

Client Services Agreement

These terms and conditions form our agreement with you. When you check the box and purchase the Phase 3 Ecom TX Sales Method program on our website or commence the program after direct credit card or invoice payment, these terms and conditions become binding on you, so please read them carefully. Each party acknowledges having read and agreeing to these terms and conditions.

Who we are:

Weis Business Consultants Pty Ltd ATF The G & J Weis Family Trust,
trading as **Phase 3 Ecom, ABN 45 273 103 968**,
located at Office 1, 162 South Pine Rd, Brendale QLD 4500
(referred to as in this agreement – **we, us, ours, Phase 3 Ecom**)
found at <https://www.phase3ecom.com/>
Email: admin@phase3ecom.com

Phase 3 Ecom collectively has the expertise, education, skill and experience in Shopify, WooCommerce and other ecommerce platforms, online sales, ecommerce store development and online marketing. With these skills, Phase 3 Ecom offers online sales growth strategies and online marketing support services to ecommerce businesses, like yours. This agreement sets out our working relationship with you.

Terms and Conditions

1. Services

1.1 By this agreement, Phase 3 Ecom agrees to supply our services, including our proprietary TX Sales Method and Special Offer Guarantee, in exchange for the purchase price.

1.2 The Phase 3 Ecom TX Sales Method comes with a Special Offer Guarantee to double your Net Marketing Sales Revenue within ninety (90) days (or negotiated period) or we will continue to work for free until we do.

1.3 The Phase 3 Ecom Special Offer Guarantee applies to our services, provided you fully qualify and are prepared to fully implement all our recommendations into your online store and marketing and execute all instructions in a timely manner.

1.4 Our recommendations for your online store and marketing will be outlined across the duration of the program after we have fully assessed and discussed your particular online store growth requirements with you, including your products and services, market fit, customer demographic, online marketing and any other information relevant to your online sales.

1.5 No cancellations during the initial ninety (90)-day period (or negotiated period). After the initial ninety (90)-day period (or negotiated period), you may cancel at any time, provided you have not enrolled in another ninety (90)-day or (180)-day TX Sales Method program (Phase 2 or Phase 3), in accordance with the terms of this agreement – see clause 12.

1.6 Our services include the following:

(a) implementation of online store recommendations, consulting in relation to online store 3rd party software & plugins, user experience upgrades, conversion rate optimization and online marketing during the duration of the agreement;

(b) one (1) scheduled weekly one-on-one Zoom call; and

(c) communication and ad hoc support via Slack with the Phase 3 Ecom team Monday - Friday 9:00am to 5:00pm (Queensland time), excluding any Public Holiday.

2. Term

2.1 This agreement will start on the day of purchase (start date) and continue for ninety (90) days (or negotiated period), subject to the Special Offer Guarantee. At the discretion of Phase 3 Ecom, additional time may be added to the 90 day program (or negotiated period) as a result of public holidays and official Phase 3 Ecom office closure.

3. Special Offer Guarantee

3.1 Phase 3 Ecom will use all reasonable efforts to implement your custom TX Sales Method program within the initial ninety (90)-day (or negotiated period). The Special Offer Guarantee applies to Phase 1 of the TX Sales Method program only.

3.2 During the initial ninety (90)-day period (or negotiated period), to be eligible for our Special Offer Guarantee, you must:

- (a)** implement and complete all our recommendations in a timely manner.
- (b)** each and every week, book and attend your sales action Zoom call.
- (c)** maintain sufficient stock levels of all key products across the entire store at all times.
- (d)** not reduce, pause, cause to cease due to payment issues or in any way interrupt your advertising spend, however you may choose to increase the advertising spend at your own discretion during the (90)-day period (or negotiated period). Total minimum ad spend must be above \$1,800 per month.
- (e)** maintain a minimum of 99% uptime of your online store at all times.
- (f)** maintain a maximum page load speed of 2.0 seconds across all pages of your online store at all times.
- (g)** maintain the ongoing registration of your domain name at all times.
- (h)** maintain all subscriptions (plugins, themes, hosting, etc) and third party services associated with the function of your online store at all times.
- (i)** subscribe to and maintain at all times all additional subscriptions that are required to undertake the TX Sales Method as directed throughout the program (Stape, Slack, Klaviyo etc). Costs of any additional subscriptions are born by the client.
- (j)** maintain all payment gateways and their operation at all times.
- (k)** maintain an uninterrupted supply of logistics and freight services at all times.
- (l)** maintain the reputation of your online store by providing timely customer feedback, returns and upholding the terms and conditions of your online store.
- (m)** provide Phase 3 Ecom timely and uninterrupted access and login credentials or remote access to the online store, all online marketing accounts (Google Ads, Meta Ads, TikTok, Microsoft Ads etc), email marketing platform, hosting, DNS and any third party services related to the ongoing operation of the online store and advertising management as reasonably required by Phase 3 Ecom to implement the TX Sales Method.
- (n)** ensure all task/actions assigned to you are delivered by the due dates. All tasks/actions allocated to you will have a due date assigned to them in order to ensure the on-time and complete delivery of the TX Sales Method Road Map.
- (o)** ensure any payments due to Phase 3 Ecom are paid on due dates and the account at no time falls into arrears.
- (p)** failure to fulfil on any of the above criteria will result in the forfeiture of the work for free guarantee.

3.3 Reference to the doubling of Net Marketing Sales Revenue may occur within any rolling thirty (30)-day period within the ninety (90) day period (or negotiated period).

3.4 If you have completed all our recommendations within the current time frame and can demonstrate to us that you have not doubled the amount of Net Marketing Sales Revenue within ninety (90) day period (or negotiated period) from the start date of this agreement, we will work for you at no additional cost until we reach the double of your Net Marketing Sales Revenue.

3.5 If you believe you are eligible for the Special Guarantee, please contact us in writing via the official email address in the Who We Are section of this agreement. If in dispute, we will require written validation from your qualified accountant to confirm the Net Marketing Sales Revenue and/or advertising expenditure for your online business before we will consider your application.

3.6 If your application is successful, working for you at no additional cost (free) would consist of managing the online advertising component of the program on an ongoing basis only for a maximum period of 6 months. This would include Google Ads, Meta Ads, TikTok and any other advertising platform used by Phase 3 Ecom within the initial ninety (90)-day period (or negotiated period).

This ongoing work will be communicated via your private Slack channel (your Slack account must be maintained beyond the 90 free trial period) with updates on a weekly basis and a Zoom call fortnightly. No additional marketing activities, website functions or optimisations will be undertaken as part of the work for free period.

The reason for this constraint is with your custom TX Sales Method fully implemented, we are confident that it will only be a matter of time and/or advertising budget before the double Net Marketing Sales revenue goal is reached.

4. Roles and Responsibilities

4.1 You agree to work closely and diligently with us to implement all our recommendations to achieve the results you are seeking, and you understand that the final outcome may be different to what you expected if you cannot or are unwilling to implement said recommendations. If you cannot work with us to implement our recommendations, you agree that our Special Offer Guarantee will not be upheld.

4.2 Each party:

(a) must do or cause to be done all acts or things necessary to give effect to this agreement;

(b) will diligently observe and perform its obligations under this agreement.

5. Payment

5.1 You must pay the purchase price in full for our services before we proceed.

5.2 Unless expressly stated otherwise, all prices or other sums payable (subscriptions and third party fees) or any other consideration provided or to be provided under or in connection with this agreement include GST.

6. Refunds

6.1 Phae 3 Ecom will only provide a refund in accordance with our obligations under the Australian Consumer Law (ACL) and if there is a dispute about a refund, you must first put your request in writing and submit it to our contact details listed above.

7. Force Majeure

7.1 If a party becomes completely or significantly unable to carry out its duties or obligations under this agreement as a result of Force Majeure:

(a) the affected party must give written notice to the other party with details of the Force Majeure and the likely extent that party will be delayed or unable to perform its obligations;

(b) provided notice is given, the affected obligations will be suspended while the Force Majeure remains in effect; and

(c) the parties will use all reasonable efforts to overcome the effects of the Force Majeure as soon as possible.

7.2 The estimated time for completion will be extended by the period of delay caused by the Force Majeure.

8. Representations and Warranties

8.1 At the time of entering into this agreement, each party warrants that it:

(a) has correctly identified its legal name and address and any other relevant contact details;

(b) has made no false representations or material omissions, in relation to this agreement;

(c) has not been induced to enter into this agreement as a result of any representation, statement or warranty of the other party, other than those expressly set out in this agreement;

(d) it has the power and authority to enter into and perform its obligations under this agreement; and

(e) In entering into this agreement, each party relies upon the warranties, representations and obligations of the other party.

9. Abandonment

9.1 If after repeated attempts to begin, continue or finalise the delivery of our services, you fail to participate or provide required materials in a timely manner, or become unresponsive to our Slack messages, Zoom calls, emails or phone calls for a period of ten (10) business days without explanation (abandonment), the services will be placed in abeyance or cancelled at our discretion.

9.2 If the services are cancelled or placed in abeyance, we are not under any obligation to continue to provide any services.

9.3 If you ask us to restart the work, you agree we may charge a reactivation fee to reactivate the services. This amount is calculated based on a genuine estimate of our hourly rate times the estimated amount of time required to reinstate the services being provided to you prior to being placed in abeyance or cancelled.

10. Intellectual Property

10.1 Intellectual property rights means all intellectual property rights whether now existing or created after the start date, including copyright and related rights, registered and unregistered trade and service marks, business and domain names, all rights in relation to inventions (including patents and patent applications), designs, coding, confidential information, manuals, trade secrets, know how, research data, formulae, discoveries and any other intangible proprietary rights whether registered or not, arising from intellectual activity related in any way to products or services offered or provided by us.

10.2 What intellectual property rights belong to us:

(a) all intellectual property rights in our tools used to complete the services, including training material, videos and tools, templates, presentations, supporting documentation, third-party applications, software, or generally any item or service not provided by you, remain our exclusive property.

(b) nothing in this agreement can be construed to confer on you any rights or ownership to our tools. Other than stated below, we do not grant you any other right or license to use our intellectual property.

10.3 License: For materials produced exclusively for you pursuant to this agreement, and provided all fees are paid up-to-date, we grant to you a non-exclusive, revocable, limited license to use the marketing tools and materials we supply:

(a) for their intended use; and within your business only.

10.4 What does this mean? It means you may only use our intellectual property, pursuant to this agreement. When we cease providing our services, you may only use the materials we have provided for the original purpose for which they were provided and cannot resell or share them with others. Our intellectual property is a valuable asset of our business and we take steps to protect it.

10.5 You may not share our copyright material with any other person.

11. Confidentiality

11.1 In performing services for you, both parties will have access to confidential information about the other party's business, such as business information, day to day communications, videos or other systems unique to them, and other information which a reasonable person would consider to be confidential (collectively called 'confidential information'). If either party are unsure whether information is confidential or not, assume it remains confidential until told otherwise.

11.2 Both parties' confidential information remains their property and must always be kept confidential.

11.3 Neither party will keep, store or share any confidential information about the other party's business, except for the purpose of delivering and implementing the services.

11.4 Both parties agree to keep confidential information confidential unless:

(a) the confidential information is transferred to the public domain through no fault or action of the other party;

(b) written authority is given to release it by the party who owns it; or

(c) required by a legal notice to disclose that information and have written to the other party and first advised of that obligation.

11.5 Any disclosure of confidential information may result in the immediate termination of this agreement, as well as legal action for damages resulting from that breach.

12. Cancellation

12.1 After the initial ninety (90)-day period (or negotiated period) TX Sales Method Phase 1 program has ended, this agreement may be cancelled at any time, with thirty (30) days' written notice first provided to the other party. No cancellations during any subsequent ninety (90)-day or (180)-day program (Phase 2 or Phase 3).

12.2 If you cannot complete the full ninety (90)-day (or negotiated period) initial program (Phase 1), our Special Offer Guarantee will not apply and subject to our obligations under the ACL, no refunds will be provided to you.

12.3 A party will be in default of its obligations under this agreement if it:

- (a)** is in breach of the terms of this agreement, including confidentiality;
- (b)** has made a warranty, representation or statement that proves to be materially untrue or misleading when made;
- (c)** fails to perform or observe an obligation under this agreement, including the payment of money or compliance with an applicable time limit; or
- (d)** enters into a scheme of arrangement, suspends payment of its debts, trades while insolvent or has an insolvency professional appointed to administer or wind up its affairs.

12.4 If a party is in default under this agreement and has not remedied that default within thirty (30) days of receiving a notice of default from the other party, the party not in default may cancel this agreement.

13. Disclaimer

13.1 You acknowledge and agree that the success of our services is dependent on the fulfilment of our recommendations in your business, including your attitude, persistence, and full participation in the program and if you do not implement our recommendations in full and in a timely manner, you may not double the Net Marketing Sales Revenue amount as anticipated. If you do not carry out the recommendations we have provided, our Special Offer Guarantee will lapse.

14. Limitation of liability

14.1 The liability for any claim relating to this agreement will be reduced to the extent to which the other party's negligence contributed to the damage relating to the claim.

14.2 Other than as required under the ACL and our Special Offer Guarantee, we make no warranties or representations about the suitability, reliability, availability, timeliness or accuracy of any services provided.

14.3 To the fullest extent permitted by law, we:

- (a)** exclude all representations, warranties or terms (whether express or implied) other than those expressly set out in this agreement; and
- (b)** exclude all liability for consequential or incidental damages suffered by you or any other person or entity resulting from any claim based on breach of warranty, breach of contract, or any other law, even if we should have known of the possibility of the damage or loss being suffered.

14.4 Where warranties are implied by law our liability will be limited in respect of any claim to, at our option, supplying the services or promptly remedying the fault in the services.

14.5 The parties agree that our total aggregate liability for all claims relating to this agreement is limited to the fees received actually by us from you in the billing cycle immediately preceding the date of claim.

14.6 This limitation of liability applies to the fullest extent permitted by law and survives any termination or expiration of this agreement or your use of our services.

15. Indemnity

15.1 You indemnify us and our employees, officers, and agents from and against all actions, claims, losses, damages, costs (including legal costs), penalties associated with any act or omission of ours in provision of our Services to you, or in relation to a breach or default by you of a provision of this agreement. Any indemnity will be reduced by the extent that the loss or damage has been contributed to by our negligence. This means that if you cause a claim, you will be responsible for paying the costs we incur to have to defend against that claim.

15.2 Neither party is liable to the other party for any lost profits or consequential damages of the other party arising directly or indirectly as a result of entering into this agreement.

16. Non-Solicitation

16.1 You agree that, for a period of twelve (12) months after your agreement with us comes to an end, you will not canvass, solicit, or approach any of our staff or contractors, with a view to employing or contracting directly to them. Our staff and contractors are carefully selected and trained and you understand that the purpose of this clause is to ensure our business does not incur unnecessary recruitment and training costs in the event that you poach or attempt to poach our staff or contractors.

16.2 You agree the restrictions in this clause:

(a) are reasonable and necessary to protect our business and the goodwill of our business;

(b) confer a benefit on us which is no more than reasonable or necessarily required for the protection of our business.

16.3 You agree that our offer to provide these services constitute valuable consideration for your agreeing to the provisions in this clause.

17. Dispute Resolution

17.1 Any dispute arising out of or relating to this agreement which cannot be settled by negotiation between the parties will be submitted to mediation in a Queensland Dispute Resolution Centre

<https://www.qld.gov.au/law/legal-mediation-and-justice-of-the-peace/settling-disputes-out-of-court/dispute-resolution-centres>.

18. Notices

18.1 Any communication required to be given pursuant to this agreement must be done so in writing.

18.2 Notices may be delivered in person, sent by trackable post to the address of the party shown in the Schedule (or a later notified address) or sent by email to the email address of the party shown in the Schedule (or a later notified email address).

18.3 A notice will be deemed received immediately if given in person, ten (10) Business Days after the date of mailing if sent by trackable post and the next Business Day if sent by email.

18.4 Notices will not be validly given if provided by text message or via social media account, unless otherwise ordered by a Court of competent jurisdiction.

19. Definitions and Interpretation

19.1 In this agreement, words set out in the Schedule have the corresponding meaning and the same meaning in these terms and conditions.

19.2 The following words have the following meanings:

Business means providing online sales and technical consulting, marketing, and online store development for online business owners, online or in person;

Business Day means a day in which commercial banks in Queensland are authorised or required by law to be open;

Confidential Information means the information, forms, specifications, processes, statements, formulae, trade secrets, drawings and data (and copies and extracts made from that information and data), source and object codes, business and marketing plans and projections, customer information, lists, designs, plans, documents, videos, know-how, information about existing, new or envisioned products, services and processes and their development and performance, any techniques, methodologies, pricing, technical information, computer software, business and financial information and models concerning:

- (a) the operations and dealing of each party's business;
- (b) the organisation, finance, customers, markets, suppliers, intellectual property and know-how of a party and any of its related or associated entities; which confers or tends to confer a competitive advantage over one who does not possess the information, or which has been obtained as a result of this agreement.

Force Majeure includes an event outside the influence or control of a party, such as a severe weather event, significant civil unrest, government restrictions/lockdowns, cyber-attack or major technology, internet, or power outage, or otherwise an occurrence beyond the reasonable control of the affected party which directly causes either party to be unable to comply with all or a material part of its obligations under this agreement.

Net Marketing Sales Revenue means the lesser of the net marketing sales for the monthly average of the immediate previous full 12 months, the immediate previous 90 days or the immediate previous 28 days or full calendar month. For example, 12 months; average marketing sales might be \$20,000 per month, 90 days might be \$22,000 and the previous calendar month might be \$19,000, so the Net Marketing Sales Revenue to be doubled will be \$19,000.

This Net Marketing Sales Revenue amount does not include the cost of goods sold or sales returns. Net Marketing Sales Revenue is calculated using data from Google Analytics GA4, Meta Ads, Google Ads (and any other marketing platforms) only and cross referenced from sales figures reflected in the sales reports section of the current and specific ecommerce store subject to this agreement. No organic or direct traffic (SEO) sales, sales from email marketing, imported sales (including store/platform migrations, third party marketplaces (eBay, Amazon, Catch etc) wholesale sales, or any other sales made outside the platform, (i.e in-store sales, wholesale, manual entry) will be considered in the calculation of Net Marketing Sales Revenue (or as negotiated i.e. Omni Channel offering).

Advertising Spend means the average of the immediate 90 days previous total advertising spend across all advertising channels including but not limited to Google Ads, Meta Ads, Tiktok, Microsoft Ads, LinkedIn etc.

GST Law means A New Tax System (Goods and Services Tax) Act 1999, and any terms defined in GST Law used in this agreement will have the same meaning as stated in GST Law;

Public Holiday means a day in which commercial banks in Queensland are authorised to be closed for business;

19.3 Interpretation – in this agreement, unless the context requires otherwise:

- (a) if a word or phrase is defined, then other grammatical versions of the word or phrase will have the corresponding meaning;
- (b) words in the singular include the plural and vice versa;
- (c) 'includes' and similar words mean includes without limitation;
- (d) a reference to this agreement includes all parts of the agreement and any amendments made in writing;
- (e) a reference to a clause, schedule or annexure is a reference to a clause, schedule or annexure of this agreement;
- (f) headings are for convenience and do not affect the interpretation of this agreement;

(g) a reference to a natural person includes a body corporate, partnership, joint venture, association, corporation, government or other body or other legal entity;

(h) a reference to a party includes that parties' directors, officers, employees, legal personal representatives, successors and assigns; and

(i) a reference to currency or monetary figure means Australian dollars.

20. General

20.1 Relationship – This agreement sets out the relationship between the parties as independent contractors and does not create any partnership, joint venture or employment relationship. This agreement does not create any legal relationship other than the contractual relationship formed under the provisions of this agreement.

20.2 Costs – Each party will pay their own costs for negotiating and entering into this agreement. Any subscriptions or ongoing costs for plugins, themes, advertising or third party services related to the execution of the TX Sales Method are your sole responsibility.

20.3 No Waiver - Any failure by a party to enforce any provision of this agreement, or any forbearance, delay or indulgence granted by that party to any other party will not be construed as a waiver of the first party's rights under this agreement.

20.4 Entire Agreement – This agreement and any documents specifically referred to in it, contain the entire agreement between the parties and supersede all prior agreements and understandings, whether oral or written, relating to the subject matter of this agreement.

20.5 Assignment – neither party may assign their rights under this agreement without the written consent of the other party.

20.6 Variation – Due to the fast paced nature and the ongoing and often unforeseen changes in the digital marketing and ecommerce space, Phase 3 Ecom reserves the right to update the terms and conditions that make up this Client Services Agreement.

20.7 Severability - If any of the provisions of this agreement are determined to be invalid or unenforceable, then the invalid or unenforceable provision will be severed, and the remainder of the terms and conditions will continue in effect.

20.8 Governing Law - This agreement is governed by and construed in accordance with the laws of the state of Queensland, Australia and the parties agree to submit disputes arising out of or in connection with this agreement to the courts of Queensland, Australia.

End.