

These STANDARD TERMS are additional terms that may apply to the provision or receipt of services on the Website. Parties may opt-out of these terms by entering into a separate agreement governing the rights and obligations as between the Provider and Hirer.

## **1. PARTIES AND TERM**

- 1.1. Members who wish to enter into a Service Contract with another Member may do so in any manner that does not infringe or alter the rights and obligations set out in the Terms and Conditions.
- 1.2. Where Members have entered into a Service Contract they may agree to incorporate these Standard Terms, in whole or part, or opt-out of these Standard Terms in their entirety.
- 1.3. Where Members have not entered into a Service Contract, the Members agree to incorporate these Standard Terms and abide by the rights and obligations set out herein.
- 1.4. The Hirer and Provider are those parties identified on the Website and are the parties to these Standard Terms.
- 1.5. Members acknowledge and agree that the Provider and the Hirer are the sole parties to the Contract. Credible is not a party to any Service Contract or these Standard Terms.
- 1.6. Members acknowledge and agree that these Standard Terms may not be appropriate in all circumstances and that they will seek legal advice as required.

## **2. PROVISION OF SERVICES**

- 2.1. The Parties intend the Provider to act as an independent contractor in the performance of the Services, unless expressly stated otherwise.
- 2.2. The Provider shall have the right to control and determine the methods and means of performing the Services and shall use its own expertise and judgment in performing the Services.
- 2.3. Without limiting the foregoing, the Provider acknowledges that the Hirer is relying on the Provider to consult, when appropriate, with the Hirer in relation to the provision of the Services.
- 2.4. If a Member subcontracts, employs agents or otherwise utilises the services of third parties to provide the Services on its behalf, that Member represents and warrants that it has engaged those third parties in full compliance with all applicable laws and regulations, is solely responsible for any payments due to them and has entered into contracts with such third parties that contains terms regarding ownership of intellectual property and confidentiality at least as strong as those contained in these Standard Terms.

## **3. PAYMENT, FEES AND BILLING**

- 3.1. Where any Services are to be billed on an hourly basis, the Provider warrants that it shall report the hours worked accurately and devote its sole effort and focus during those reported hours to provision of the services to the Hirer.
- 3.2. The Provider shall maintain, and ensure its third party providers maintain, complete and accurate records of all work performed and the time spent on any services performed.
- 3.3.

## **4. IP AND PROVIDER MATERIALS**

- 4.1. The Provider represents and warrants that it owns all intellectual property in any materials incorporated into the Services except where:
  - (a) those materials are not under copyright and are available for commercial reuse without any fee, license or approval;
  - (b) the materials are owned by the Hirer and have been supplied to the Provider for incorporation into the Services;
  - (c) the Hirer has given the Provider an instruction to incorporate such materials.
- 4.2. Where the Hirer provides materials for incorporation into Services it grants to the Provider a non-exclusive, revocable, royalty-free right to use these materials solely in relation to provision of the Service. Upon expiration or termination of this agreement the Provider agrees to return or destroy all Hirer materials upon request.
- 4.3. Where the Provider incorporates intellectual property owned by the Provider into the Services ("Provider IP"), it shall grant to the Hirer a non-exclusive, irrevocable, royalty-free right to use the Provider IP as incorporated into the Services upon payment of all payments due under this agreement.
- 4.4. Upon receipt by the Provider of all payments due under this agreement, all right, title and interest in intellectual property in the works produced by the Provider in the course of the Services, excluding the Provider IP, shall automatically and irrevocably be assigned to the Hirer.
- 4.5. Where the Provider has any right to any component of the Services, including any Intellectual Property right, that cannot be assigned to the Hirer by the Provider, upon receipt of full payment from the Hirer, the Provider unconditionally and irrevocably grants to the Hirer an irrevocable, perpetual, worldwide, fully-paid and royalty-free license to such rights, with rights to sublicense, make derivative works of, distribute, publicly perform and publicly display in any form or medium.
- 4.6. If the Provider and Hirer agree that only a partial payment is made for partial delivery of work to be delivered under this agreement, the various grants laid out in this clause 4 shall apply only to the portion of the Services provided and delivered to the Hirer.

## **5. CONFIDENTIALITY AND CIRCUMVENTION**

- 5.1. The Parties acknowledge that the existence and the terms of this Agreement and any oral or written information exchanged between the Parties in connection with the preparation and performance this Agreement are regarded as confidential information.
- 5.2. Each Party shall maintain confidentiality of all such confidential information, and without obtaining the written consent of the other Party, shall not disclose any relevant confidential information to any third parties, except for the information that:
  - (a) is or will be in the public domain other than through the receiving Party's unauthorised disclosure;
  - (b) is under the obligation to be disclosed pursuant to the applicable laws or regulations, rules of any stock exchange, or orders of the court or other government authorities; or
  - (c) is required to be disclosed by any Party to its shareholders, investors, professional advisors, provided that such external parties shall be bound by the confidentiality obligations similar to those set forth in this Section.
- 5.3. This Section shall survive the termination of this Agreement for any reason.

## **6. WARRANTIES**

6.1. The Parties represent and warrant to each other:

- (a) that they have full power and authority to enter into these Standard Terms and bind the Party in contract;
- (b) that information they have provided to each other or published on the Website is true and correct in every material detail;
- (c) that they are not prevented from providing the Services due to any existing contract or obligation.

6.2. The Provider further represents and warrants to the Hirer that:

- (a) it has the necessary skills and experience to provide the Services in a competent and timely manner; and
- (b) it has all equipment and materials necessary for provision of the Services, except where otherwise disclosed in writing to the Hirer.

## **7. TERMINATION**

7.1. Where the Provider and Hirer have agreed to an hourly contract, either Party to that contract may terminate the contract after providing reasonable notice or immediately at the expiry of any term specified in the contract.

7.2. Where the Provider and Hirer have agreed to a Fixed Price Contract, this Contract may not be terminated by notice except in the circumstances set out in clause 7.3.

7.3. In addition to the circumstances laid out in clauses 7.1. and 7.2., either Party may terminate the Contract where:

- (a) the other Party has committed a material breach of any condition or deadline set out in the contract;
- (b) where the other Party has consented in writing to the termination;
- (c) where a Force Majeure event occurs that prevents performance of the contract for one or both parties and that state of affairs continues for a period of more than 1 month.

7.4. Where the parties terminate a Fixed Price Contract, the Hirer has no right to recover amounts already released to the Provider from escrow by the Website and must seek damages or refund directly from the Provider.

7.5. Where the parties terminate an hourly contract, the Hirer must make payment for all reasonable fees incurred up to the date of termination.

## **8. GENERAL CONDITIONS**

8.1. Where one or both parties are resident in Australia, the Governing Jurisdiction shall be New South Wales, Australia.

8.2. Where neither party is resident in Australia, the Governing Jurisdiction shall be agreed in writing between the parties or failing such agreement, it shall be New South Wales, Australia.

8.3. Any dispute, controversy, proceeding or claim of whatever nature arising out of or in any way relating to the Terms and the rights created hereby shall be governed, interpreted and construed by, under and pursuant to the laws of the Governing Jurisdiction.

## 9. DEFINITIONS

The capitalised terms listed below have the meanings set out beside them:

**“Fixed Price Contract”** means a Contract for services in which the Hirer and Provider have agreed on a fixed price at the commencement of the contract for a certain service or scope of work to be performed.

**“Force Majeure”** means any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take preventative action by that Party, including fire; flood; violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; nuclear, biological or chemical warfare; or any other disaster, natural or man-made, but excluding the failure by any Sub-contractor to perform its obligations under any sub-contract.

**“Hourly Contract”** means a Contract for services in which the Hirer is billed for services provided by the Provider at an hourly rate agreed between the parties.

**“Service Contract”** means a contract for the provision of services as between the Provider and the Hirer which may comprise the Terms and Conditions, these Opt-Out Terms, a separate written agreement between the Parties or any combination of the foregoing.

**“Terms and Conditions”** means the terms that govern all use of the Website available on the website at [www.Credible.com.au](http://www.Credible.com.au).