

WEBFOX DEVELOPMENTS LIMITED (“Webfox”)

Terms of Trade

These terms of trade (“the Terms”) apply to all relationships (contractual or otherwise) arising out of services provided by Webfox. By engaging Webfox and/or utilising Webfox’s services, you agree that the Terms form part of the relationship (contractual or otherwise) between Webfox and you.

You acknowledge that Webfox may amend the Terms at any time and that any amended terms shall apply to the relationship (contractual or otherwise) between Webfox and you from the time you are given notice of the amended terms.

In the event that there is a conflict between any provision of the Terms and any expressly agreed contractual provision in writing (“the Express Provision”) between Webfox and you, the Express Provision will prevail over the conflicting provision of the Terms and the conflicting provision of the Terms shall be severed from the Terms. All other provisions of the Terms, not severed, shall remain enforceable.

- A. General Terms
- B. Mobile Applications & Web Applications Terms
- C. Web Development Terms
- D. Web Based Software and Software Applications Terms
- E. Software Licensing Terms
- F. Web Hosting Terms
- G. Project Management & Internal Business Solutions Terms
- H. Livestreaming Terms
- I. Domain Registration Terms
- J. Privacy Terms, Disclaimer & Webfox’s Intellectual Property
- K. Definitions

You acknowledge and agree that, by accessing any service provided by Webfox, whether online or otherwise (including by visiting any website or application site of Webfox) that you will be bound by these Terms.

A. GENERAL TERMS

1. Ownership

1.1 Ownership of the Supply supplied to you under these Terms of Trade remains with Webfox until payment for the Supply is made in full.

2. Risk and Delivery of the Supply

2.1 Delivery occurs at the time possession of the Supply passes to you (or a person nominated by you) from us. The risk in the Supply passes to you on delivery.

3. Estimates

3.1 Unless stated otherwise, any price Webfox gives you for the Supply is an estimate ("Estimate") on a plus GST basis of the anticipated cost for Webfox to complete the Supply. The Estimate is subject to clause 4 below.

3.2 The Estimate is open for acceptance for thirty (30) days after it is dated unless withdrawn by Webfox prior to acceptance.

3.3 Webfox will not commence the Supply until you have accepted the Estimate in writing and signed (or acknowledged receipt of) a copy of these Terms of Trade.

4. Price

4.1 Notwithstanding any Estimate given, unless Webfox has agreed in writing to be bound by a set price for the Supply, you will pay to Webfox its actual cost of completing the Supply ("Actual Cost") which will be calculated by totalling the following:

- (a) the number of hours of service multiplied by Webfox's usual hourly rates for the Services;
- (b) any disbursements incurred by Webfox on your behalf;
- (c) the cost of any Goods, licences and/or Software, supplied by Webfox as part of the Supply.

4.2 The Actual Cost and all prices are plus GST and other taxes which are payable by you in New Zealand dollars.

4.3 Disbursements incurred by Webfox on your behalf may include a reasonable mark-up by us.

4.4 In the event these Terms of Trade are terminated in accordance with clause 10.2(d) or by you under clause 17.1 prior to completion of the Work, you must immediately pay Webfox the Actual Cost at the termination date, plus 50% of the balance of the Estimate remaining unpaid.

5. Terms of Payment

5.1 Webfox may require you to pay a deposit, being an advanced payment for the Supply, before Webfox commence the Supply.

5.2 Payment for the Supply (and any associated expenses and disbursements) is due seven (7) days following the date of any invoice issued to you by Webfox unless it has agreed in writing that other terms will apply ("Due Date").

5.3 If you do not make payment on the Due Date, you are in default and must pay default interest at the rate of 10% per annum, which will accrue on a daily basis on the total amount outstanding from the Due Date to the date of payment in full.

5.4 Notwithstanding clause 5.3, if payment is outstanding for 7 days from the Due Date, Webfox may suspend performing the Supply on credit until the date of payment in full (subject always to

clause 5.3). You must pay in cash for the Supply until payment is made in full (together with any accrued interest).

5.5 Webfox may notify you at any time that it has ceased to carry out the Supply on credit. This cessation does not relieve you for amounts owing up to the date on which the contract is terminated.

5.6 Payment of all money will be without set-off or deduction of any kind.

5.7 Webfox will apportion payments to outstanding accounts as it thinks fit.

6. Performance of Work

6.1 Webfox will:

- (a) perform the Supply with reasonable skill, care and diligence in a professional manner;
- (b) endeavour to ensure that the Supply is performed in accordance with any time frames agreed in writing with you;
- (c) liaise with you during the course of the Supply in accordance with your reasonable requirements.

6.2 You will give reasonable assistance to enable Webfox to perform the Supply by:

- (a) giving clear instructions;
- (b) promptly providing any information or content required from you for Webfox to complete the Supply;
- (c) ensuring that the Supply and products derived from the Supply are fit for the purpose you intend to use them for and meet any appropriate statutory, regulatory, governmental and industry and environmental controls, standards or practices.

6.3 If Webfox has given you a time frame for completion of the Supply, unless agreed in writing to the contrary such time frame is approximate only and is not deemed to be of the essence of the contract.

7. Personal Property Securities Act 1999 (“PPSA”)

7.1 All terms in this clause 7 have the meaning given in the PPSA and section references will be to sections of the PPSA.

7.2 Clause 7.1 creates a security interest in Goods Webfox supplies to you as part of the Supply.

7.3 You will not grant any other security interest or any lien over Goods that Webfox has a security interest in.

7.4 At Webfox’s request, you will promptly sign any documents and do anything else required by Webfox to ensure that its security interest constitutes a first ranking perfected security interest in the Goods.

7.5 Webfox may at any time enter your premises, properties and/or digital storage facilities, to uplift Goods that it has a security interest in.

7.6 If Goods that Webfox has a security interest in are processed, included or dealt with in any way causing them to become accessions, processed or commingled goods, Webfox’s security interest will continue in the whole in which they are included. You will not grant any other security interest or any lien in either the Goods or in the whole.

7.7 You waive any rights you may have under sections 114(1)(a), 116, 120(2), 121, 125, 129, 131, and 133 of the PPSA.

7.8 You waive your right to receive a copy of any verification statement (as that term is defined in the PPSA).

7.9 You will give Webfox prior written notice of a proposed change of your name or address.

8. Warranties

8.1 The Consumer Guarantees Act 1993, the Fair Trading Act 1986, and other statutes may impose warranties, conditions or obligations on Webfox which cannot by law (or which can only to a limited extent by law) be excluded. Webfox excludes all such imposed warranties, conditions or obligations to the extent permitted by law and exclude any warranty, condition or obligation imposed or implied under common law, equity or otherwise.

8.2 Where you acquire the Supply from Webfox for the purposes of a business:

(a) the parties acknowledge and agree that:

(i) you are acquiring the Supply covered by these Terms for the purposes of a business in terms of sections 2 and 43(2) of the Consumer Guarantees Act 1993;

(ii) the Supply is both supplied and acquired in trade from the purposes of the Fair Trading Act 1986 and the parties agree to contract out of sections 9 (Misleading and deceptive conduct generally), 12A (Unsubstantiated representations), and 13 (False or misleading representations); and

(b) you agree that all warranties, conditions, and other terms implied by the Consumer Guarantees Act 1993 or sections 9, 12A, and 13 of the Fair Trading Act 1986 are excluded from these Terms to the fullest extent permitted by law and the parties further acknowledge and agree that it is fair and reasonable that the parties are bound by this clause.

8.3 You acknowledge and warrant that you have carried out appropriate investigations and relied on your own knowledge or independent advice or both in assessing the risk, contingencies and circumstances that could affect your decision to enter into agreement with Webfox for the supply (and/or use) of the Services.

9. Limitation of Liability

9.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where you acquire the Supply from Webfox for the purposes of a business in terms of sections 2 and 43 of that Act.

9.2 Except to the extent that the law prevents Webfox from excluding liability and as expressly provided for in clause 9.4, Webfox will not be liable for:

(a) Any loss or damage or liability of any kind whatsoever (including consequential loss or lost profit or business) whether suffered or incurred by you or another person and whether in contract, or tort (including in negligence), or otherwise and whether such loss or damage arises directly or indirectly from the Supply provided by Webfox to you, and/or

(b) Any claim for damages exceeding the Price.

9.3 You will indemnify Webfox against all claims and loss of any kind whatsoever however caused or arising which is brought by any person in connection with any matter, act, omission, or error by Webfox, its agents or employees, in connection with the Supply.

9.4 To the extent that Webfox is liable for any reason for any loss suffered or liability incurred by you arising from any breach of these Terms of Trade or for any other reason, such liability is limited to the Price. If Goods are returned by you, or if you make a claim in writing to Webfox in relation to the Goods and/or the Supply, Webfox may, in its discretion:

- * Repair or replace the Goods and/or re-perform the Supply, or
- * Refund the amount of the Goods and/or the Supply which you have given notice of a claim in respect of,

provided that:

- (a) the Goods must be returned or the claim must be made in writing to Webfox within fourteen (14) days of the Goods or the Supply being provided; and
- (b) you must supply the date and number of any invoice relating to the Work; and
- (c) Webfox must have a reasonable opportunity to inspect the Goods and/or the Supply.

10. Default

10.1 The security interests created by the Terms becomes enforceable if any of the following events occur:

- (a) you fail to pay any money owing on the Due Date;
- (b) you sell, part with possession or dispose of any Goods or do anything inconsistent with Webfox's ownership of the Goods prior to making payment in full;
- (c) Webfox believes you have committed or will commit an act of bankruptcy, have had or are about to have a receiver or liquidator appointed, or are declared insolvent;
- (d) the Goods are at risk, as that term is defined in the PPSA;
- (e) you neglect or fail to carry on your business to our reasonable satisfaction, or if there is a significant deterioration in your trading or asset position;
- (f) you are otherwise in breach of your obligations under the Terms.

10.2 If any of the events described in clause 10.1 occur, in addition to any remedies Webfox may have at law, Webfox may do one or more of the following:

- (a) suspend the Supply in accordance with clause 5.4;
- (b) charge default interest in accordance with clause 5.3;
- (c) enter on to your premises, property or digital storage facility, and repossess any Goods which have not been paid for in full;
- (d) immediately terminate the contract between you and Webfox by notice in writing to you.

11. Intellectual Property

11.1 In respect of Intellectual Property used in or arising from the provision of the Supply or the performance of the Work:

- (a) all pre-existing Intellectual Property the subject of an Intellectual Property right resides with the owner as at the date of these Terms of Trade (whether you or Webfox);
- (b) any new Intellectual Property will be dealt with in accordance with clause 12.

11.2 If any Work is to be undertaken based on your designs, you warrant that the undertaking of the Work by Webfox will not infringe any third party's Intellectual Property rights and you indemnify Webfox against any loss, liability, costs and expenses in the event of any claim being made that the Work infringes any patent, copyright or other rights of any other person.

12. Intellectual Property Ownership

- 12.1 Subject to clauses 11.1(a) and 12.4, Webfox is (and will remain) the exclusive owner everywhere in the world of all Intellectual Property rights and interests (including copyright and all other statutory and common law rights and interests) in the Supply, and any other work performed by Webfox for you, as first owner of those Intellectual Property rights and interests.
- 12.2 Webfox will retain exclusive worldwide ownership at all times of its artistic styles, methods of working, techniques, ideas, skills and know-how.
- 12.3 You must not attribute the Work, the Services, or the Supply, to anyone other than Webfox or remove any of Webfox's trade marks, signatures, logos or similar from the Goods or the Work.
- 12.4 Subject to clause 12.5, on payment of all amounts owing to Webfox in accordance with the Terms, Webfox will assign to you the copyright in the final form of the Work which it has specifically created for you for the countries and for the purposes as specified in the description of the Work, or if not specified, for the countries and for the purposes which would be reasonably expected in light of the nature of your request for the Work.
- 12.5 Notwithstanding clause 12.4, where Webfox expressly reserves intellectual property ownership in the Work and/or the Services, or it is agreed between Webfox and you that the intellectual property ownership in the Work and/or the Services will be retained by Webfox, Webfox will be the exclusive owner at all times of all and any Intellectual Property rights and interests (including copyright and all other statutory and common law rights and interests) in the Work and/or the Services.

13. Privacy of Information

- 13.1 You authorise Webfox:
 - (a) to collect, retain and use information about you from any person for the purpose of assessing your creditworthiness;
 - (b) to disclose information about you:
 - (i) to any person who guarantees, or who provides insurance, or who provides any other credit support, in relation to your obligations to Webfox;
 - (ii) to such persons as may be necessary or desirable to enable Webfox to exercise any power or enforce or attempt to enforce any of its rights, remedies and powers under the Terms.

14. Risk and Limitation of Liability for Client Data

- 14.1 You acknowledge and agree that WebFox shall not be held responsible or liable for:
 - (a) anything related to the Web Site, Hosting Services or any other Services provided to you, which are beyond the control of Webfox (including but not limited to, the actions of a third party accessing your systems or your Web Site);
 - (b) any supplied content breaching any Acts, legislation or regulations, unless due to the negligence of WebFox;
 - (c) any loss, corruption, or deletion of files or data (including, but not limited to software programmes) resulting from illegal hacking of the Supply provided by WebFox. WebFox will endeavour to restore your Web Site, files or data (at your cost), and it is your sole responsibility to back-up any data which you believe to be important, valuable, or irreplaceable prior to WebFox providing the Supply. You accept full responsibility for your software and data and you acknowledge that WebFox is not required to advise or remind you of appropriate backup procedures (unless included as part of the Supply);
 - (d) any loss or damage to your software or hardware caused by any 'updates' provided for that software;

- 14.2 It shall be your sole responsibility to remove any removable media (including, but not limited to, diskettes, CDs, DVDs or PC Cards) from the hardware prior to submitting Good for replacement or repair.
- 14.3 You acknowledge that any advice or recommendations by WebFox are provided on the basis of WebFox's industry knowledge and experience only and shall not be deemed as specialist advice.
- 14.4 The Supply (including the supply of any software) are provided on an "as is, as available" basis. WebFox specifically disclaims any other warranty, express or implied, including any warranty of merchantability or fitness for a particular purpose, in respect of any third party Goods.
- 14.5 You understand that by placing information on a Web Site, such information may be accessible to all internet users. WebFox does not (unless expressly requested by you) limit or restrict access to such information, nor protect such information from copyright infringement or other wrongful activity. You assume full responsibility for the use of your Web Site.

15. Notices

- 15.1 Any notice may be given by phone, in person, posted, or sent by fax or email to you (or where you are a company, to any of your directors).

16. Confidentiality

- 16.1 You will at all times treat the Confidential Information as confidential and must not publish, release, or disclose the Confidential Information without Webfox's prior written consent.

17. Costs

- 17.1 You must pay Webfox's costs (including legal costs, as between solicitor and client) of and incidental to the enforcement or attempted enforcement of Webfox's rights, remedies and powers under the Terms.

18. Termination

- 18.1 Subject to:

- (a) Any agreed term in writing between the parties, and
- (b) Clause 4.4,

either party may terminate these Terms of Trade (and any contractual relationship between them) by giving one month's written notice to the other party.

- 18.2 Webfox may immediately terminate these Terms of Trade (and any contractual relationship between you and Webfox) and cease supply of the Services, where you are in default and/or breach of:

- (a) Any contractual obligation owed to Webfox; and
- (b) Any of these Terms of Trade.

- 18.3 On termination or expiry of these Terms of trade (and any contractual relationship between you and Webfox), you must immediately cease to use the Service and must immediately, on request of Webfox, return to Webfox any end user documentation or other materials associated with the Service.

- 18.4 Termination or expiry of these Terms of Trade (and any contractual relationship between you and Webfox) is without prejudice to any obligations or rights of either party accrued prior to such termination or expiry, and does not affect any provision of these Terms of Trade which is intended to come into effect on or continue in effect after such termination or expiry.

19. Jurisdiction

19.1 The Terms and any contractual relationship between Webfox and you are governed by and construed according to the laws of New Zealand and the parties, subject to clause 21, submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of these Terms of Trade.

20. Assignment

20.1 You must not subcontract or assign any of your rights, powers or obligations under the Terms.

21. Disputes

21.1 Any claim or dispute arising under the Terms and/or arising out of any contractual relationship between Webfox and you, will be determined by arbitration under the Arbitration Act 1996 if the parties are unable to resolve such dispute themselves within one (1) month of the dispute arising. However, nothing in this clause prevents either party from taking immediate steps to seek any equitable relief before the New Zealand Courts.

22. Force Majeure

22.1 Webfox will not be liable for any failure or delay to perform the Supply if the failure or delay arises directly or indirectly from a cause reasonably beyond Webfox's control.

23. Survival

23.1 This clause and any other provision which by its nature is intended to survive the termination or expiration of the Terms and/or any contractual relationship between Webfox and you, will survive the termination or expiration of the Terms and/or completion of the Supply.

24. Severance

24.1 If any provision of these Terms of Trade are held to be unenforceable, illegal, or invalid by any court or tribunal:

- (a) the rest of these Terms of Trade will remain in full force and effect;
- (b) the parties will co-operate to ensure that the spirit and intention of the Terms of Trade are carried out as far as is reasonably possible; and
- (c) the parties will, if necessary, amend the Terms of Trade (and any contractual relationship between them) accordingly.

25. Delay

25.1 No failure or delay by a party to exercise (in whole or in part) any right, power or remedy under these Terms of Trade will operate as a waiver of that right, power or remedy. The single or partial exercise of any right, power or remedy under these Terms of Trade does not preclude the exercise of any other right, power or remedy, or its further exercise. A waiver given by a party will not be effective unless it is in writing and is signed by the party against whom it is claimed. Any waiver given by a party in accordance with this clause will be effective only in the specific instance and for the specific purpose for which it is given.

B. MOBILE APPLICATIONS & WEB APPLICATIONS TERMS

These Mobile Applications & Web Applications Terms are to be read in conjunction with the General Terms in Part A of the Terms. In the event of a conflict between these Mobile Applications & Web Applications Terms and the General Terms in Part A, these Mobile Applications & Web Applications Terms shall succeed over the conflicting provision of the General Terms.

1. Definitions

1.1 In addition to the Definitions in Part J, the following definitions shall apply to this Part B:

- “Acceptance Tests” means the acceptance tests or criteria for acceptance for each Application Phase in the Application Specifications and carried out in accordance with the Application Plan (if any)
- “Application” mean the Mobile and/or Web Application(s) to be created and/or developed by Webfox on your behalf and/or as instructed by you
- “Application Development Services” means the Supply provided by Webfox in the creation and/or development of the Application.
- “Application Phases” mean the stages specified in the Application Specifications for the completion of the Application
- “Application Plan” means any plan agreed in writing between Webfox and you, for the development of the Application
- “Application Specifications” means the specifications for the Application agreed in writing between Webfox and you
- “Additional Fees” means any fees and charges imposed by Webfox for Additional Services
- “Additional Services” has the meaning defined in clause 3.2
- “Customer Material” has the meaning defined in clause 7.1
- “Maintenance Services” means services reasonably requested by you in relation to the maintenance of the Application, including:
- (a) updating the content of the Application as directed by the Customer;
 - (b) maintaining and updating the Application’s interface or links with operating systems; and
 - (c) advising you from time to time as to the extent to which the Application has or may become incompatible with third party operating systems
- “Third Party Fee” any amount required to be paid to a third party supplier to enable creation, performance and/or maintenance of the Application
- “Supplier Software” means any software required to enable creation, performance and maintenance of the Application.

2. Supplier Services

- 2.1 In consideration of the payment of the Price, Webfox will provide the Application Development Services to you.
- 2.2 In consideration of the payment of the Price, Webfox will provide the Maintenance Services to you, in accordance with 6.

2.3 Webfox will provide the Additional Services, where requested by you, in accordance with 3.2.

3. Development Specifications

3.1 The Application Development Services to be provided to you and the elements of the Applicant are set out in the Application Specifications.

3.2 If you request any changes to:

- (a) the scope and nature of the Application Development Services, or
- (b) the elements of the Application,

which Webfox advises require additional time, material or resources to be provided by Webfox ("Additional Services"), such changes will occur as follows:

- (c) you will notify Webfox of any changes you request;
- (d) following notification, Webfox may provide you with written notice of:
 - (i) the changes required to the Application Specifications;
 - (ii) the Additional Services required by such changes; and
 - (iii) the Additional Fees required to undertake such Additional Services; and
- (e) if you agree to:
 - (i) the changes to the Application Specifications;
 - (ii) the Additional Services; and
 - (iii) the Additional Fees,

the contract between Webfox and you will be considered varied to include such changes as set out in the notice provided by Webfox to you pursuant to this clause.

3.3 Webfox may, at its discretion, decline any request for changes pursuant to clause 3.2 and nothing in this clause creates an obligation on Webfox to change the Application Specifications.

4. Development Phases

4.1 The parties will use reasonable endeavours to comply with each Application Phase within the timeframes specified in the Application Plan (if any).

4.2 Where Webfox becomes aware of a delay in completing any Application Phase it will notify you in writing of the cause of the delay and the estimated date of completion.

4.3 Where Webfox provides notice in respect of a delay under clause 4.2, you must grant Webfox an extension of time for completion of any Application Phase.

5. Acceptance Testing

5.1 Webfox will perform the Acceptance Tests within five (5) days of completion of each Application Phase and in accordance with the Application Plan, by either of the following:

- (a) In your presence, or
- (b) Following internal functional test and acceptance by Webfox, release of update to a staging stage to you to test and accept.

5.2 If the Application materially complies with the Acceptance Tests at an Application Phase, you must issue a written acceptance notice for that Application Phase within 2 days of completion of the Acceptance Tests for the relevant Application Phase.

- 5.3 If you notify Webfox, within 2 days of completion of the Acceptance Tests for the relevant Application Phase, that the Application is materially non-complaint with the Acceptance Tests at an Application Phase, you will provide written notice to Webfox and may:
- (a) set a new date for carrying out further tests on the Application on the same terms and conditions;
 - (b) accept the Application subject to conditions; or
 - (c) reject the Application for non-conformance and require Webfox to remedy the non-conformance.

If you do not provide notice to Webfox in accordance with this clause, then the relevant Application Phase will be deemed to be accepted by you.

- 5.4 You acknowledge and agree that there may be some minor updates (“Bug Patches”) that may be required and:
- (a) You will provide Webfox with the opportunity to undertake Bug Patches as Webfox consider necessary to enhance or ensure functionality, and/or
 - (b) Any need for Bug Patches which do not materially affect functionality will not give you the ability to decline the Acceptance Test and/or withhold acceptance of the Application, and
 - (c) If you elect to skip (or decline access to Webfox to install) the Bug Patches, you agree that Webfox shall not be liable for any lack of functionality in the Application.

6. Maintenance

- 6.1 Webfox will provide Bug Patches as part of the Application Development Services for a period of up to 30 days following release of the Application to you, at no charge to you.
- 6.2 Where you:
- (a) Require Bug Patches after 30 days following release of the Application to you, or which are required as a result of changes you make which impact on the operation of the Application, or
 - (b) Wish to obtain additional Maintenance Services

(“Additional Maintenance Services”) you must request these from Webfox and, if Webfox agrees to provide such Additional Maintenance Services, Webfox's standard rates for such Additional Maintenance Services will apply.

7. Customer's obligations

- 7.1 You will provide all required material to Webfox according to the Application Specifications (“Customer Material”) to be incorporated into the Application. All Customer Material will be provided in a form suitable for incorporation into the Application without any modification by Webfox.
- 7.2 You indemnify Webfox against any claim, and against any loss arising out of a claim, by any person alleging that the Customer Material infringes any Intellectual Property rights of any other person.

8. Intellectual Property

- 8.1 In respect of Intellectual Property used in or arising from the provision of the Supply or the performance of the Work:
- (a) all pre-existing Intellectual Property the subject of an Intellectual Property right resides with the owner as at the date of these Terms of Trade (whether you or Webfox);

(b) any new Intellectual Property will be dealt with in accordance with clause 12.

8.2 If any Work is to be undertaken based on your designs, you warrant that the undertaking of the Work by Webfox will not infringe any third party's Intellectual Property rights and you indemnify Webfox against any loss, liability, costs and expenses in the event of any claim being made that the Work infringes any patent, copyright or other rights of any other person.

9. Intellectual Property Ownership

9.1 Subject to clauses 11.1(a) and 12.4, Webfox is (and will remain) the exclusive owner everywhere in the world of all Intellectual Property rights and interests (including copyright and all other statutory and common law rights and interests) in the Supply, and any other work performed by Webfox for you, as first owner of those Intellectual Property rights and interests.

9.2 Webfox will retain exclusive worldwide ownership at all times of its artistic styles, methods of working, techniques, ideas, skills and know-how.

9.3 You must not attribute the Work, the Services, or the Supply, to anyone other than Webfox or remove any of Webfox's trade marks, signatures, logos or similar from the Goods or the Work.

9.4 Subject to clause 12.5, on payment of all amounts owing to Webfox in accordance with the Terms, Webfox will assign to you the copyright in the final form of the Work which it has specifically created for you for the countries and for the purposes as specified in the description of the Work, or if not specified, for the countries and for the purposes which would be reasonably expected in light of the nature of your request for the Work.

9.5 Notwithstanding clause 12.4, where Webfox expressly reserves intellectual property ownership in the Work and/or the Services, or it is agreed between Webfox and you that the intellectual property ownership in the Work and/or the Services will be retained by Webfox, Webfox will be the exclusive owner at all times of all and any Intellectual Property rights and interests (including copyright and all other statutory and common law rights and interests) in the Work and/or the Services.

10. Sub-contractors

10.1 Webfox may appoint sub-contractors to perform the Application Development Services.

C. WEB DEVELOPMENT TERMS

These Web Development Terms are to be read in conjunction with the General Terms in Part A of the Terms. In the event of a conflict between these Web Development Terms and the General Terms in Part A, these Web Development Terms shall succeed over the conflicting provision of the General Terms.

1. Definitions

1.1 In addition to the Definitions in Part J, the following definitions shall apply to this Part C:

- “Acceptance Tests” means the acceptance tests or criteria for acceptance for each Development Phase in the Development Specifications and carried out in accordance with the Development Plan (if any)
- “Additional Fees” means any fees and charges imposed by Webfox for Additional Services
- “Additional Services” has the meaning defined in clause 3.2
- “Customer Material” has the meaning defined in clause 7.1
- “Contracted Website” means the website to be created and/or developed by Webfox on your behalf and/or as instructed by you
- “Development Phases” mean the stages specified in the Development Specifications for the completion of the Contracted Website
- “Development Plan” means any plan agreed in writing between Webfox and you, for the development of the Contracted Website
- “Development Specifications” means the specifications for the Contracted Website agreed in writing between Webfox and you
- “Maintenance Services” means services reasonably requested by you in relation to the maintenance of the Contracted Website, including:
- (a) updating the content of the Contracted Website as directed by the Customer;
 - (b) maintaining and updating the Contracted Website links; and
 - (c) advising you from time to time as to the extent to which the Contracted Website, or any content included on the Contracted Website has or may become incompatible with software generally used to access the Internet
- “Site Design” means the design, layout and formatting of the Contracted Website but does not include any Supplier Software
- “Software Licence Fee” any amount required to be paid to a third party software supplier to enable creation, performance and maintenance of the Contracted Website
- “Supplier Software” means any software required to enable creation, performance and maintenance of the Contracted Website
- “Website Development Services” mean the Supply provided by Webfox in the creation and/or development of the Contracted Website.

2. Supplier Services

- 2.1 In consideration of the payment of the Price, Webfox will provide the Website Development Services to you.
- 2.2 In consideration of the payment of the Price, Webfox will provide the Maintenance Services to you, in accordance with 6.
- 2.3 Webfox will provide the Additional Services, where requested by you, in accordance with 3.2.

3. Development Specifications

3.1 The Website Development Services to be provided to you and the elements of the Created Website are set out in the Development Specifications.

3.2 If you request any changes to:

- (a) the scope and nature of the Website Development Services, or
- (b) the elements of the Created Website,

which Webfox advises require additional time, material or resources to be provided by Webfox ("Additional Services"), such changes will occur as follows:

- (c) you will notify Webfox of any changes you request;
- (d) following notification, Webfox may provide you with written notice of:
 - (i) the changes required to the Development Specifications;
 - (ii) the Additional Services required by such changes; and
 - (iii) the Additional Fees required to undertake such Additional Services; and
- (e) if you agree to:
 - (i) the changes to the Development Specifications;
 - (ii) the Additional Services; and
 - (iii) the Additional Fees,

the contract between Webfox and you will be considered varied to include such changes as set out in the notice provided by Webfox to you pursuant to this clause.

3.3 Webfox may, at its discretion, decline any request for changes pursuant to clause 3.2 and nothing in this clause creates an obligation on Webfox to change the Development Specifications.

4. Development Phases

- 4.1 The parties will use reasonable endeavours to comply with each Development Phase within the timeframes specified in the Development Plan (if any).
- 4.2 Where Webfox becomes aware of a delay in completing any Development Phase it will notify you in writing of the cause of the delay and the estimated date of completion.
- 4.3 Where Webfox provides notice in respect of a delay under clause 4.2, you must grant Webfox an extension of time for completion of any Development Phase.

5. Acceptance Testing

5.1 Webfox will perform the Acceptance Tests within five (5) days of completion of each Development Phase and in accordance with the Development Plan, by either of the following:

- (a) In your presence, or

(b) Following internal functional test and acceptance by Webfox, release of update to a staging stage to you to test and accept.

5.2 If the Contracted Website materially complies with the Acceptance Tests at a Development Phase, you must issue a written acceptance notice for that Development Phase within 2 days of completion of the Acceptance Tests for the relevant Development Phase.

5.3 If you notify Webfox, within 2 days of completion of the Acceptance Tests for the relevant Development Phase, that the Contracted Website is materially non-complaint with the Acceptance Tests at a Development Phase, you will provide written notice to Webfox and may:

- (a) set a new date for carrying out further tests on the Contracted Website on the same terms and conditions;
- (b) accept the Contracted Website subject to conditions; or
- (c) reject the Contracted Website for non-conformance and require Webfox to remedy the non-conformance.

If you do not provide notice to Webfox in accordance with this clause, then the relevant Development Phase will be deemed to be accepted by you.

5.4 You acknowledge and agree that there may be some minor updates (“Bug Patches”) that may be required and:

- (a) You will provide Webfox with the opportunity to undertake Bug Patches as Webfox consider necessary to enhance or ensure functionality, and/or
- (b) Any need for Bug Patches which do not materially affect functionality will not give you the ability to decline the Acceptance Test and/or withhold acceptance of the Contracted Website, and
- (c) If you elect to skip (or decline access to Webfox to install) the Bug Patches, you agree that Webfox shall not be liable for any lack of functionality in the Contracted Website.

6. Maintenance

6.1 Webfox will provide Bug Patches as part of the Website Development Services for a period of up to 30 days following release of the Contracted Website to you, at no charge to you.

6.2 Where you:

- (a) Require Bug Patches after 30 days following release of the Contracted Website to you, or which are required as a result of changes you make which impact on the operation of the Contracted Website, or
- (b) Wish to obtain additional Maintenance Services

(“Additional Maintenance Services”) you must request these from Webfox and, if Webfox agrees to provide such Additional Maintenance Services, Webfox's standard rates for such Additional Maintenance Services will apply.

7. Your's obligations

7.1 You will provide all required material to Webfox according to the Development Specifications (“Customer Material”) to be incorporated into the Contracted Website. All Customer Material will be provided in a form suitable for incorporation into the Contracted Website without any modification by Webfox.

7.2 You indemnify Webfox against any claim, and against any loss arising out of a claim, by any person alleging that the Customer Material infringes any Intellectual Property rights of any other person.

8. Intellectual property

8.1 Unless agreed in writing to the contrary, the parties acknowledge:

- (a) that existing and future Intellectual Property Rights in the Contracted Website including the Site Design and content, other than the Customer Material, will vest in Webfox.
- (b) Webfox grants to you a non-exclusive licence to:
 - (i) use Webfox's Software in the form provided by Webfox for the purpose of the publication of the Contracted Website on the internet; and
 - (ii) sub-license the right for users to access and use the Webfox Software as part of the Contracted Website;
 - (iii) use all existing and future Intellectual Property Rights in the Contracted Website including the Site Design and content provided by Webfox for the purpose of the publication of the Contracted Website on the internet; and
 - (iv) sub-license the right for users to access and use the content provided by Webfox as part of the Contracted Website.

9. Sub-contractors

9.1 Webfox may appoint sub-contractors to perform the Website Development Services.

D. WEB BASED SOFTWARE AND SOFTWARE APPLICATIONS TERMS

These Web Based Software and Software Application Terms are to be read in conjunction with the General Terms in Part A of the Terms. In the event of a conflict between these Web Based Software and Software Application Terms and the General Terms in Part A, these Web Based Software and Software Application Terms shall succeed over the conflicting provision of the General Terms.

1. Definitions

1.1 In addition to the Definitions in Part J, the following definitions shall apply to this Part D:

“Annual Service Fee” means the fee for receipt of Webfox’s annual software services as agreed between you and Webfox or in the absence of agreement, the fee usually charged by Webfox for the supply of the Software Service

“Customer Data” means any data inputted by you while using the Software

“Enhanced Module Fee” means the fee agreed between you and Webfox, or in the absence of agreement, the fee usually charged by Webfox to provide access to the particular enhanced module of the Software

“Software” means any web based software and/or software applications created, developed and/or supplied by Webfox on your behalf and/or as instructed by you

“Software Service” means the Supply of the Software by Webfox

“Setup and Data Conversion Fee” means the fee for setup and data conversion agreed between you and Webfox, or in the absence of agreement, the fee usually charged by Webfox for setup and data conversion

“Training and Support Fee” means the fee for training and support agreed between you and Webfox, or in the absence of agreement, the fee usually charged by Webfox for training and support

2. Software Service

2.1 In consideration of the payment of the Price (which shall include but is not limited to, the Annual Service Fee), Webfox grants to you a non-exclusive and non-transferrable right to use the Software Service.

2.2 Webfox may from time to time and at its discretion introduce upgrades and updates to the Software Service at no additional charge. Those upgrades and updates will not detrimentally affect the core functionality of the Software Service.

2.3 You may from time to time request access to enhanced modules available as a part of the Software Service. If Webfox agrees to provide you with access to such additional modules, those additional modules will be deemed included as a part of the Software Service, provided that you agree to pay Webfox the then current Enhanced Module Fee.

2.4 You acknowledge and agree that there may be some minor updates (“Bug Patches”) that may be required and:

- (a) You will provide Webfox with the opportunity to undertake Bug Patches as Webfox consider necessary to enhance or ensure functionality,
- (b) If you elect to skip (or decline access to Webfox to install) the Bug Patches, you agree that Webfox shall not be liable for any lack of functionality in the Software.

3. Term

- 3.1 The term of the Software Service commences on the date of supply of the Software Service by Webfox to you and continues for a period of 12 months (“Initial Term”). It is automatically renewed by you for additional 12-month terms (“Renewal Terms”) unless you give Webfox sixty (60) days’ written notice before expiry of the then current Term that you does not wish to renew the Software Service.

4. Setup & Data Conversion

- 4.1 You will pay to Webfox the Setup and Data Conversion Fee on contracting Webfox to supply the Software Service.

5. Training & Support

- 5.1 If you require any training and/or additional support, and Webfox agrees to provide such training and/or additional support, you must pay for the Training and Support Fee (in addition to the Annual Service Fee).

6. Technical requirements

- 6.1 You acknowledge that in order to use the Software Service, your systems and data must meet the minimum standards determined (and advised to you) by Webfox.
- 6.2 You acknowledge that the minimum technical and data standards may need to be altered by Webfox from time to time and that Webfox may in its absolute discretion revise those required minimum technical and data standards in whole or in part. You will be responsible for all costs associated with any change to your systems and/or data required to meet Webfox's minimum technical and data standards. Webfox will give you not less than thirty 30 days’ notice in writing of any amendments to its minimum technical and data standards.

7. Intellectual Property

- 7.1 As between you and Webfox, all rights, title and interest, including all Intellectual Property Rights, relating to the Software Service, including software and documentation (including without limitation all upgrades, updates, improvements, enhancements, modifications and derivative works of any of them) remain with Webfox.
- 7.2 You may make sufficient copies of user documentation to support your use of the Software Service but must use such copies for the sole purpose of your own use of the Software Service.
- 7.3 You must not:
 - (a) disclose or display the Software Service to any other person, without Webfox’s written consent; or
 - (b) attempt to sublicense, modify, adapt, or reverse engineer the software used to provide the Software Service.
- 7.4 Webfox has no right or interest in your data other than a right to store and process such data in conjunction with providing the Software Service.

8. Assignment

- 8.1 You must not assign, sell or otherwise dispose of any entitlement held (or obligation owed) in respect of the Software Services, without the written consent of Webfox.

E. SOFTWARE LICENSING TERMS

These Software Licensing Terms are to be read in conjunction with the General Terms in Part A of the Terms. In the event of a conflict between these Software Licensing Terms and the General Terms in Part A, these Software Licensing Terms shall succeed over the conflicting provision of the General Terms.

1. Definitions

1.1 In addition to the Definitions in Part J, the following definitions shall apply to this Part E:

“Licence Fees” mean the fees payable in respect of the Licenced Software agreed between you and Webfox or in the absence of agreement, the fee usually charged by Webfox specific to the Licenced Software

“Licenced Software” means any software provided by Webfox to you under a licence arrangement agreed to between you and Webfox

“Software Specific Conditions” means any additional terms made known to you by Webfox specific to the Licenced Software

“Software Term” means the period of time agreed between you and Webfox for the supply of the Licenced Software, or in the absence of agreement:

(a) Commences on the date of supply of the Licenced Software by Webfox to you,

(b) Continues for a period of twelve (12) months,

and is automatically renewed by you for additional 12-month terms (“Renewal Term”) unless you give Webfox sixty (60) days’ written notice before expiry of the then current term that you does not wish to renew the Licenced Software

“Training and Support Fee” means the fee for training and support agreed between you and Webfox, or in the absence of agreement, the fee usually charged by Webfox for training and support

2. Software Licence

2.1 Upon payment of the Licence Fees, Webfox shall provide you with the Licenced Software subject to the Software Specific Conditions.

2.2 You:

(a) must use the Licenced Software solely for the purposes of your business;

(b) must use the Licenced Software only for the purposes you have represented to Webfox the Licenced Software is intended to be used for;

(c) may make one copy of the Licenced Software for your sole use as back-up for the Licenced Software. You must not make or have in existence more than one copy of the Licenced Software at any one time without Webfox’s prior written consent; and

(d) comply at all times with the Software Specific Conditions.

3. Licence fees

3.1 You agree to pay the Licence Fees to Webfox for supply of the Licenced Software.

3.2 Webfox may review and amend the Licence Fee at any time (at its discretion) up to three (3) months before the end of the then current Software Term, which shall take effect upon commencement of the Renewal Term.

3.3 The provision of the Licensed Software is subject to the ongoing payment of the Licence Fees and in the event that the Licence Fees are not paid by you, Webfox may (at its discretion):

(a) Suspend access to the Licensed Software, and/or

(b) Terminate supply of the Licensed Software,

without notice to you.

4. Your Obligations

4.1 You must:

(a) Other than for back-up purposes, not copy, modify, or distribute the Licenced Software nor communicate it to any third party without Webfox's prior written consent;

(b) not reverse assemble, reverse compile, otherwise translate or reverse engineer the Licenced Software except if expressly permitted by law. If decompilation of the Licenced Software is permitted under the Copyright Act 1994, you must first contact Webfox who will use its reasonable endeavours to make a suitable version of the Licenced Software available for that decompilation subject to such reasonable terms as Webfox requires;

(c) supervise and control the use of the Licenced Software to ensure no third party breaches these Terms of Trade;

(d) not make the Licenced Software available (including program listings, object and source program listings, object code and source code) in any form to any person without the prior written consent of Webfox; and

(e) allow reasonable access to your premises and any premises under your control, if Webfox wishes to audit your use of the Licenced Software.

5. Training & Support

5.1 If you require any training and/or additional support on the Licenced Software, and Webfox agrees to provide such training and/or additional support, you must pay for the Training and Support Fee (in addition to the Licence Fee).

6. Assignment

6.1 You must not assign, sell or otherwise dispose of any entitlement held (or obligation owed) in respect of the Licenced Software without the written consent of Webfox.

F WEB HOSTING TERMS

These Web Hosting Terms are to be read in conjunction with the General Terms in Part A of the Terms. In the event of a conflict between these Web Hosting Terms and the General Terms in Part A, these Web Hosting Terms shall succeed over the conflicting provision of the General Terms.

1. Definitions

1.1 In addition to the Definitions in Part J, the following definitions shall apply to this Part F:

“Annual Web Service Fee” means the fee payable annually for the provision of the Web Hosting Service by Webfox to you, as agreed between you and Webfox, or in the absence of agreement, the fee usually charged by Webfox specific for web hosting services

“Customer Data” means any data inputted by you while using the Web Hosting Service

“Web Hosting Service” mean the Supply of web hosting services to you by Webfox, at any location and/or through any provider Webfox shall in its discretion elect to utilise (unless you and Webfox agree in writing as to a specific location and/or a specific provider)

“Web Hosting Term” means the period of time agreed between you and Webfox for the supply of the Web Hosting Service, or in the absence of agreement:

- (a) Commences on the date of supply of the Web Hosting Service by Webfox to you,
- (b) Continues for a period of twelve (12) months,

and is automatically renewed by you for additional 12-month terms (“Renewal Term”) unless you give Webfox sixty (60) days’ written notice before expiry of the then current term that you does not wish to continue with the Web Hosting Service.

“Website Size & Traffic Limits” means any agreed website size and/or traffic limits agreed between you and Webfox, or in the absence of agreement, the following limits:

- (a) Website Size: 1GB or as agreed, and
- (b) Traffic Limits: 100GB domestic or as agreed

2. Web Hosting Service

2.1 Upon payment of the Annual Web Service Fee, Webfox shall provide you with a non-exclusive and non-transferrable right to use the Web Hosting Service, during the Web Hosting Term.

2.2 Webfox may from to time and at its discretion, introduce upgrades and updates to the Web Hosting Service at no additional charge. Those upgrades and updates will not detrimentally affect the core functionality of the Web Hosting Service.

3. Web Hosting fees

- 3.1 You agree to pay the Annual Web Service Fee to Webfox for supply of the Web Hosting Service.
- 3.2 Webfox may review and amend the Annual Web Service Fee at any time (at its discretion) up to three (3) months before the end of the Web Hosting Term, which shall take effect upon on commencement of the Renewal Term.

4. Intellectual Property Rights

- 4.1 As between you and Webfox, all rights, title, and interest, including all Intellectual Property Rights, relating to the Web Hosting Service, including software and documentation (including without limitation all upgrades, updates, improvements, enhancements, modifications, and derivative works of any of them) remain with Webfox.
- 4.2 You may make sufficient copies of user documentation to support your use of the Web Hosting Service but must use such copies for the sole purpose of your own use of the Web Hosting Service.
- 4.3 You must not:
 - (a) disclose or display the Web Hosting Service to any other person; or
 - (b) attempt to sublicense, modify, adapt, reverse engineer the software used to provide the Web Hosting Service.
- 4.4 Webfox has no right or interest in your data other than a right to store and process the your data in conjunction with providing you with the Web Hosting Service.

5. Warranties and liabilities

- 5.1 Webfox does not provide any guarantee and has no liability to you in respect of the communications and computer links between you and Webfox allowing access to the Web Hosting Service.
- 5.2 You will not allow any Prohibited Content to be posted on the world wide web through the Web Hosting Service.
- 5.3 Webfox will use its best endeavours to ensure that you receive continual and uninterrupted web hosting services during the Web Hosting Term however WebFox does not in any way warrant or otherwise guarantee the availability of the Web Hosting Services (which shall be subject to regularly scheduled maintenance cycles, and many events/circumstances beyond the control of WebFox).
- 5.4 WebFox shall not be liable to you for any damages (including loss of income) resulting from or in relation to any failure or delay (including server downtime, programming errors, lack of connection or slow connection) of WebFox to provide the Web Hosting Service, or any loss of data, if such delays or failures are due to circumstances beyond WebFox's control.
- 5.5 You will ensure that any content supply to Webfox in the course of the supply of the Web Hosting Service:
 - (a) Does not contain any Prohibited Content,
 - (b) Does not contain any viruses, trojan horses, worms, time bombs, cancel bots, malware, data mining software, or any other software program (or routine) designed for (or capable of) interfering with the Web Hosting Service,
 - (c) You will only access web hosting accounts you have lawful access to,
 - (d) No person having access to the Web Hosting Service shall:

- (i) Attempt to probe, scan or test the vulnerability of any system, subsystem or network,
 - (ii) Tamper, hack, modify or otherwise corrupt or breach security or authenticity measures without proper authorisation,
 - (ii) Transmit any Prohibited Content material, and/or
 - (iii) Do anything that prevents or hinders Webfox from providing any form of services to any other person,
- (e) You will comply at all times with the Privacy Act 2020 (New Zealand legislation) and/or any privacy legislation, statutes, regulations or enacted law in any country that may have access to the Web Hosting Service.

5.6 You will comply with the Website Size & Traffic Limits and will not do anything to circumvent any limiting process put in place to police or prevent excess of the Website Size & Traffic Limits.

6. **Suspension**

6.1 In the event of the posting of any Prohibited Content on or through the Web Hosting Service, Webfox may immediately (and without notice to you) suspend the Web Hosting Service.

G. PROJECT MANAGEMENT & INTERNAL BUSINESS SOLUTIONS TERMS

These Project Management & Internal Business Solution Terms are to be read in conjunction with the General Terms in Part A of the Terms. In the event of a conflict between these Project Management & Internal Business Solution Terms and the General Terms in Part A, these Project Management & Internal Business Solution Terms shall succeed over the conflicting provision of the General Terms.

1. Definitions

1.1 In addition to the Definitions in Part J, the following definitions shall apply to this Part B:

“Additional Fees” means any fees and charges imposed by Webfox for Additional Services

“Additional Services” means any services requested by you, additional to the Project Management Services and/or the Business Solutions Services agreed to be supplied by Webfox to you

“Business Solutions Services” means the Supply of internal business solutions services by Webfox to you, as requested by you

“Customer Material” has the meaning defined in clause 5.1

“Project Management Services” means the Supply of project management services by Webfox to you, as requested by you

“Services Plan” means any plan agreed in writing between Webfox and you, for the development of the provision of Project Management Services and/or Business Solutions Services

“Services Specifications” means any specifications for Project Management Services and/or Business Solutions Services agreed in writing between Webfox and you

2. Project Management & Business Solutions Services

2.1 In consideration of the payment of the Price, Webfox will provide:

- * Project Management Services as agreed between you and Webfox, and
- * Internal Business Solutions as agreed between you and Webfox.

2.2 Webfox will provide the Additional Services, where requested by you, in accordance with 3.2.

3. Services Specifications

3.1 The Project Management Services and/or Business Solutions Services to be provided to you are set out in the Services Specifications.

3.2 If you request any changes to:

(a) the scope and nature of the Project Management Services and/or Business Solutions Services, or

(b) the elements of the Project Management Services and/or Business Solutions Services,

which Webfox advises require additional time, material or resources to be provided by Webfox (“Additional Services”), such changes will occur as follows:

(c) you will notify Webfox of any changes you request;

(d) following notification, Webfox may provide you with written notice of:

- (i) the changes required to the Services Specifications;
 - (ii) the Additional Services required by such changes; and
 - (iii) the Additional Fees required to undertake such Additional Services; and
- (e) if you agree to:
- (i) the changes to the Services Specifications;
 - (ii) the Additional Services; and
 - (iii) the Additional Fees,

the contract between Webfox and you will be considered varied to include such changes as set out in the notice provided by Webfox to you pursuant to this clause.

3.3 Webfox may, at its discretion, decline any request for changes pursuant to clause 3.2 and nothing in this clause creates an obligation on Webfox to change the Services Specifications.

4. Services Plan

4.1 The parties will use reasonable endeavours to comply with the Services Plan (if any).

4.2 Where Webfox becomes aware of a delay in completing any timeframe within the Services Plan, it will notify you in writing of the cause of the delay and the estimated date of completion.

4.3 Where Webfox provides notice in respect of a delay under clause 4.2, you must grant Webfox an extension of time.

5. Your's obligations

5.1 You will provide all required material to Webfox ("Customer Material") necessary to undertake the Project Management Services and/or Business Solutions Services. All Customer Material will be provided in a form suitable to undertake Project Management Services and/or Business Solutions Services without any modification by Webfox.

5.2 You indemnify Webfox against any claim, and against any loss arising out of a claim, by any person alleging that the Customer Material infringes any Intellectual Property rights of any other person.

9. Sub-contractors

9.1 Webfox may appoint sub-contractors to perform the Project Management Services and/or Business Solutions Services.

H. LIVESTREAMING TERMS

These Livestreaming Terms are to be read in conjunction with the General Terms in Part A of the Terms. In the event of a conflict between these Livestreaming Terms and the General Terms in Part A, these Livestreaming Terms shall succeed over the conflicting provision of the General Terms.

1. Definitions

1.1 In addition to the Definitions in Part J, the following definitions shall apply to this Part H:

“Live Streaming Fee” means the fee payable annually for the provision of the Live Streaming Service by Webfox to you, as agreed between you and Webfox, or in the absence of agreement, the fee usually charged by Webfox specific for live streaming services

“Live Streaming Service” mean the Supply of live streaming services to you by Webfox, at any location and/or through any provider Webfox shall in its discretion elect to utilise (unless you and Webfox agree in writing as to a specific location and/or a specific provider)

“Live Streaming Specifications” means any agreed live streaming specification agreed between you and Webfox, or in the absence of agreement, the following specifications:

(a) []

2. Live Streaming Service

2.1 Upon payment of the Price (which shall include the Live Streaming Fee), Webfox shall provide you with the Live Streaming Service.

3. Live Streaming Fee

3.1 You agree to pay the Live Streaming Fee to Webfox for supply of the Live Streaming Service.

3.2 Webfox may review and amend the Live Streaming Fee at any time (at its discretion), which shall take effect following the expiry of any specific engagement (being an engagement agreed between you and Webfox to be undertaken on a specific date for a specific period of time) for the provision of a Live Streaming Service.

4. Warranties and liabilities

4.1 Webfox does not provide any guarantee and has no liability to you in respect of the communications and computer links between you and Webfox allowing access to the Live Streaming Service.

4.2 You will not allow any Prohibited Content to be streamed through the Live Streaming Service.

4.3 Webfox will use its best endeavours to ensure that you receive continual and uninterrupted live streaming services however WebFox does not in any way warrant or otherwise guarantee the availability of the Live Streaming Services (which shall be subject to regularly scheduled maintenance cycles, and many events/circumstances beyond the control of WebFox).

4.4 WebFox shall not be liable to you for any damages (including loss of income) resulting from or in relation to any failure or delay (including server downtime, programming errors, lack of connection or slow connection) of WebFox to provide the Live Streaming Service, or any loss of data, if such delays or failures are due to circumstances beyond WebFox's control.

5. **Suspension**

5.1 In the event of the streaming of any Prohibited Content on or through the Live Streaming Service, Webfox may immediately (and without notice to you) suspend the Live Streaming Service.

I. DOMAIN REGISTRATION TERMS

These Software Licensing Terms are to be read in conjunction with the General Terms in Part A of the Terms. In the event of a conflict between these Domain Registration Terms and the General Terms in Part A, these Domain Registration Terms shall succeed over the conflicting provision of the General Terms.

1. Definitions

1.1 In addition to the Definitions in Part J, the following definitions shall apply to this Part I:

“DNS Work”	means any work undertaking in the updating and/or management of your DNS records
“DNS Work Fee”	means the fees payable in respect of the DNS Work agreed between you and Webfox or in the absence of agreement, the fee usually charged by Webfox for DNS Work
“Domain Name”	means the internet domain name you request Webfox to obtain Domain Registration in respect of
“Domain Name Transfer Fee”	means the fees agreed between you and Webfox to effect transfer of the Domain Name, or in the absence of agreement, the fee usually charged by Webfox to effect transfer of a domain name
“Domain Registration”	means the acquisition, maintenance and registration of a specific domain requested by you and excludes the DNS Work
“Domain Registration Fees”	mean the fees payable in respect of the Domain Registration agreed between you and Webfox or in the absence of agreement, the fee usually charged by Webfox for domain registration
“Domain Specific Conditions”	means any additional terms made known to you by Webfox specific to the Domain Registration
“Domain Registration Term”	means the period of time agreed between you and Webfox for the supply of Domain Registration, or in the absence of agreement: (a) Commences on the date of supply of the Domain Registration by Webfox to you, (b) Continues for a period of twelve (12) months, and is automatically renewed by you for additional 12-month terms (“Renewal Term”) unless you give Webfox sixty (60) days’ written notice before expiry of the then current term that you does not wish to renew the Domain Registration

2. Domain Name

2.1 You acknowledge and agree that:

- (a) Webfox is not a domain registrar or a domain registration provider,
- (b) Domain names are subject to availability,
- (c) While Webfox will use its reasonable endeavours to secure the Domain Name, Webfox is under no obligation to secure the Domain Name,
- (d) Webfox shall be entitled to engage a domain registrar or a domain registration provider of its choosing for the Domain Registration (unless otherwise agreed in writing), and
- (e) Webfox may decline to undertake Domain Registration of any Domain Name (wholly at its discretion) and shall not be obliged to provide any reasons or justification for such declination.

2.2 You agree that Webfox is not obligated to maintain the Domain Name beyond the expiry of the Domain Registration Term and in the event that the Domain Registration Term expires, Webfox shall not be liable to you:

- (a) For any consequential loss arising from the loss of availability of the Domain Name,
- (b) To re-acquire the Domain Name, and/or
- (c) For any losses, damages or claims (whether in contract, tort or at law) arising from the Domain Registration coming to an end.

2.3 Subject to clause 2.1(e), Webfox shall seek Domain Registration with the domain name extension requested by you and:

- (a) Shall not be obligated to source the Domain Name with any other domain name extension, and/or
- (b) Shall not be liable for any loss arising from the acquisition by a third party, of a domain name that is the same as the Domain Name with an alternate domain name extension.

2.4 During the Domain Registration Term or otherwise, Webfox shall not be liable for any losses, damages or claims (whether in contract, tort, consequential or otherwise at law) arising from the Domain Name no longer being available, or having been de-registered.

3. Domain Registration

3.1 Upon payment of the Domain Registration Fees and subject to availability and clause 2.1(e), Webfox shall secure the Domain Name and effect the Domain Registration.

3.2 You acknowledge that the Domain Registration is subject to the Domain Specific Conditions.

3.3 The Domain Registration is subject to the ongoing payment of the Domain Registration Fees and in the event that the Domain Registration Fees are not paid by you, Webfox may (at its discretion):

- (a) Suspend access to the Domain Registration Software, and/or
- (b) Terminate supply of the Domain Registration,
without notice to you.

4. Domain Registration Fees

4.1 You agree to pay the Domain Registration Fees to Webfox for supply of the Domain Registration.

4.2 Webfox may review and amend the Domain Registration Fee at any time (at its discretion) up to three (3) months before the end of the then current Domain Registration Term, which shall take effect upon commencement of the Renewal Term.

5. DNS Work

5.2 If you request Webfox to undertake DNS Work for you and Webfox agrees to undertake DNS Work for you, you agree to pay the DNS Work Fees to Webfox.

5.3 You acknowledge that Webfox is obliged to undertake DNS Work for you and Webfox may decline to undertake the DNS Work without being obliged to provide any reasons or justification for such declination.

6. Your Obligations

6.1 You must:

- (a) Not request Webfox to acquire the Domain Name in the knowledge that the Domain Registration will infringe upon a third party's intellectual property rights,
- (b) Not use the Domain Registration to "pass off" as a third party,
- (c) Not do anything that brings Webfox into disrepute or that you know will cause Webfox to be in breach of any obligations owed to a domain registrar or a domain registration provider, and/or
- (d) Not breach the Domain Specific Conditions.

7. Assignment

7.1 You must not assign, sell or otherwise dispose of any entitlement held (or obligation owed) in respect of the Domain Registration without the written consent of Webfox, which shall not be unreasonably withheld.

8. Domain Name

8.1 Subject to payment of the Domain Registration Fee, you are the owner of the Domain Name during the Domain Registration Term.

8.2 Upon:

- (a) Your written request to transfer the Domain Name, and
- (b) Payment of the Domain Name Transfer Fee,

Webfox will do all reasonable things necessary to effect transfer of the Domain Name to you, or a person or entity nominated by you.

J. PRIVACY TERMS, DISCLAIMER & WEBFOX'S INTELLECTUAL PROPERTY

These Privacy Terms are to be read in conjunction with the General Terms in Part A of the Terms. In the event of a conflict between these Privacy Terms and the General Terms in Part A, these Privacy Terms shall succeed over the conflicting provision of the General Terms.

1. Privacy Terms

- 1.1 The information below applies to personal information (information about an identifiable individual) Webfox collects about you when you visit and browse Webfox's website.
- 1.2 When you visit Webfox's website, Webfox collects some non-personal information, such as the IP address from which you accessed this website, the date and time you are visiting, the pages you accessed, the type of browser and operating system you use, and terms you use to search for content on Webfox's site. This information cannot be used to personally identify you. Webfox uses it for the purposes of system administration, auditing use of the site and improving it for different customer profiles, and for Webfox's internal reporting.
- 1.3 Webfox's website relies on the use of cookies, which are small files stored on the hard drive of your computer. Webfox recommends you enable cookies in order to enjoy Webfox's website, but it is up to you whether you enable them or not. Not all features of Webfox's site may be available if you do not enable cookies.
- 1.4 If you choose to provide Webfox with personal information such as your email address, for example by filling out an electronic query, Webfox will use the information only for the purposes that you authorise it to be used for. Webfox will send you email marketing to that email address if you agree to Webfox doing so. If you wish to unsubscribe from any email marketing communications you have previously agreed can be sent to you, you can:
 - (a) follow the unsubscribe instructions in the email; or
 - (b) phone or write to Webfox using the contact details in that email message.
- 1.5 When you provide Webfox with personal information, Webfox are obliged to comply with the provisions of the Privacy Act 2020 ("Act"). Webfox will collect, hold, use and disclose that information in accordance with the principles set out in the Act. This means Webfox will:
 - (a) use personal information only for the purpose Webfox collects it for;
 - (b) retain that information only for so long as necessary to fulfil the purpose for which Webfox have collected it; and
 - (c) disclose or release it to a third party only where Webfox are required to or Webfox are permitted by law to do so, if you have authorised the release or disclosure, or where it is the purpose (or a directly related purpose) for which the information was collected.
- 1.6 If you think Webfox has breached the Act or you would like to find out more about our obligations, information is available on the Privacy Commissioner's website at www.privacy.org.nz.
- 1.7 If you wish to enquire about personal information Webfox holds about you (if any) you can contact Webfox as follows: info@webfox.co.nz. You are entitled to receive details of the personal information held about you (upon your request) and to request correction of any personal information that is held by Webfox.

2. Disclaimer

- 2.1 The information Webfox provides on their website is provided to you in good faith, however, it is an introduction to the Services only. If you contact Webfox with a request to Supply the Services, then you will be making an offer to engage Webfox to Supply the Services. Webfox can accept or decline that offer in its discretion.
- 2.2 While Webfox will do use its best endeavours to make sure that their website is available, Webfox cannot guarantee that it will always be uninterrupted or that your access will be error-free, or that any files available for download will be error-free or free from viruses, faults or defects. You are responsible to ensure that you maintain adequate protection on your devices at all times.
- 2.3 Links or references to other websites are provided for your convenience only. Other websites are not under Webfox's control. Webfox have not reviewed them and do not endorse or assume responsibility for the contents of any other website.
- 2.4 If you wish to link to this website, you should request Webfox's permission. To do so, contact Webfox on: info@webfox.co.nz. You must not do anything which alters Webfox's website or interferes with how it works.

3. Intellectual Property

- 3.1 Unless otherwise shown, Webfox owns all the copyright and other intellectual property rights in the material on this website and/or the material on this site is subject to copyright except where it is otherwise noted. You can use the material for your own personal, non-commercial use provided that you acknowledge the source of the material and that you do not remove any copyright, trade mark or other intellectual property notices contained in the content, but you must not use the material in a misleading way.
- 3.2 You must not use any of Webfox's trade marks in any other way without Webfox's permission.

4. Other

- 4.1 If you post any material to Webfox's site which Webfox believes (in our own discretion) is inappropriate for the site, Webfox may remove it.
- 4.2 Changes or updates to the content of this website may occur at any time. These terms may be changed or updated from time to time. Changes may take the form of completely new terms. Webfox will post any changes on this website; any change applies from the date it is posted.

K. DEFINITIONS

In the Terms:

- “Applications” mean applications developed for use by end users and includes applications accessible through websites or cloud based applications while the business software and user data is stored on servers based at an alternative location for security and back-up purposes.
- “Confidential Information” means:
- (a) all non-public information and material received from Webfox. For clarity, Confidential Information includes any new Intellectual Property and prices, and
 - (b) all information provided by one party to the other in connection with the Supply 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:
 - (i) 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
 - (ii) information developed independently by a party.
- “Delivery” means that point in time when the Supply passes to you (physically, electronically, digitally, or otherwise)
- “Force Majeure Event” means any event beyond the control of the relevant party.
- “Goods” means goods and includes any third party software applications, third party licences and/or third party digital or electronic supplies, files, information, printed or virtual material, data or software, whether supplied from a third party software development company or where custom developed or programmed for the Client
- “GST” means goods and services tax under the Goods and Services Tax Act 1985, or any other value-added tax, sales tax or similar tax
- “Intellectual Property” includes all intellectual property rights (including without limitation copyright, patents, trademarks, design rights, trade secrets, domain names, know how, drawings, documents, data, ideas, procedures, calculations and other rights of a similar nature whether registerable or not and whether registered or not, any applications for registration or rights to make such an application.
- “In your presence” includes:
- (a) In person,
 - (b) Real time online identifiable interaction across the world wide web,
 - (c) By video link,
 - (d) Web conferencing and teleconferencing, and
 - (e) Real time remote interactions where the identity of the parties are established.

“Price” means the cost of the Supply as agreed between WebFox and in the absence of agreement, the Actual Cost pursuant to clause 4 of the General Terms, and excludes GST unless express otherwise

“Prohibited Content” means:

- * Any content that is illegal and/or promotes or facilitates any unlawful or illegal act
- * Material that shows or encourages child sexual abuse, terrorism, crime in any form (including hate crime) and/or extreme violence
- * Material that is objectionable, offensive, sexually explicit, pornographic, defamatory, promotes or facilitates gambling and/or is morally unacceptable
- * Content that promotes or facilitates harm to any person, including minors
- * Material that purports to be from or on behalf of another person or entity
- * Any content in breach of the Harmful Digital Communications Act 2015 (New Zealand legislation), and/or any legislation, statutes, regulations or enacted law in any country to prevent harmful digital communications, that may have access to the Services
- * Any content in breach of the Human Rights Act 1993 (New Zealand legislation), or any and/or any human rights legislation, statutes, regulations or enacted law in any country that may have access to the Services
- * Any content that breaches any internet search providers’ terms and conditions who Webfox are partnered, associated or affiliated with
- * Any content that infringes another person’s intellectual property rights, including copyright
- * Content that is, or could reasonably be considered to be, in breach of the New Zealand legislation: Broadcasting Act 1989; the Fair Trading Act 1986; or any other applicable law or applicable industry code; or
- * Content that contains, or could reasonably be considered to contain, any misrepresentations; or is, or could reasonably be considered to be, misleading or deceptive, likely to mislead or deceive or otherwise unlawful; or
- * Any IRC software, pirated software, hacked sites, programs or archives, and/or Warez sites
- * Any content or material that brings (or has the potential to bring) Webfox into disrepute and/or causes (or has the potential to cause) reputational or financial loss to Webfox.

“Services” means Work and all services provided by Webfox to you and includes any advice or recommendations, technical service and support and training

“Software” means the programs and other operating information (including documentation) used by a computer, tablet and/or mobile device.

“Supply” means the undertaking of the Work and the Services and the provision of Goods, Software, Applications, Web Site, licences and/or advice

- “WebFox” means WebFox Developments Ltd T/A WebFox, its successors and assigns or any person acting on behalf of and with the authority of WebFox Developments Ltd t/a WebFox, and includes reference in the Terms to “us/we/our”.
- “Web Site” generically means a location which is accessible on the Internet through the World Wide Web and which provides multimedia content via a graphical User Interface.
- “Work” means all work undertaken by Webfox on your behalf and/or pursuant to your instructions
- (a) The rule of construction known as the contra proferentem rule does not apply to the Terms and/or any contractual documentation between Webfox and you.
 - (b) References to Webfox include Webfox’s employees, contractors and agents.
 - (c) Words referring to the singular include the plural and vice versa.
 - (d) Any reference to a party includes:
 - (i) that party's executors, administrators, or permitted assigns; or
 - (ii) if a company, limited partnership, or any other body corporate, its successors or permitted assigns or both.
 - (e) Clause headings are for reference only.
 - (f) References to clauses are references to clauses of the Terms.
 - (g) References to money will be New Zealand currency, unless specified otherwise.
 - (h) Expressions referring to writing will be construed as including references to words printed, typewritten or otherwise visibly represented, copied or reproduced (including by fax or email).
 - (i) References to statutory provisions will be construed as references to those provisions as amended or re-enacted or as their application is modified by other provisions from time to time.