which prohibits or restricts the exclusion, restriction or modification of any implied warranties, conditions, guarantees or obligations. If such legislation applies, to the extent possible, SPINOFF DIGITAL limits its liability in respect of any claim to, at SPINOFF DIGITAL's option:

- (a) in the case of goods:
  - (i) the replacement of the goods or the supply of equivalent goods;
  - (ii) the repair of the goods;
  - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
  - (iv) the payment of having the goods repaired, and
- (b) in the case of services:
  - (i) the supply of the services again; or
  - (ii) the payment of the cost of having the services supplied again.

26.6 You acknowledge that SPINOFF DIGITAL gives no warranty that the Hosting Service will be uninterrupted or will not be subject to hacking attempts, denial of service attacks or subject to computer virus attacks or bugs.

## **27. Termination**

27.1 A party may terminate this Agreement by written notice to the other if any of the following events has occurred in respect of the other party:

- (a) a material breach of this Agreement which is not remediable or if capable of remedy, where the other party fails to remedy within 14 days of written notice;
- (b) an insolvency event occurs, other than an internal reconstruction with notice to the other party; or
- (c) one party gives 2 months prior written notice of termination of this Agreement to the other party.

## **28. Consequences of Termination**

28.1 If this Agreement is terminated or expires for any reason, then, in addition and without prejudice to any other rights or remedies available:

- (a) the parties are immediately released from their obligations under the Agreement except those obligations in clauses 6.3, 7, 10, 11, 13 and 15, and any other obligations that, by their nature, survive termination;
- (b) each party retains the claims it has against the other;
- (c) Your right to use the Hosting Service immediately ceases.

## **29. Dispute resolution**

29.1 Any dispute or difference about this Agreement must be resolved as follows:

- (f) the parties must first refer the dispute to mediation by an agreed accredited mediator or, failing agreement, by a person appointed by the President or other senior officer of the Law Society or Bar Association in Western Australia;
- (g) the mediator must determine the rules of the mediation if the parties do not agree;
- (h) mediation commences when a party gives written notice to the other specifying the dispute and requiring its resolution under this clause;
- (i) the parties must negotiate in good faith to resolve the dispute within 14 days; and
- (j) any information or documents obtained through or as part of the mediation must not be used for any purpose other than the settlement of the dispute.

29.2 If the dispute is not resolved within 14 days of the notice of its commencement, either party may then, but not earlier, commence legal proceedings in an appropriate court.

- 29.3 Each party must continue to perform this Agreement despite the existence of a dispute or any proceedings under this clause.
- 29.4 Nothing in this clause prevents a party from seeking urgent injunctive relief in respect of an actual or apprehended breach of this Agreement.

### **30. General**

- 30.1 You must not assign, sublicense or otherwise deal in any other way with any of Your rights under this Agreement without the prior written consent of SPINOFF DIGITAL.
- 30.2 Nothing contained in this Agreement creates any relationship of partnership or agency between the parties.
- 30.3 If a provision of this Agreement is invalid or unenforceable it is to be read down or severed to the extent necessary without affecting the validity or enforceability of the remaining provisions.
- 30.4 Each party must at its own expense do everything reasonably necessary to give full effect to this Agreement and the events contemplated by it.
- 30.5 This Agreement (and any documents executed in connection with it) is the entire Agreement of the parties about its subject matter and supersedes all other representations, arrangements or agreements. Other than as expressly set out in this Agreement, no party has relied on any representation made by or on behalf of the other.
- 30.6 A party will not be responsible for a failure to comply with its obligations under this Agreement to the extent that failure is caused by a Force Majeure Event, provided that the party keeps the other closely informed in such circumstances and uses reasonable endeavours to rectify the situation.
- 30.7 Without limiting any other right to terminate under this Agreement, if a Force Majeure Event affects a party's performance under this Agreement for more than thirty (30) consecutive days, the other party may immediately terminate this Agreement by written notice.
- 30.8 All duties and other government charges in relation to this Agreement must be paid by You.
- 30.9 This Agreement is governed by the laws of Western Australia and each party submits to the jurisdiction of the courts of Western Australia.

### **31. Amended Terms and Conditions**

- 31.1 SPINOFF DIGITAL may amend these Terms and Conditions at any time. SPINOFF DIGITAL will make available the Terms and Conditions of its Spinoff Digital.com.au website, and any amendments will become effective once shown on its Spinoff Digital.com.au website. Continued use of the Hosting Services under the Terms and Conditions constitutes acceptance of the amended Terms and Conditions. If You do not wish to accept the amended Terms and Conditions, You may terminate in line with the Termination clause of the Terms and Conditions.

### **32. Special Conditions**

- 32.1 Any Special Conditions set out in the Proposal prevail in the case of conflict with any other provisions in the Agreement.