



Terms and Conditions

Welcome to www.lain.com.au.

Our Site gives you an opportunity to browse and purchase products and services (**Products and/or Services**) offered by Lain Pty Ltd (ACN 681 019 349) (**We, Us, Our**).

These Terms and Conditions (**Terms**) govern your use of Our Site, Our Products and/or Services, and form a binding contractual agreement between Us and you.

These Terms are important and should be read carefully. Any questions about these Terms must be directed to Us in writing at operations@lain.com.au before using Our Site, buying or engaging Our Products and/or Services.

Subject to any subsequent agreements you may be required to enter with Us, these Terms constitute the entire agreement between you and Us and supersede all prior agreements, conduct, representations and understandings. You confirm you have not entered into this agreement on the basis of any representation that is not expressly incorporated into these Terms.

1 ACCEPTANCE OF TERMS

1.1 By:

- (a) Browsing Our Site, accessing Our Site, purchasing, or using the Products and/or Services offered, whether or not you have purchased or engaged Our Products and/or Services either directly or indirectly, and irrespective of your capacity as an individual, as an employee of a business, or as a business; or
- (b) where We provide you with a quote for Our Products and/or Services (**Quote**), by paying any amount to Us in respect of Our Products and/or Services or otherwise instructing Us to proceed with the services in writing,

you acknowledge that you have read and understood these Terms and the Quote, if applicable, and agree to be bound by them, and all Our other policies.

2 VARIATIONS TO TERMS

- 2.1 We reserve the right, in Our sole discretion, to vary, change or amend any part of these Terms.
- 2.2 In that event, We will provide notice of the variation by publishing the updated Terms on Our Site.
- 2.3 The updated Terms will be taken to have effect on the date of publication.



- 2.4 Your continued purchase and use of Our Products and/or Services and the Site constitutes your acceptance of the updated Terms and is taken as your agreement to be bound by the updated Terms.
- 2.5 Should you object or disagree to the Terms, your only remedy is to contact Us at operations@lain.com.au and immediately discontinue your use of the Products and/or Services.

3 GENERAL DISCLAIMER

- 3.1 We offer a number of Products and/or Services on Our Site from time to time.
- 3.2 You acknowledge and agree that each Product and/or Service offering may have different terms, prices and fees, as displayed on Our Site or as contained in any contract entered into with you and Us for those Products and/or Services.
- 3.3 We provide the Products and/or Services in accordance with the specifications, quality standards and performance criteria expressly set out on Our Site and any applicable Quote. Whilst every effort is taken to ensure the content provided and the Site is accurate, We make no representations and give no guarantees or warranties about the currency, suitability, reliability, availability, timeliness and/or accuracy of the content and the Site for any purpose.
- 3.4 It is your responsibility to independently verify the information made available on the Site.
- 3.5 Nothing on the Site or any of the content or Products and/or Services is a promise or guarantee of results or future earnings. Any information given is purely based on experience and is for illustrative purposes only. Information provided may not always be tailored specifically for your situation.
- 3.6 You acknowledge and agree that We, Our employees, affiliates and representatives are not responsible for decisions that you may make which may result in undesired consequences, including where those consequences flow from your engagement of the Site or the Products and/or Services offered on the Site.
- 3.7 Any testimonials and examples of Our Products and/or Services, wherever published (online or in print) are not to be taken as a guarantee that you will achieve the same or similar results.
- 3.8 We make no warranty, representation, or guarantee regarding the suitability of Our Products and/or Services for any particular purpose, except as in accordance with those obligations prescribed under statute and/or the common law. You shall not rely on any data and product specifications provided by Us. It is your responsibility to independently determine suitability of any Products and/or Services and to test and verify the same.
- 3.9 You acknowledge and agree that any results to be attained by you are dependent upon you solely.



- 3.10 We will not be liable to you for loss, howsoever caused, or for any damage, loss or destruction of any of your property.
- 3.11 You acknowledge that some of Our Products and/or Services are created based on instructions, information and/or images provided by you and you acknowledge and agree that We are not responsible if those instructions, information and/or images contain errors or poor quality images which are incorporated in the Product and/or Service We deliver to you.
- 3.12 We may rely on third parties to supply the Third Party Content and We therefore do not warrant the quality or accuracy of the results.

4 QUOTES AND PRICING

- 4.1 All Quotes issued by Us are valid for 30 days from the date of issue unless otherwise stated in writing. All prices are quoted in Australian Dollars (AUD) and are exclusive of GST unless expressly specified.
- 4.2 Quoted prices exclude delivery, installation, freight, and any other additional services unless specifically stated in the Quote. Any changes to quantities, specifications, goods, scope of work, delivery requirements, or lead times may result in a revised Quote being issued.
- 4.3 We reserve the right to amend quoted pricing where Our costs increase after the Quote is issued but before the order is confirmed, including but not limited to supplier price increases, freight cost increases, government charges, taxes, duties or levies. Any such changes will be communicated to you prior to order confirmation.
- 4.4 To confirm an order and commence procurement, scheduling, or manufacturing, a non-refundable deposit of fifty percent (50%) of the total quoted price is required. Upon providing written instruction to proceed (including via a purchase order or written approval), the Customer becomes immediately liable to pay the deposit. While We do not commence procurement or manufacturing until this deposit is received in cleared funds, the Customer remains liable for all preliminary administrative, design, or scheduling costs incurred by Us from the date of the written instruction. A project is only considered a confirmed order once a deposit payment has been received in cleared funds.
- 4.5 The remaining 50% balance of the total quoted price must be paid in full and cleared funds to Our nominated bank account prior to the dispatch of Products, in accordance with clause 9 below. We reserve the right to withhold dispatch or collection of Products until full payment (including any applicable delivery or other charges) has been received in cleared funds.
- 4.6 Late or overdue payments may result in delays to dispatch and may incur storage fees for holding the Products. Any such storage or administration fees will be payable by you before release of the Products. We also reserve the right to charge interest on overdue amounts in accordance with clause 9.6 below.



5 ORDERS AND LEAD TIMES

- 5.1 An order is not deemed accepted by Us until the required deposit has been received, all required documentation, selections and approvals have been provided by you, and written order confirmation has been issued by Us.
- 5.2 Estimated lead times are calculated from the date of deposit receipt in cleared funds and finalisation of all required selections or approvals (e.g. finishes, drawings). Any delay by the Customer in paying the deposit (including delays resulting from the Customer's internal invoice payment runs or cycles) will result in a corresponding day-for-day extension of the estimated lead time and delivery dates.
- 5.3 Lead times provided are estimates in business days or weeks. All lead times and delivery dates provided by Us are estimates only and are given in good faith. While We will take all commercially reasonable steps to meet the specified delivery dates, they are not guaranteed and do not form a condition of the contract.
- 5.4 Lead times may be affected by events which are both unforeseeable and could not reasonably be prevented or mitigated by Us, despite exercising all commercially reasonable diligence. This includes, but is not limited to, supplier shortages, material availability, manufacturing delays, shipping or freight disruptions, customs delays, labour shortages, industrial action, adverse weather conditions, government restrictions, force majeure events, or delays caused by you.
- 5.5 If a delay becomes known, We will use reasonable efforts to notify you as soon as practicable and provide an updated estimated timeframe.
- 5.6 Any delay in delivery, manufacture or installation shall not entitle you to cancel the order, refuse delivery, withhold payment, or claim compensation unless otherwise required by applicable Law.

6 CUSTOM AND MADE TO ORDER PRODUCTS

- 6.1 Many of Our Products are custom-made, bespoke, or produced to order according to your specifications. By placing an order, you acknowledge that manufacturing of custom items will commence specifically for you. Cancellation or changes to custom orders are limited (see Rights to Terminate or Suspend at clause 13 below).
- 6.2 You understand that natural variations and slight differences are inherent in custom production and materials. In particular, variations in colour, grain, texture, or finish (especially with natural timber, leather, or fabric), as well as minor differences between production batches (e.g. in powder coating or dye lots), are considered normal and not defects.
- 6.3 By confirming a custom or made-to-order purchase, you accept these potential minor variations in appearance or finish. We will endeavour to ensure samples or descriptions are as accurate as possible, but the delivered Products may have reasonable variations



that do not materially affect the functionality or overall design of the Product. Such variations do not entitle you to reject the Products or claim they are not as described.

7 REGISTERING YOUR DETAILS

- 7.1 Before you purchase Our Products and/or Services, We may ask you to register an account with Us.
- 7.2 You must provide accurate, complete and up-to-date registration information, as requested, and it is your responsibility to inform Us of any changes to your registration information.
- 7.3 We may at any time request a form of identification to verify your identity.
- 7.4 To the extent that you provide personal information, We will treat such information strictly in accordance with Our Privacy Policy.
- 7.5 You must ensure the security and confidentiality of your registration details, including any username and/or password. You must notify Us immediately if you become aware of any unauthorised use of your registered details.
- 7.6 You will not let any other person use your password or any registered user or member services.

8 YOUR OBLIGATIONS

- 8.1 During the delivery of Our Products and/or Services, you agree to:
 - (a) respond promptly to Our communications in relation to the Products and/or Services;
 - (b) provide, within a reasonable amount of time, accurate, complete and current information or documentation reasonably required by Us to provide or perform the Products and/or Services; and
 - (c) act in good faith.
- 8.2 When providing Our Products and/or Services, We may request that you provide Us with responses, feedback, completed questionnaires, copy content, images and other information so We can best deliver Our Products and/or Services. You agree that you will provide any such information in a timely manner. Any delays in receiving this information may result in information not being provided by Us to you.
- 8.3 When using Our Site, you must not:
 - (a) Provide or upload false or misleading information, create a false identity or use or attempt to use another person's account;
 - (b) hack into any part of our Site through password mining, phishing, or any other means;



- (c) knowingly introduce viruses, Trojans, worms, logic bombs, spyware, malware or other similar material;
 - (d) circumvent our Site's structure, presentation or navigational function so as to obtain information that we have chosen not to make publicly available through our Site;
 - (e) act in a manner that negatively affects other users, including through a denial-of-service attack or a distributed denial-of-service attack;
 - (f) transmit any unsolicited advertising, promotional materials or other materials that contain any solicitation with respect to products or services that are not deemed items, unless expressly authorised by us; or
 - (g) attempt to modify, reverse engineer, or reverse-assemble any part of our Site.
- 8.4 Without limiting clause 8.3, you must comply with all applicable Laws, regulations, codes or standards when using our Site.

9 PAYMENTS

- 9.1 We will send you invoices for Our Products and/or Services in the manner stated in the Quote and you agree to pay the invoices using the payment method specified in the Quote prior to dispatch of the Products.
- 9.2 We reserve the right to suspend or terminate any Product and/or Service, at Our discretion, if payment is defaulted.
- 9.3 We reserve the right to on-sell or otherwise authorise a debt-collection or other authorised agency to collect any amount not paid by you.
- 9.4 We reserve the right to inform credit watch monitoring services of ongoing defaults trends or payment-avoiding strategies employed where We deem it is appropriate.
- 9.5 In circumstances where We invoice you for payment, payment is due and payable by the payment date noted on the invoice. Failure to make payment by the payment date may lead to suspension of use of Our Product and/or Services.
- 9.6 We reserve the right to apply interest at the General Interest Charge (**GIC**) applied by the ATO (according to the quarterly GIC rate at the time the invoice was issued) to all tax invoices that are overdue, accruing daily from the due date set out in the invoice, until payment in full.
- 9.7 If you fail to pay any invoice rendered to you by Us by its due date, you acknowledge that We may suspend or terminate the dispatch or delivery of the Products, or terminate the agreement. We will not be liable for any loss or delay suffered by you as a result of such



suspension or withholding of dispatch.

9.8 Notwithstanding that payment is strictly required prior to the dispatch of Products, and notwithstanding Our right to withhold dispatch for non-payment, you agree that We retain full title to the Products and/or Services and title will not at any time pass to you until the invoices for the Products and/or Services and all other amounts owing in this respect of the Products and/or Services are paid to Us in full, notwithstanding:

- (a) the delivery of the Products and/or Services to you; and/or
- (b) the possession and use of the Products and/or Services by you.

9.9 Prior to ownership of the Products and/or Services passing to you, you acknowledge and agree that:

- (a) you will not agree, attempt, offer or purport to sell, assign, sub-let, lend, pledge, mortgage, let, hire or otherwise part or attempt to part with personal possession of or otherwise deal with the Products and/or Services without Our express written consent;
- (b) you will, if requested by Us, return the Products and/or Services to Us following non-fulfilment of any of your obligations (including payment of monies) without limiting any other rights We may have;
- (c) you will deliver up the Products and/or Services to Us upon demand by Us and give Us or Our agents or authorised representatives the right to enter any premises occupied by you and any premises where We believe any Products and/or Services may be stored (without liability for trespass or any resulting damage) and to use your name and to act on your behalf, if necessary, to recover possession of the Products and/or Services and you agree to indemnify Us and Our agents and/or authorised representatives from any damage, injury and/or loss arising from such recovery or attempted recovery of the Products and/or Services from your possession or control; and
- (d) We may recover as a debt due and immediately payable by you all amounts owing by you to Us in any respect even though title to the Products and/or Services has not passed to you.

10 DELIVERY AND RISK

10.1 We will arrange delivery of the Products to the address specified in your order, using either Our in-house delivery team or a contracted carrier. Delivery charges (if any) will be specified in the Quote or otherwise communicated to you. You must ensure that access is sufficient and that someone is available to receive and sign for the delivery at the agreed



time. Additional charges may apply for difficult site access, specialty installation services, or if re-delivery is required due to unavailability.

- 10.2 Risk in the Products passes to you upon delivery to the nominated delivery address (or at the time the Products are deemed delivered in accordance with the agreed delivery terms). Where you arrange for collection of the Products by your own carrier, agent, or representative, or collect the Products yourself, risk passes to you immediately upon the Products leaving Our premises. You are solely responsible for obtaining and maintaining adequate transit insurance for any Products collected or transported on your behalf.
- 10.3 If We have arranged delivery and the Products are lost or damaged in transit prior to delivery, We will repair the Products as necessary at Our cost. In order to claim such remedy, you must inspect the Products upon delivery and report any transit damage or shortage to Us within 24 hours (see Inspection & Claims at clause 10.4). In addition to notifying Us, you must note any obvious damage on the delivery docket with the driver. Timely notification enables Us to meet carrier insurance terms and to assist you promptly. If you fail to notify Us of transit damage within the 24-hour window and it was reasonably evident upon delivery, it may prejudice Our ability to resolve the issue.
- 10.4 Any delivery or shipment dates We give are estimates only. While We will use reasonable efforts to deliver by the estimated date, We are not liable for delays due to Force Majeure Events, as set out in clause 17 below. Delay in delivery due to Force Majeure Events will not entitle you to cancel the order or refuse the Products.

11 INSPECTION AND CLAIMS

- 11.1 You (or your authorized receiver) must inspect the Products immediately upon delivery or collection and, in any event, within 24 hours of receipt.
- 11.2 You must notify Us in writing within 24 hours of delivery or collection of any alleged shortage, incorrect supply, visible damage, defect, non-conformity or other issue with the Products. The notification must provide full particulars of the claim and be accompanied by any supporting evidence reasonably requested by Us, including photographs where applicable.
- 11.3 If you fail to notify Us in accordance with clause 10.4, then, to the maximum extent permitted by Law:
 - (a) the Products will be deemed to have been delivered and accepted by the Customer in good order and condition;
 - (b) you will be deemed to have confirmed that the quantity, quality and description of the Products comply with your order and requirements;
 - (c) you waive any claim relating to any shortage, incorrect supply, visible damage, apparent defect or non-conformity that was, or ought reasonably to have been, apparent upon inspection; and
 - (d) We will have no liability in relation to such matters.



- 11.4 We will not be obliged to accept the return of any Products, provide any credit, repair or other remedy in respect of any claim unless you have complied with the notification requirements set out in this clause.
- 11.5 You acknowledge that after delivery or collection, the condition and handling of the Products are outside of Our control. Accordingly, any claim made after the expiry of the notification period must be supported by evidence satisfactory to Us, demonstrating that the relevant defect, damage or non-conformity existed at the time risk passed to you.
- 11.6 Notwithstanding the foregoing, you may notify Us of any latent defect that could not reasonably have been identified during the inspection required by clause 10.4. Any such notification must be made promptly, and in any event within 7 days, after the latent defect first becomes apparent. Our obligations in relation to any verified latent defect are limited to those expressly provided under these Terms, any applicable warranty and, where applicable, the Australian Consumer Law.
- 11.7 Any remedy provided by Us in response to a claim under this clause shall be at Our option and may include repair, resupply, provision of replacement parts or credit for the affected Products, subject always to Our obligations under applicable Law.

12 DISCOUNTS, PROMOTIONS AND OFFERS

- 12.1 From time to time, We may offer the opportunity to purchase Our Products and/or Services at a discounted or promotional price, subject to these Terms.
- 12.2 Any discounts, promotions and offers will be confined to the time period and additional terms of sale in accordance with the details of that respective discount, promotion and/or offer as published online from time to time on Our Site.

13 RIGHT TO SUSPEND OR TERMINATE

- 13.1 We reserve the right to suspend or terminate your use of the Site or Our Products and/or Services generally if you breach these terms, as determined by Us in Our sole discretion.
- 13.2 Either party may terminate your use of Our Site, Products and/or Services by providing to the other party a minimum of 7 days' written notice, unless specified otherwise in any specific Terms or contract for any Products and/or Services you have entered into with Us.
- 13.3 If you terminate Our Products and/or Services early (prior to your Products and/or Services being completed), you acknowledge and agree that the outstanding fees for those Products and/or Services are payable. We will issue an invoice for all work accessed or completed (as the case may be) in the course of providing Our Products and/or Services up to the time and date that written notice was given to Us that the Products and/or Services were cancelled.



14 REFUNDS

- 14.1 Refunds are not provided for Our Products and/or Services, unless We are in breach of the Australian Consumer Law, as set out in Schedule 2 to the Australian *Competition and Consumer Act 2010* (Cth) (**the Australian Consumer Law**).
- 14.2 Except as required by the Australian Consumer Law:
- (a) Any initial deposits paid to Us for the provision of Products and/or Services to you are non-refundable.
 - (b) Final payment of the remaining 50% balance after the initial deposit is non-refundable.
- 14.3 Any refund requests must be provided to operations@lain.com.au and will be assessed on a case-by-case basis, in accordance with the costs associated with each Product and/or Service delivered by Us, or otherwise where We determine that genuine value has not been received or is not able to be received by you.

15 LIABILITY IS LIMITED

- 15.1 We provide Our Products and/or Services on an "as is" basis and without any warranties, representations, or conditions of any kind, whether express, implied or statutory, to the extent permitted by Law. Subject to the other terms of this clause, We exclude all rights, representations, guarantees, conditions, warranties, undertakings, remedies or other terms in relation to the Product and/or Services that are not expressly set out in these Terms, to the maximum extent permitted by Law.
- 15.2 Without limiting the generality of clause 15.1, We expressly exclude any liability in contract, tort or otherwise for any injury, damage, loss, delay or inconvenience caused directly or indirectly by your use of Our Products and/or Services.
- 15.3 Subject to the other terms of this clause, Our maximum aggregate liability owed to you for any loss or damage or injury arising out of or in connection with the supply of Our Products and/or Services under these Terms, including any breach by Us of these Terms however arising, under any indemnity, in tort (including negligence), under any statute, custom, Law or on any other basis, is limited to the actual charges paid by you for the particular Products and/or Services under these Terms.
- 15.4 Nothing in these Terms excludes, restricts or modifies any rights, remedies or guarantees that cannot be excluded, restricted or modified by Law, including under the Australian Consumer Law. The disclaimers, limitations of liability and indemnities in these Terms apply only to the extent permitted by Law.
- 15.5 If We are liable to you in relation to a failure to comply with a guarantee that applies under Division 1 of Part 3-2 of the Australian Consumer Law that cannot be excluded, Our total liability to you for that failure is limited to, at Our option, to the resupply of the Products



and/or Services or the payment of the cost of resupply.

15.6 Subject to the other terms of this clause, We exclude any liability owed to you, whether in contract, tort (including negligence) or otherwise, for any special, indirect or consequential loss arising under or in connection with these Terms, including any loss of profits, loss of sales or business, loss of production, loss of agreements, loss of business opportunity, loss of anticipated savings, loss of or damage to goodwill or reputation or loss of use or corruption of data or information.

15.7 This clause applies to the fullest extent permitted by Law and shall survive termination of these Terms.

16 YOUR INDEMNITY

16.1 You agree to indemnify Us and Our officers, agents, partners, directors, shareholders and employees and subcontractors, against any direct losses, liabilities, costs, charges or expenses and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses suffered or incurred by Us arising out of or in connection with:

- (a) your use of Our Products and/or Services;
- (b) any claim made against Us or you by a third party arising out of or in connection with the provision of Our Products and/or Services and/or these Terms;
- (c) any breach of these Terms by you, including any failure to pay any fees on time;
- (d) the circulation, distribution or publication of any information or products provided by you being contrary to Law;
- (e) any reliance by you or a third party on Our Products and/or Services or any advice or information provided in connection with the provision of Our Products and/or Services and/or these Terms; and
- (f) the enforcement of these Terms.

16.2 You must make payments under this clause in full without set-off or counterclaim, and without any deduction in respect of taxes unless prohibited by Law.

16.3 We are not responsible, and expressly limit Our liability to the extent permitted by Law, which is without limitation to your rights under the Australian Consumer Law, for damages of any kind arising out of use, reference to, or reliance or use on any information contained within Our Site or by engaging Our Products and/or Services.

16.4 This clause survives the termination of these Terms.

17 FORCE MAJEURE

- 17.1 We will not be in breach of these Terms or liable to you for any Loss incurred by that you may incur as a direct result of Our failing to perform Our obligations or being prevented, hindered or delayed in performing Our obligations under these Terms where such prevention, hindrance or delay results from a Force Majeure Event.
- 17.2 If a Force Majeure Event occurs, We will notify you in writing as soon as practicable and that notice must state the particulars of the Force Majeure Event and the anticipated delay.
- 17.3 On providing the notice in the above clause, We will have the time for performance of the affected obligations extended for a period equivalent to the period during which performance has been delayed, hindered or prevented, however, We will continue to use all reasonable endeavours to perform those obligations.
- 17.4 The performance of the affected obligations will be resumed as soon as practicable after such Force Majeure Event is removed or has ceased.
- 17.5 References to a Force Majeure Event in this clause means: events, circumstances or causes beyond a party's reasonable control including (but not limited to):
- (a) strikes, lock-outs or other industrial action;
 - (b) civil commotion, riot, invasion, cyber-attack, service attack, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war;
 - (c) fire, explosion, storm, flood, earthquake, subsidence or other natural disaster;
 - (d) epidemic, pandemic, health emergencies, disease;
 - (e) impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport;
 - (f) interruption or failure of utility Services (including the inability to use public, private telecommunications networks, servers or third party hosting platforms); and
 - (g) the acts, decrees, legislation, regulations or restrictions of any Government Agency;
- however, does not include a lack of funds.
- 17.6 References to Loss in this clause means: any loss, liability, cost, charge, expense, Tax, Duty or damage of any nature whatsoever, including special, incidental, or consequential damages, losses or expenses (howsoever arising or caused, including, without limitation, negligence).
- 17.7 For the purposes of these Terms:



- (a) Law means any statute, regulation, by-law, ordinance, or subordinate legislation in force from time to time in the jurisdiction of Victoria or the Commonwealth of Australia, and the common law;
- (b) Government Agency means any government, semi-government, administrative, fiscal, judicial, or quasi-judicial body, department, commission, authority, tribunal, agency, or entity in Australia;
- (c) Tax means any tax, levy, charge, impost, duty, fee, or withholding of any nature imposed by a Government Agency, including GST, but excluding income tax; and
- (d) Duty means any stamp, transaction, or other duty imposed by any Government Agency.

18 LINKED WEBSITES, AFFILIATES OR SPONSORS

- 18.1 Any links to other websites on Our Site, which are not operated by Us are not controlled by Us and We accept no responsibility for them or for any loss or damage that may arise from your use of them. Your use of any linked sites will be subject to the terms of use and service contained within each such site.
- 18.2 As affiliates of certain services, We may also receive compensation for recommending, endorsing or promoting services as featured on Our Site or in the course of delivering Our Products and/or Services. Any affiliation or sponsorship is for remuneration purposes only and is not an expression of Our own recommendation, endorsement or promotion of those services which are not Our own.
- 18.3 We make no representation or warranty as to the recommendations, endorsements or promotions We make of certain services, unless expressly stated otherwise. You acknowledge and agree that any remuneration or other non-monetary benefit We receive from Our affiliated, endorsed or sponsored services is for the purposes of that affiliation, endorsement and sponsorship only. We expressly disclaim any liability arising from your use or reliance of any recommended, endorsed or promoted services by Us which are not Our own and caution you to make your own independent inquiry prior to any such use or purchase.

19 NO DISPARAGEMENT

- 19.1 At all times, you must not make any public or private statement or comment, whether oral or in writing, which in Our reasonable opinion is adverse to the interest, reputation or commercial standing of or is in any respect a disparaging remark or representation about Us and/or any of Our Products and/or Services nor any statement that is false and does or has the tendency to damage Our reputation of by any method including but not limited to any social media platform or review website anywhere in the world.
- 19.2 Should you breach this clause, you hereby indemnify Us in accordance with clause 16 above.
- 19.3 This clause survives the termination of these Terms.

20 CONFIDENTIALITY

- 20.1 Each party (**Recipient**) must keep secret and confidential and not disclose any Confidential Information (which is or has been disclosed to the recipient by the other party, its representatives or advisers), or these Terms, except:
- (a) where the information is in the public domain as at the date of these Terms (or subsequently becomes in the public domain other than by breach of any obligation of confidentiality binding on the Recipient);
 - (b) if the Recipient is required to disclose the information by applicable Law or the rules of any other document with statutory content requirements, provided that the Recipient has to the extent practicable having regard to those obligations and the required timing of the disclosure consulted with the provider of the information as to the form and content of the disclosure;
 - (c) where the disclosure is expressly permitted under these Terms and Conditions or is required to give effect to these Terms and Conditions;
 - (d) if disclosure is made to its personnel to the extent necessary to enable the Recipient to properly perform its obligations under these Terms and Conditions or to conduct their business generally, in which case the Recipient must ensure that such persons keep the information secret and confidential and do not disclose the information to any other person;
 - (e) where the disclosure is required for use in legal proceedings regarding these Terms and Conditions; or
 - (f) if the party to whom the information relates has consented in writing before the disclosure.
- 20.2 Each Recipient must ensure that its personnel comply in all respects with the Recipient's obligations under this clause.
- 20.3 **Definitions**
- Confidential Information** of a party means all information (in any form):
- (i) relating to or arising from the Products and/or Services;
 - (ii) that concerns that party's business operations and which any reasonable person would consider to be of a confidential nature (such as trade secrets, methods, strategies, client lists, pricing, and other business processes); and
- but does not include information that:
- (iii) is or becomes independently developed or known by a party through no breach of these Terms by that party; or
 - (iv) becomes publicly available, without breach of these Terms;
- 20.4 This clause survives termination or expiry of these Terms.



21 INTELLECTUAL PROPERTY AND MORAL RIGHTS

21.1 Intellectual Property Rights in Contract Materials and Existing Materials

We agree that:

- (a) We will own all rights in and to the Contract Materials, as defined below, including any Intellectual Property Rights which subsist in the Contract Materials, or which may be obtained from the Contract Materials created from the date you engage Our Products and/or Services;
- (b) to the extent necessary to give effect to this clause, you will assign all of the Intellectual Property Rights in all Contract Materials to Us; and
- (c) We retain ownership over the Existing Materials, as defined below, and you acknowledge that you do not acquire any ownership rights by using the Existing Materials.

21.2 Moral Rights

- (a) To the extent permitted by applicable Law, We unconditionally and irrevocably:
 - (i) do not consent to the following acts or omissions in respect of all Contract Materials created by Us in the course of providing the Products and/or Services:
 - (A) any use of the Contract Materials that does not identify Us as the author;
 - (B) falsely attributing the authorship of the Contract Materials or any content of the Contract materials to you;
 - (C) materially altering the style, format, colours, content or layout of the Contract Materials and dealing in any way with the altered Contract Materials;
 - (D) reproducing, communicating, adapting, publishing or exhibiting the Contract Materials, or
 - (E) adding any additional content or information to the Contract Materials; and
 - (ii) do not waive all of Our Moral Rights in the Contract Materials.

21.3 Definitions

Contract Materials means materials, including but not limited to, works, drawings, ideas, concepts, designs, websites, inventions, developments, improvements, systems, accounts created for you or other materials or information created, made or discovered by Us:

- (a) in the course of providing Our Products and/or Services; and/or

- (b) as a result of using your resources (including the Confidential Information and Intellectual Property Rights).

Contract Materials do not include Our work methodologies, reports, sources, third party websites and the links contained therein, licensed software, programs, accounts belonging to Us or created for other clients, stock photography licences, licences to third party service providers, which We may provide to you from time to time in relation to Our Services.

Existing Materials means materials, including, but not limited to, Our works, drawings, work methodology, reports, ideas, concepts, designs, inventions, developments, improvements, stock photography licences, licences to third party service providers, licensed software, accounts belonging to Us or created for other clients, systems, other materials, information, sources, programs, accounts created, made or discovered by Us prior to providing Our Products and/or Services to you or outside the scope of Our Products and/or Services that We use or supply in the course of the provision of Our Products and/or Services.

Intellectual Property Rights means all present and future rights conferred by Law in or in relation to copyright, trade marks, designs, circuit layouts, plant varieties, business and domain names, inventions and confidential information and other results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields whether or not registrable, registered or patentable.

These rights include:

- (a) all rights in all applications to register these rights;
- (b) all renewals and extensions of these rights; and
- (c) all rights in the nature of these rights, such as Moral Rights.

Moral Rights means:

- (a) rights of integrity of authorship or performership;
- (b) rights of attribution of authorship or performership;
- (c) rights not to have authorship or performership falsely attributed;
- (d) conferred by the Copyright Act 1968 (Cth); and
- (e) rights of a similar nature that exist, or may come to exist, anywhere in the world.

21.4 This clause 21 survives termination or expiry of these Terms.

22 COPYRIGHT AND TRADE MARK NOTICES

22.1 All material on this Site or otherwise delivered by Us via Our Products and/or Services, including (but not limited to) templates, information, and text, graphics (**Our Content**), is subject to copyright. While you may browse or print Our Content for non-commercial, personal or internal business use, you must obtain Our prior written permission if you'd like



to use, copy or reproduce it. Modification of Our Content for any other purpose is a violation of Our copyright and other proprietary rights, and is strictly prohibited.

- 22.2 You acknowledge that you do not acquire any ownership rights by using the Site or Our Content.
- 22.3 The trade marks, logos, and service marks displayed on Our Site to denote our brand are either registered or unregistered trade marks of Us (**Our Marks**). Our Marks, whether registered or unregistered, may not be used in connection with any product or service that does not belong to Us, in any manner that is likely to cause confusion with customers, or in any manner that disparages Us.
- 22.4 Nothing contained on this Site should be construed as granting, by implication, estoppel or otherwise, any license or right to use any of Our Marks without Our express written permission.
- 22.5 You agree that damages may be an inadequate remedy to a breach of these Terms and acknowledge that We will be entitled to seek injunctive relief if such steps are necessary to prevent violations of Our intellectual property rights.

23 NON-EXCLUSIVITY

- 23.1 You acknowledge and agree that We may at all and any times provide Our Products and/or Services to other clients in the same or similar industry as you.
- 23.2 We do not provide Our Products and/or Services on an exclusive basis.
- 23.3 We will however endeavour to protect the Confidential Information you provide Us and in accordance with Our privacy policy.

24 SEVERABILITY

- 24.1 If any provision of these Terms is deemed invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms, which shall remain in full force and effect.

25 NO ASSIGNMENT

- 25.1 You cannot transfer or assign your rights in accordance with these Terms, including any membership or registration with Us, without Our prior written consent.
- 25.2 We may assign or transfer Our rights and obligations under these Terms at any time, upon prior written notice to you of at least 4 calendar weeks.

26 SUB-CONTRACTING

- 26.1 We are free to sub-contract any of Our obligations under these Terms, but such sub-



contracting will not release Us from Our liabilities under these Terms.

27 BINDING ON SUCCESSORS

27.1 These Terms shall be for the benefit of and binding upon the parties and their heirs, executors, successors and permitted assigns.

28 DISPUTE RESOLUTION

28.1 If a dispute arises between the parties in relation to these Terms, the dispute must be dealt with in accordance with this clause.

28.2 Any party claiming that a dispute exists must notify the other party to the dispute (**Second Party**) in writing of the nature of the dispute.

28.3 In the case of claims against Us, all notices are to be provided to operations@lain.com.au.

28.4 If the dispute is not resolved by agreement within 10 business days of the Second Party receiving the notice referred to above, either party may refer the matter to mediation conducted by a mediator agreed between the parties within a further 10 business days or failing agreement within that period, as appointed by the executive director for the time being of the Australian Commercial Disputes Centre Limited.

28.5 Once a mediator is appointed, the parties agree that:

- (a) The costs of the mediator shall be borne equally between the disputing parties.
- (b) The chosen mediator shall determine the procedures for mediation.
- (c) The chosen mediator will not have the power or authority to make any other determination in relation to the dispute.

28.6 If the parties have not mediated a resolution of the dispute within 10 business days of the selection of a mediator, neither party shall be obliged to continue any attempt at mediation under this clause, and either party may then commence such legal proceedings as it considers fit in relation to the dispute.

28.7 Nothing in this clause prevents a party from commencing proceedings seeking urgent interlocutory relief from a court of competent jurisdiction to hear the matter, if, in that party's reasonable opinion, it is necessary to protect their rights.

28.8 Despite the existence of a dispute the parties must continue to comply with their obligations under the contract.

28.9 This clause survives termination of these Terms.



29 APPLICABLE LAW

29.1 These Terms shall be construed in accordance with and governed by the laws of Victoria, Australia. You consent to the exclusive jurisdiction of the courts in Victoria to determine any matter or dispute which arises between Us.

30 YOUR FEEDBACK

30.1 We welcome enquiries or feedback on Our Site. Unless specifically stated by you, We shall treat any information you provide to Us as non-proprietary and non-confidential. Please see Our Privacy Policy for further details.

30.2 If you have questions or comments regarding this Site or Our Products and/or Services, please email Us at operations@lain.com.au.

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