

# Terms & Conditions

## 1 Terms & Conditions

- 1.1 These Terms & Conditions apply to all products or services which we provide you with.
- 1.2 If you wish for us to provide our services you must complete the applicable application form.
- 1.3 We may in our absolute discretion refuse to provide our products or services to you.

## 2 Supersede

- 2.1 These Terms & Conditions supersede any earlier negotiations and representations whether oral or written, agreement for the same services, and Terms & Conditions.

## 3 Changing these Terms & Conditions

- 3.1 We may change these Terms & Conditions at any time and you will be bound by any change on the date that we give you notice of such change. You are deemed to have received notice (whether or not you actually receive it) when we send you the changed Terms & Conditions to any address you have advised us of (including an email address);
- 3.2 You cannot vary these Terms & Conditions without our written approval nor will any other conditions that you propose form part of these Terms & Conditions unless both you and we agree in writing.

## 4 Definitions

- 4.1 **Us:** All references to **us, we, our, I** etc, refer to The Rotary Club of Brisbane Inc. ABN 75 152 438 149 and our agents.
- 4.2 **You:** All references to **you, your,** etc refer to the customer requesting the services or placing the order and your representatives and if more than one, each of them jointly and severally.

## 5 Our information

- 5.1 **Contact details.** Our contact details are as follows unless we notify you in writing of any changes:

Name: The Rotary Club of Brisbane Inc. ABN 75 152 438 149;  
Business address: Level 4, 241 Adelaide St, Brisbane City QLD 4000;  
GPO BOX 2909 Brisbane Qld 4001 and;  
Email address: secretary@brisbanerotary.org.au

## 6 Quotes and applications

- 6.1 **Quotes.** Any quote we give you will be valid for 30 days (or such other time stated at the time we give the quote) from the date of that quote and we can withdraw, modify or vary that quote up until any time we provide the service for you. Any quote provided by us is an invitation to treat. Where that quote is accepted by you it will be an order for the purpose of these Terms & Conditions.
- 6.2 **Prevailing terms.** We will not be bound by your application until we accept it, which we may do by providing the service for you. If the terms of your application differ from these Terms & Conditions, these Terms & Conditions will prevail.
- 6.3 **Order form.** You are responsible for checking the prices of our products and services in any quote or your application and that the quote or your application sets out the service you require. We take no responsibility for any omissions or errors in the description of the service or the prices set out in the quote or application.
- 6.4 **Method of applying.** You may only make an application by contacting us in writing at our designated address or email address contained in clause 5.1.

## 7 Price

- 7.1 **Variation.** Prices listed for the relevant service are fixed until we issue a revised price list or otherwise notify you that the prices have been revised (which may be noted in the quote). We can vary prices at any time prior to accepting your application.
- 7.2 **Amount.** You will pay us according to the applicable prices set out in the application at the date of provision of our service without deductions or setoff unless quoted by us or we otherwise advise.
- 7.3 **Statutory charges excluded.** All prices are exclusive of sales tax, goods and services tax and other statutory duties unless otherwise stated. You must pay any sales tax, goods and services tax or other statutory charges in addition to the base amount when requested by us. Where goods and services tax is payable we will provide you with an invoice identifying the goods and services component in Australian dollars calculated in accordance with the trade-weighted index for the Australian dollar as calculated by the Reserve Bank of Australia at 4:00pm on either the earlier of:
- the date of dispatch; or
  - upon receipt of a deposit or advance payment.
- 7.4 **Other costs.** Any additions or increases in the cost of the supply of our services as a result of any additions or increases in charges, taxes (including the rate of GST) or costs associated with the supply of our services by us, including without limitation increases due to variations in exchange rates, the cost of materials, labour or production, freight, insurance, process costs, rental or licence fees, delivery and/or the cost of conforming with any relevant legislation, court orders, regulations or bylaws, from the date of our

acceptance of your application and the date of supply of the relevant services shall be borne by you.

- 7.5 **Currency.** Unless otherwise stipulated all references to dollars are references to the lawful currency of Australia unless otherwise stated and agreed upon.

- 7.6 **Payment for services.**

- Payment is to be made in the form of electronic funds transfer, bank cheque, company cheque, personal cheque, PayPal or credit card.
- Payment will be deemed to have been received when the cleared funds are available in our bank account.
- Unless otherwise agreed in writing, full payment is required before we confirm your seat in any training course.

- 7.7 **Interest.** In cases where other payment terms are negotiated, if payment has not been made by the agreed due date, we may recover interest on the amount outstanding calculated at the business reference rate as published by ANZ Bank plus 4% margin, this will be calculated on a daily basis and capitalised monthly.

## 8 Start, delivery, cancellation and rescheduling

- 8.1 **Start.** We will provide the services on the start date as set out in the relevant application or such other date as we advise in writing to you.

- 8.2 **Term.** We will provide the services for the term as set out in the relevant application or for such other term as we advise in writing to you.

- 8.3 **Cancellation.** Unless otherwise specified and agreed in writing by us, the following general cancellation and rescheduling policies will apply:

- we reserve the right to withhold received payment or invoice a received company purchase order provided for services if you cancel a service that we are to provide as follows:
  - we will refund 50% of the amount paid if you cancel the application for services more than 7 working days before the scheduled start date of the services;
  - we will refund 25% of the amount paid if you cancel the application for services less than 7 working days but before 24 hours before the scheduled start date of the services;
  - you will not be entitled to a refund where you cancel your application for services less than 24 hours before the scheduled start date of the services or in the event of a no-show.
- without in anyway reducing our rights under the above clause 8.1(a), please inform us as soon as possible if you are unable to attend our services so that we can consider your circumstances;
- we reserve the right to re-schedule any service 7 or more working days before the start date of the services and we will not be liable for any costs that you incur, including without limitation accommodation, travel or loss of income. In the event that we reschedule a course we will notify you by email; and
- where we reschedule a service, you will have the right to a full refund of monies paid in respect of that service, or credit for that service or equivalent service, as notified by you prior to the date on which the service was to be held, or as negotiated between us and you.

- 8.4 **Delivery.** We will ship or deliver products as set out in the applicable quotation or product description web page.

## 9 Service warranty

- 9.1 If you are a consumer under the Competition and Consumer Act 2010 (**CC Act**) then:

- Warranty.** All services will be free of defects at the time that we provide the service and.
- Warranty exclusion.** This Warranty will not apply to services or products provided where you provided false or incorrect instructions and/or hindered us from carrying out our services or delivering our products.
- Inspection on delivery/completion.** You must review the completed service or product as soon as it has been completed and if you do not, you will be deemed to have accepted the service.
- Claim.** If you believe that service does not comply with our warranty, you must make a claim to us either by post or email to the addresses in clause 5 within 7 days after completion of the service.
- Our action.** Subject to clauses 9(f) and (g), I will either, in our sole discretion:
  - provide again or rectify the services or part of them; or
  - replace the defective product or part of product; or
  - wholly or partly recompense you by providing credit or reimbursing you.
- Conditions precedent.** Clause 9.1 is conditional on you having:
  - notified us of your claim under clause 12.1(d); and
  - allowed us to review the service and investigate your claim;
- Deemed compliance.** Where you did not comply with any of the conditions in clause 9.1(f), our services will be deemed to comply with your application and you will be bound to pay for our services in accordance with these terms.
- CC Act Consumer:**

- (i) the benefits to you given by the warranty in clause 9.1 are in addition to other rights and remedies of yours under a law in relation to the goods or services to which the warranty relates;
  - (ii) our goods come with guarantees that cannot be excluded under the Australian Consumer Law;
  - (iii) you are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage;
  - (iv) you are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure; and
  - (v) expenses incurred in making, and verifying, the claim will be borne by:
    - A us, up to a maximum of \$100.00, in the event I decide (acting reasonably) that the claim was validly made; or
    - B you in all other circumstances.
- (i) **Third Party services.** We will not warrant services that are not supplied by us. In the event the third party provided services are defective, the claim will be passed onto the original third party service provider and will be subject to their warranty terms and conditions.

## 10 Liability

10.1 **Exclusion of legislation.** Where clause 9 is not applicable, the provisions of all legislation, including the CC Act and the Fair Trading Act 1989 (Qld), do not apply to these Terms & Conditions except to the extent that they are unable to be excluded by legislation.

10.2 **Limitation of liability.** Subject to clause 10.1 and other warranties set out in these Terms & Conditions:

- (a) we give no guarantee, warranty, undertaking or representation in relation to the services provided to you, their quality, fitness for any purpose, their compliance with any description or sample, or otherwise;
- (b) we will not be liable to you for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, spontaneous combustion, fermentation, asbestos claims, flood, drought, storm, pollution, radioactive contamination or other event beyond our reasonable control;
- (c) our liability to you arising in any way in relation to our services will be limited to the extent of our warranty contained in clause 9;
- (d) in no case will our liability extend to any direct, incidental or consequential damage to property, personal injury or loss of profit;
- (e) you are liable for any loss, theft or damage to your person and/or your personal belongings while we provide you the services;
- (f) all information contained in any of our publications (including any catalogues, brochures, photographs, illustrations, website or any advertising material) represent generally the subject matter and price of our services but will not be taken as necessarily representing our services, the subject of any order or the correct price and will not form part of any contract or agreement for supply; and
- (g) except as otherwise expressly provided in these Terms & Conditions, you release us from all actions, claims, demands, losses, liabilities, damages and expenses arising from or in relation to the supply of our services,

and you acknowledge that we would not have entered into any contract with you if any of the above were not true.

10.3 **Reliance.** You acknowledge that you have not relied on and have not been induced to use any service based on any representation by us other than as expressly recorded in these Terms & Conditions.

10.4 **Maximum liability.** Notwithstanding clause 10.1, if we are found liable by operation of law, our total liability (including death or personal injury occurring as a consequence of any negligent act, omission or default on our part, under or in connection with these Terms & Conditions), whether in contract, tort or otherwise must not exceed \$20,000,000.

## 11 Default

11.1 **Our rights where you are in default.** If you are in default under these Terms & Conditions or commit an act pursuant to which bankruptcy or insolvency proceedings may be commenced against you, then:

- (a) we may stop carrying out the service (even if you will incur a loss by our doing so);
- (b) payment of all monies which you owe to us will immediately become due and payable on demand;
- (c) we may vary the terms of payment or suspend or terminate any contract for the supply of our services to you;
- (d) in addition to any other lien to which we may be entitled, we will be entitled to a general lien on all money and property belonging to you in our possession to the extent of the unpaid price of our services;
- (e) we may sell any property of yours in our possession and use the proceeds to pay towards our costs of your default; and
- (f) we may destroy or discard of any part of your property in our possession if the likely proceeds of sale will not exceed the costs of selling those items.

11.2 **No compensation.** You are not entitled to any compensation in relation to any action which we take under clause 11.1.

11.3 **Indemnity.** You will indemnify us against the costs of any action in respect of recovery, handling and sale or re-sale, including without limitation any debt collection agency fees and solicitors' fees (on an solicitor-client basis), and the balance of any amount owing following sale or re-sale will be immediately due

to us. A certificate produced by us will be conclusive evidence of the balance of the amount which you owe us.

11.4 **Further assurance.** You appoint us as your attorney for the purpose of doing all acts, matters or things we think are necessary to give full effect to this clause 11.

## 12 Intellectual property

12.1 **Intellectual Property.** We or the relevant third-party own and retain all intellectual property rights in and connected to the services and any related materials.

12.2 **Act Consistently.** You will not at any time do any act inconsistent with my or the relevant third-party's intellectual property rights.

## 13 Application details

13.1 **True and Correct.** You certify that all information provided to us in accordance with any application or to induce us to supply our services is true and correct.

## 14 Warranty and further assurances

14.1 **Warranties.** You warrant that:

- (a) you have provided us with all information required under these Terms & Conditions including but not limited to clauses **Error! Reference source not found.** and 13;
- (b) you have disclosed to us in writing all of your details including any trusts and related trust ABNs; and
- (c) nothing of relevance that should have been disclosed has been omitted.

14.2 **Further information.** You must provide us with any further information that we require immediately upon our request.

## 15 General

15.1 **Force Majeure.** We will not be liable for any delays or loss or damage you suffer arising from any cause beyond our control including but not limited to delays in transportation, handling or supply, accidents, fire, strikes and other labour disputes, terrorist acts, acts of God, the requirements of any law or Government agency or other circumstance whether or not of a similar nature beyond our control, until that cause has ceased to have effect.

15.2 **Time.** With the exception of the time for delivery of the services, time shall be of the essence.

15.3 **Relevant Law.** These Terms & Conditions will be construed in accordance with the laws of Queensland and the parties submit to the jurisdiction of the Queensland courts.

15.4 **Waiver.** The failure of either of party to exercise any rights under these Terms & Conditions will not waive that right, nor will any practice developed between us waive or lessen my respective rights under these Terms & Conditions.

15.5 **Severance.** Any provision of these Terms & Conditions which is found by a court of competent jurisdiction or any competent government authority to be invalid, illegal or unenforceable, will be severed from these Terms & Conditions and will be deemed never to have been part of them.

15.6 **No Restraint.** No provision expressed or implied in these Terms & Conditions restricts our right to provide services to third parties, whether or not you have provided services to those third parties at any time.

15.7 **Clerical Errors.** We reserve the right to correct clerical errors without notification.