



Way We Do Platform Supply Agreement

Prepared by Way We Do
21 May, 2018



Supply Agreement - Way We Do Platform

1. General

(a) Keyword Intent Pty Ltd ACN 138 544 555 (we/us/our) operate the Platform along with providing Services and Templates.

(b) We have agreed to grant you Access to the Platform along with providing you with the Services and Templates on the terms set out in this Agreement.

2. Term

2.1 Term of Agreement

This Agreement commences on the Acceptance Date and continues until terminated under clause 12 (**Term**).

2.2 Continuation of Agreement

Where a Proposal with a fixed duration has been provided to you, this Agreement will continue for each Rollover Period, unless terminated in accordance with clause 12.

3. Proposal

(a) The parties acknowledge that if there is a Proposal it will form part of this Agreement.

(b) If there is an inconsistency between one or more of the documents which constitute this Agreement, the order of precedence will be:

(i) the Proposal;

(ii) this document; and

(iii) any other document or information expressly incorporated by reference either in the Proposal or in this document.



4. Supply

4.1 Access

(a) Subject to sub-clause (b), we will provide you and your Authorised Users (if applicable) with access to the Platform on a non-exclusive and non-transferable basis during the Term (Access).

(b) Access is provided on the following conditions:

(i) you must:

(A) only use the Platform in accordance with this Agreement;

(B) comply with all reasonable and lawful directions that we may give from time to time with respect to your use (or the use of your Authorised Users) of the Platform;

(C) only use the Platform in the ordinary operation of your business;

(D) protect the Platform, the Support Materials and the Templates at all times from unauthorised access, use or damage;

(E) maintain the security of:

(1) your account log in information from third parties; and

(2) all Data that has been uploaded to or recorded in the Platform; and

(F) cooperate with us in remediation of any security, unauthorised use or misuse of the Platform and promptly report all such matters that you become aware of to us;

(ii) you must not:

(A) be involved in any business activity that is unlawful or that we reasonably consider would be likely to adversely impact upon our reputation;

(B) allow or engage any third party to conduct development work on the Platform without first obtaining our written consent which we may withhold in our sole discretion;

(C) grant or purport to grant, or convey, any right to any third party, to use or commercialise the Platform, our Services or our Templates;

(D) interfere or disrupt the operation of the Platform nor attempt to do so;

(E) grant access to the Platform to anyone other than Authorised Users, unless we provide you with our express written consent; and



(F) subject to any right under, sections 47B(3), 47C, 47D, 47E or 47F of the Copyright Act, either directly or indirectly, modify, attempt to decompile, cross compile, disassemble, reverse engineer, or use any other means to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Platform or the Services.

4.2 Services

We will provide the Services to you in a professional manner with due care, skill and diligence.

4.3 Updates

(a) From time to time we may offer New Services by updating the Platform, and where practicable will provide you with Notice of those New Services. Once the Platform has been updated the provision of the New Services will be governed by the terms of this Agreement.

(b) We may from time to time unilaterally make modifications to the Services, Platform and the Templates (provided such variations do not limit your rights or enjoyment) and will provide Notice of any changes made, prior to the changes taking effect.

4.4 Migration

(a) Where a migration component is specified in the Proposal, we will migrate your pre-existing Content Data into the Platform and ensure its proper configuration in accordance with what was detailed in the Proposal.

(b) The cost of any additional migration beyond that contained in the Proposal will be charged on a time and material basis in accordance with our then prevailing hourly rates.

4.5 Training and Support Material

(a) Where a training component is specified in the Proposal we will deliver training in accordance with what was detailed. Training will either be web-based or onsite.

(b) All specific expenses incurred by us in relation to our provision of training including travel, accommodation and personnel travel time are payable by you.

(c) The cost of additional training beyond that contained in the Proposal will be charged on a time and materials basis in accordance with our then prevailing hourly rates.

(d) We provide Support Materials within the Platform that contain sufficient information to enable you to make full and effective use of the Platform and the Services.

4.6 Support

We will use our best endeavours to provide Support Services to you within 1 business day of a request being made. Support Services provided by us under this Agreement do not include any issues related to internet connectivity or hardware.



4.7 Back-ups

- (a) We provide daily back-ups of Data, on a rolling seven (7) day basis.
- (b) We will send you one back-up of your Content Data during the Term at no cost, within a reasonable time following your written request.
- (c) If you require additional back-up/s be made or sent to you, this will be an additional cost based on our personnel's time and resource requirements.

4.8 Activity Data

We will provide you with access to your existing Activity Data promptly following your request.

4.9 Custom development

- (a) If you would like us to develop new Services, integrations, Templates or otherwise vary the Platform (**Custom Development**), we may in our sole discretion agree to do so.
- (b) Any Custom Development that you engage us to complete will be an additional cost and will be governed by a separate agreement.

5. Client Responsibilities

5.1 Account establishment

- (a) Unless otherwise specified in the Proposal, you are responsible for migrating Content Data and properly establishing the accounts of your Authorised Users (**Account Establishment**).
- (b) You acknowledge and agree that the Services provided by us require proper Account Establishment. If this does not occur::
 - (i) the Services may not be able to be provided, or if they are provided the Service deliverables may be adversely affected;
 - (ii) you may be required to reestablish the accounts of any of your Authorised Users before any Services are provided; and
 - (iii) we will not be liable to you for any Loss suffered due to the Services not being provided or the Service deliverables being adversely affected.

5.2 Your Data

- (a) You must not record or upload any sensitive or private information regarding any person to the Platform. If you do so you acknowledge and agree that this information is entirely at your risk.



(b) You acknowledge and agree that all Data will be stored by our server host located in Sydney, New South Wales Australia, unless otherwise specified in our Proposal.

(c) We acknowledge and agree that:

(i) title to Content Data and Account Establishment Data remains with you in all respects and we do not obtain ownership of any Intellectual Property Rights in it; and

(ii) where Content Data and Account Establishment Data is held or stored by us, it is held on your behalf.

5.3 Equipment

You are responsible for obtaining and maintaining any equipment and ancillary services needed by your Authorised Users to connect to, access or otherwise use the Platform and the Services.

5.4 Your warranties

You represent, warrant and undertake that:

(a) you own or have an unrestricted right to use all of your Content Data that is uploaded or recorded by you or on your behalf, including the right to authorise us to store the data and use it in the provision of the Services;

(b) we are authorised to use and store Content Data that has been Uploaded for the purpose of delivering the Services;

(c) you have the capacity and authority to enter into and to perform this Agreement; and

(d) this Agreement is accepted by a duly authorised representative of yours and legally binds you.

5.5 Your acknowledgements

You acknowledge and agree that:

(a) computer and telecommunications services are not fault free and occasional periods of downtime may occur;

(b) we may publish your branding and testimonials on our Platform or on any of our other promotional material for the purpose of representing that you are a client of ours, provided we comply with our confidentiality obligations contained in clause 10; and

(c) in addition to any other rights or remedies we may have, we may suspend or terminate any Authorised User's access to the Platform at any time and without any liability to you in the event that any Authorised User breaches a provision of this Agreement.



6. Our responsibilities

6.1 General

We will:

- (a) comply with the Privacy Act 1988 (Cth) and any other applicable privacy Laws in relation to your Data;
- (b) provide you and your Authorised Users with reasonable notice of scheduled maintenance to the Platform;
- (c) use adequate security systems and procedures to safeguard and prevent third party access to all Data including 256-bit encryption;
- (d) conduct general server maintenance as and when reasonably required;
- (e) host all Data; and
- (f) ensure that the Platform and the Services will be provided in accordance with:
 - (i) this Agreement;
 - (ii) applicable Laws; and
 - (iii) our marketing material.

6.2 Insurance

We must maintain product and public liability insurance for an amount not less than \$5 million and provide a certificate of currency for such policies to you upon request.

7. Intellectual property rights

7.1 General

- (a) Each Party retains all right, title and interest in and to its pre-existing Intellectual Property Rights.
- (b) We own all Intellectual Property Rights in the Platform, the Services and the Templates and nothing in this Agreement affects the Moral Rights in them.
- (c) For the avoidance of doubt nothing in these Terms prohibits us from using our Intellectual Property Rights to provide the Services and Templates to third parties, even if they are the same or substantially the same as those provided to you.

7.2 Improvements

You acknowledge and agree that all Intellectual Property Rights in the variations, additions and alterations (**Improvements**) to the:

- (a) Platform and the Services are owned by us, even where suggested or created by you; and
- (b) Templates do not transfer under this Agreement.

7.3 Templates

(a) We grant you a non-exclusive, world-wide, royalty free licence to use and Improve the Template/s you have purchased under clause 7.2:

- (i) within your business for internal operational purposes only; and
- (ii) in a manner otherwise consistent with the provisions of this Agreement.

(b) The license granted under sub-clause (a) extends to Improvements of a Template made by us during the Term.

8. Fees, Charges and Payments

8.1 Fees

(a) Where a Proposal is provided:

(i) we will issue a Tax Invoice to the Financial Controller following your acceptance of the Proposal. Subsequent Tax Invoices will be issued on the billing anniversary date; and

(ii) you must pay each Tax Invoice within 14 days of receipt (unless expressly stated otherwise in the invoice itself), without set-off, counterclaim, holding or deduction in the manner detailed on the Tax Invoice.

(b) If no Proposal is provided, you will automatically be charged each month on the day that you became an Authorised User. We will issue our Tax Invoice to you upon your payment being processed.

8.2 Purchases

If you wish to utilize any of our Templates, you may do so by purchasing the Template within the Platform. After purchasing a Template you are granted a licence to it on the terms contained in sub-clause 6.3. We will issue you with a Tax Invoice following your payment being processed.

8.3 Expenses

Any costs and reasonable out-of-pocket expenses which are necessary to provide the Services (**Expenses**) will be paid or reimbursed (as the case may be) by you where we have received prior written approval from you regarding the incurring of the Expense. We will submit documentation as evidence as is reasonably required by you to verify the Expense that has been incurred.

8.4 Disputed Fee

(a) If you dispute any part of a Tax Invoice you must pay the portion not in dispute and provide Notice to us within seven (7) days of receiving the Tax Invoice of your reasons for dispute.

(b) Within a reasonable time of receiving the notice, we will address your reasons of dispute, to enable a prompt and amicable resolution. If the dispute cannot be resolved within seven (7) days of our response, then the dispute must be referred to the procedure contained in clause 14.

8.5 Review

(a) Subject to the Proposal, you agree that we may:

(i) increase our Fees under this Agreement on 1 July each year; and

(ii) all other charges at any time we reasonably determine.

(b) The new Fees and charges will apply from the time that we give Notice to you of the changes.

8.6 Late Payment

If you fail to make payment within the time required under this Agreement we may:

(a) charge you an Admin Fee;

(b) charge interest on the overdue amount at the Default Rate as from the first day that payment is overdue to the date we receive payment in full of all overdue amounts; and

(c) charge you for all costs and expenses incurred by us in recovering any outstanding Fees or charges, including legal fees (on a solicitor and own client basis) and court costs, which you must pay upon demand.

8.7 GST

Unless otherwise expressly stated, all amounts under this Agreement are exclusive of GST. If GST is imposed on any supply made under or in accordance with this engagement and GST has not been accounted for in determining the consideration payable for the supply, then we may recover from you an amount on account of GST.



9. Accounts

9.1 Trial Account

- (a) Whilst you have Access under a trial account you are not required to pay Fees.
- (b) A trial account is only granted for a limited time, as published on the Platform or as otherwise agreed to by us in our sole discretion.

9.2 Authorised Users

You acknowledge and agree that you are solely responsible and vicariously liable for all of your Authorised Users and Representatives and must ensure that they comply with the terms of this Agreement.

9.3 Location Accounts

If you hold a Multi Account:

- (a) Access includes the right to setup Location Accounts in accordance with the Proposal; and
- (b) as soon as practicable following the Acceptance Date, we will set up a master management account (**MMA**) for you. The MMA holder will be able to create Location Accounts with varying authorities and access rights.

9.4 Agreement continues

You acknowledge and agree that if you change your Account Type during the Term, this Agreement will remain valid and will continue, but will be taken to be amended in accordance with the Proposal or if no Proposal is given as detailed on the Platform.

10. Representatives

10.1 Authorised Representative

You must:

- (a) appoint an Authorised Representative (or where you fail to, you acknowledge and agree that either your first Authorised User or MMA holder will be deemed to be your Authorised Representative) who will be responsible for the oversight of this Agreement and receipt of the Services (**Representative Purpose**);
- (b) ensure your Authorised Representative co-operates with any request made by us in respect of anything related to this Agreement; and
- (c) give us Notice any time the Authorised Representative is replaced or their details change.



10.2 Authority

You:

- (a) covenant that the Authorised Representative has full authority to act on your behalf in any way relating to the Representative's Purpose;
- (b) acknowledge and agree that we may rely on any written representation, direction or communication made by the Authorised Representative that relates to the Representative's Purpose, as if the Authorised Representative were you; and
- (c) must release and hold us harmless from our reliance upon any such direction or representation made by the Authorised Representative.

11. Confidentiality and restrictions

11.1 Recipient must keep Confidential Information confidential

Each party must keep confidential all Confidential Information and only use Confidential Information for the purpose of providing or receiving (as the case may be) the Services.

11.2 Disclosure exceptions

The obligations in clause 10.1 do not apply:

- (a) to the extent necessary to enable a party to make any disclosure required by law;
- (b) to the extent necessary to enable a party to perform its obligations under this Agreement;
- (c) to any disclosure agreed in writing between the parties; or
- (d) in respect of any portion of the Confidential Information which has entered the public domain other than as a result of a breach of this Agreement.

11.3 Restrictions

The Parties undertake to one another to not during this Agreement or for a period of 12 months after it is terminated or expires:

- (a) solicit, canvass, induce or encourage any person who was at any time during the term of this Agreement an employee, a director, employee or agent of the other party to leave the other party's employment or agency; or
- (b) do anything that would or would be likely to interfere with the relationship between the other party's clients, customers, employees, partners or suppliers.

12. Termination

12.1 Termination by notice

(a) Either party may terminate this Agreement by written notice to the other (**Termination Notice**). Where a Termination Notice is received at least 14 days before the end of the then current:

(i) billing period; or

(ii) fixed duration specified in either the Proposal or a Rollover Period (**Fixed Duration**),

termination will take effect at the end of that billing period or the expiration of that Fixed Duration, whichever is later. In any other case, termination will take effect at the end of the subsequent billing period or Fixed Duration, whichever is later.

(b) We will provide you with at least 14 days' notice before the last date by which you must provide a Termination Notice in order to prevent the Agreement continuing for a Rollover Period.

12.2 Termination for breach

Either Party may, without prejudice to its other rights or remedies, terminate this Agreement with immediate effect by written notice to the other Party, in the event of:

(a) any material breach of the Agreement by the other Party which is not remedied within 30 days after the service on the Party in default of a written Notice specifying the nature of the breach and requiring that the same be remedied; or

(b) the other Party becoming Insolvent.

12.3 Effect of Agreement ending

Upon termination or expiry of this Agreement:

(a) you will be given a reasonable opportunity to download and export all Data. You acknowledge and agree that we will delete your Data six (6) months after the expiration or termination of this Agreement. We will not be liable to you or your Authorised Users in any way where you have failed to obtain your Data before it is deleted;

(b) you must pay all outstanding Fees, and other charges due to us under this Agreement up to the date of termination;

(c) each party must destroy the other parties Confidential Information received under this Agreement and certify such destruction in writing; and

(d) any accrued rights or liabilities of either Party or any provision of this Agreement which is expressly or by implication intended to come into or continue in force on or after such termination will not be affected.

13. Indemnity and liability

13.1 Your indemnity

You agree to indemnify us and to keep us indemnified against any Loss that may be incurred by us arising from or in connection with (directly or indirectly):

- (a) any breach or default by you, your Authorised Users or your Representatives of this Agreement (including any breach of warranty);
- (b) a negligent act or omission by you, your Authorised Users or your Representatives;
- (c) your failure to comply with any Law; and
- (d) the failure of your Authorised Users or your Representatives to comply with any Law.

13.2 Our indemnity

(a) Subject to sub clause (b), we will indemnify you with respect to any Loss suffered as a result of any Claim made against you by a third party alleging that the Platform, Services or Templates infringe the Intellectual Property Rights of that third party.

(b) We will not be liable to you under sub clause (a) if:

- (i) you do not notify us of the other person's Claim within 10 Business Days after becoming aware of it;
- (ii) our ability to defend the claim has been prejudiced by the your non-compliance with any of your obligations under this Agreement;
- (iii) you do not give us reasonable assistance (based on the circumstances) in defending the Claim; or
- (iv) you do not permit us to have control of the defence of the Claim and all related settlement negotiations.

13.3 Exclusion of liability

To the maximum extent permitted by Law, we will not be liable for any ordinary, incidental, consequential or special loss or damage (including but not limited to loss of profits, loss of data and loss of personnel) arising out of this Agreement or the use of the Platform even if we were appraised of the likelihood of such loss or damage occurring.

13.4 Limit of liability

(a) Except as expressly provided by this Agreement, the Platform is provided on an “as is” basis without any representation, warranty or guarantee as to quality, condition or fitness for purpose and we do not warrant that the Platform will be free of defect, uninterrupted, accurate, complete, current, stable, bug free, error free or available at any time in respect of its operation.



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(b) Except in relation to liability for personal injury (including sickness and death), property damage or an infringement of confidentiality or Intellectual Property Rights, our liability in damages (including special, indirect or consequential damages, which damages will be deemed to include loss or revenue, loss or profit and opportunity loss) in respect of any act or omission of us in connection with our obligations under this Agreement will not exceed the net payment received by us from you in the immediately preceding 12 months from when the cause of action arose.

(c) We have no responsibility or liability whatsoever as a consequence of any Loss suffered by you as result of:

(i) any Data being lost, destroyed or damaged by the Platform or a third party provider of cloud based storage or hosting; or

(ii) any third party software malfunctions or malfunctions in the Platform caused as a result of interference by third party software.

13.5 Exclusion of other Terms

(a) Subject to sub-clause (b), any condition, guarantee or warranty which would otherwise be implied in this Agreement is hereby excluded.

(b) Liability for breach of a guarantee conferred by the Australian Consumer Law (other than those conferred by ss 51 to 53 of the Australian Consumer Law) is limited (at our election) to us providing the Services again (including providing the Service deliverables or Template/s again) or the payment of the cost of having the Services or Template/s supplied again.

13.6 Survival

The provisions of this clause 12 survive the termination of this Agreement.

14. Notices

Any notices given under or in connection with this Agreement:

(a) must be in legible writing and in English;

(b) must be either:

(i) addressed to a party's contact address as specified in this Agreement or as otherwise notified by a party to the other party from time to time; or

(ii) in our case, sent to the:

(A) Authorised Representative's contact address you have provided; or

(B) Authorised Representative by internal mail or notification within the Platform;

(c) must be:

- (i) delivered to that party's address;
 - (ii) sent by pre-paid mail to that party's address;
 - (iii) issued via the Platform to the Authorised Representative; or
 - (iv) sent by email to that party's email address;
- (d) will be deemed to be received by the addressee:
- (i) if delivered by hand, at the time of delivery;
 - (ii) if sent by post, on the third Business Day after the day on which it is posted, the first Business Day being the day of posting;
 - (iii) if sent by email, at the time that would be the time of receipt under the Electronic Transactions Act 1999 (Cth); or
 - (iv) if sent via the Platform at the time it is sent.
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15. Disputes

- (a) If a dispute arises out of or relates to this Agreement (Dispute) a party to the Agreement may not commence any court or arbitration proceedings relating to the Dispute unless it has complied with this clause, except where the party seeks urgent interlocutory relief.
 - (b) A party claiming that a Dispute has arisen must give a Notice (Dispute Notice) to the other party or parties to this Agreement specifying the nature of the Dispute. The parties must then negotiate in good faith to resolve the Dispute expeditiously using informal dispute resolution techniques such as mediation, expert evaluation or determination or similar techniques agreed to by them.
 - (c) If the Parties do not resolve the Dispute within fourteen (14) days of receipt of the Dispute Notice (or such further period as agreed in writing by them) any party to the Dispute may refer the Dispute to mediation by a mediator nominated by the President or the nominee of the President for the time being of the Queensland Law Society Incorporated.
 - (d) Each party must bear its own costs in connection with resolving the Dispute and the Parties must bear equally the costs of any mediator engaged.
 - (e) Any information or documents disclosed by a party under this clause must be kept confidential and may not be used except to attempt to resolve the dispute.
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16. General matters

16.1 Essential terms

Clauses 3, 4, 5, 7 and 10 are essential terms of this Agreement.

16.2 Amendments

Subject to the Provisions of this Agreement, this Agreement may only be varied by a further written agreement signed by or on behalf of each of the parties.

16.3 Force majeure

Neither party will be liable for any delay or failure to perform its obligations pursuant to this Agreement if such delay is due to Force Majeure. If a delay or failure of a party to perform its obligations is caused or anticipated due to Force Majeure, the performance of that party's obligations will be suspended. If a delay or failure by a party to perform its obligations due to Force Majeure exceeds thirty (30) days, either party may immediately terminate this Agreement on providing Notice to the other party.

16.4 Assignment

(a) We may, upon Notice in writing to you, assign or otherwise transfer the benefit of all or any part of this Agreement to any other person or entity.

(b) Neither any rights, benefits or liabilities relating to this Agreement may be assigned by you without our prior consent, which will not be unreasonably withheld.

16.5 Consents

Unless this Agreement expressly states otherwise, a party may in its absolute discretion, give conditionally or unconditionally or withhold, any consent under this Agreement. To be effective any consent under this Agreement must be in writing.

16.6 Costs

Each party will pay their respective costs and expenses of in connection with the negotiation, preparation, execution, and performance of this Agreement.

16.7 Entire Agreement

This Agreement contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this Agreement and has no further effect. You warrant that you have not relied on any representation made by us which has not been stated expressly in this Agreement.

16.8 Further acts

Each party must promptly do all further acts and execute and deliver all further documents required by law or reasonably requested by another party to give effect to this Agreement.



16.9 Jurisdiction

This Agreement is governed by the law in force in the State of Queensland Australia and each party submits to the non-exclusive jurisdiction of the courts of Queensland and the courts competent to determine appeals from those courts, in relation to any proceedings that may be brought at any time relating to this Agreement.

16.10 No Merger

No right or obligation of any party will merge on completion of any transaction contemplated by this Agreement.

16.11 Severability

Any provision of this Agreement that is illegal, void or unenforceable will be severed without prejudice to the balance of the provisions of this Agreement which shall remain in force.

16.12 Stamp Duty

You must pay all stamp duty, including any interest or penalties assessed and payable on or in respect of this Agreement.

16.13 Waiver

(a) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this Agreement by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by law or under this Agreement.

(b) Any waiver or consent given by any party under this Agreement will only be effective and binding on that party if it is given or confirmed in writing by that party and no waiver of a breach of any term of this Agreement will operate as a waiver of another breach of that term or of a breach of any other term of this Agreement.

17. Definitions and Interpretation

17.1 Definitions

In this Agreement:

Acceptance Date means the earlier of:

- (a) the date you confirm your acceptance of our Proposal (electronically or in writing); and
- (b) the date we provide you with Access.

Access has the meaning set out in sub clause 3.1(a).



Account Establishment has the meaning given in sub clause 4.1(a).

Account Establishment Data is criteria added to procedures including roles, tasks, acceptance, revision reminders, restriction/access rights and user details.

Account Type means the category of account you have as detailed in the Proposal or where no Proposal is provided a Casual Account.

Activity Data means usage data, checklist instance usage data (steps ticked, comments added, files attached, collaborators added), procedure acceptance, task completion, procedure review history data and any other relevant log information captured by the Platform from time to time.

Admin Fee means a fee payable by you as a consequence of a late payment which is calculated based on the reasonable costs incurred by us relating to recovery.

Agreement means this document, the Proposal (if applicable) and includes any annexures, schedules and appendixes to them.

Australian Consumer Law means Schedule 2 of the Competition and Consumer Act 2010 (Cth).

Authorised Representative means the suitably qualified, authorised and informed representative that has been nominated to act on your behalf with respect to this Agreement.

Authorised Users means any user of the Platform that you have authorised in accordance with this Agreement.

Business Day means a day on which banks are open for business excluding Saturdays, Sundays and public holidays in Brisbane, Australia.

Claim includes a demand, claim, action, dispute or proceeding made or brought by or against the person, however arising and whether present, unascertained, immediate, future or contingent.

Content Data means procedure or policy content and attachments, images, position descriptions and checklists.

Confidential Information means information that is by its nature confidential and is designated by a party as confidential or a party knows or ought to know is confidential, other than information which is or becomes public knowledge otherwise than by breach of this Agreement or any other confidentiality obligation.

Corporations Act means the Corporations Act 2001 (Cth).

Copyright Act means the Copyright Act 1968 (Cth).

Custom Development has the meaning given in sub-clause 3.8.

Data means Content Data, Account Establishment Data and Activity Data collectively.

Default Rate means the compound interest rate of 10% which is taken to accrue on a daily basis.



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Fees mean the fees payable to us for our provision of Access and our rendering of Services, which as at the Agreement Date are equal to an amount specified in the Proposal or published on the Platform.

Financial Officer means the suitably qualified, authorised and informed representative that you nominate to represent you with respect to your internal financial management.

Force Majeure means any cause beyond the reasonable control of a party and which that party is unable to overcome by the exercise of reasonable diligence and at a reasonable cost, including an act of God, fire, earthquake, storm or flood, and the failure of third-party equipment, software, technology or other services necessary for the performance of a party's obligations under this Agreement.

GST means a goods and services tax, or a similar value added tax, levied or imposed under the GST Law.

GST Law has the meaning given to it in the A New Tax System (Goods and Development Services Tax) Act 1999 (Cth).

Insolvent means if a person is insolvent or an insolvent under administration, or has a controller appointed (each as defined in the Corporations Act), are in receivership, in receivership and management, in liquidation, in provisional liquidation, under administration, wound up, subject to any arrangement, assignment or composition, protected from creditors under any statute, dissolved (other than to carry out a reconstruction whilst solvent) or otherwise unable to pay debts when they fall due.

Intellectual Property Rights means all intellectual property rights, including the following rights:

- (a) copyright, patents, rights in circuit layouts, trademarks, designs, trade secrets, know how, and any right to have confidential information kept confidential;
- (b) any application or right to apply for registration of any of the rights referred to in paragraph (a); and
- (c) all rights or a similar nature to any of the rights in paragraphs (a) and (b) which may subsist,

whether or not such rights are registered or capable of being registered.

Improvement has the meaning given in sub clause 6.3 and **Improve** has a corresponding meaning.

Law includes any requirement of any statute, rule, regulation, proclamation, ordinance or by-law, present or future, and whether state, federal or otherwise.

Location Account means an account established by the MMA holder which provides a new user with Access.

Loss includes any damage, loss, cost, liability or expense of any kind and however arising (including as a result of any Claim) including penalties, fines and interest whether prospective or contingent and any amounts that for the time being are not ascertained or ascertainable.

Support Materials means written, audio and audio visual content that we have produced to assist you with Access and the utilisation of the Services.



MMA has the meaning given in clause 9.3.

Moral Right means moral rights as defined in the Copyright Act 1968 (Cth).

Multi Account means an Account Type with an MMA and Location Accounts.

New Services means services offered by us in addition to the Services described in this Agreement (including services which extend, alter, improve or add functionality to the Services).

Notice means a notice given under or in connection with this Agreement that adheres to the requirements in clause 13.

Platform means our cloud based software platform through which we provide the Services and Templates.

Proposal means a statement of supply agreed between the parties.

Representative Purpose has the meaning given in clause 9.1.

Rollover Period means a duration of time equal to the initial billing period specified the Proposal that arises:

- (a) at the expiration of the initial billing period; and
- (b) again in perpetuity on the expiry of each earlier Rollover Period.

Services means cloud based standard operating procedure (SOP) management with the following key features:

- (c) SOP centralization;
- (d) activated checklists;
- (e) centralization of job descriptions and policies;
- (f) compliance sign off;
- (g) centralization of organization charts; and
- (h) information sharing and communication.

Support Services means telephone and online support provided during Business Hours on Business Days to you by us that relate to the operation and function of the Platform and the delivery of the Services.

Term has the meaning given in clause 2.

Templates mean base documentation that we have prepared and made available for you to purchase within the Platform enabling you to effectively utilise the Services.

Tax Invoice means an invoice issued by us for payments required under this Agreement.

17.2 Interpretation

In interpreting this Agreement, unless the context provides otherwise:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;



- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a rule, paragraph or schedule is to a rule or paragraph of, or schedule to, this Agreement and a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (d) a reference to dollar or \$, is to United States currency unless otherwise stipulated in the Proposal or published on the Platform;
- (e) a reference to time is to time in Brisbane Queensland, Australia;
- (f) a reference to a person includes a natural person, partnership, body corporate, association, and any Government Agency;
- (g) a reference to a party means a party to this Agreement and includes the party's executors, administrators, successors, substitutes (including by novation) and assigns;
- (h) a reference to a group of persons is to any 2 or more of them taken together and to each of them individually;
- (i) a reference to the whole is to each part of it;
- (j) a reference to a statute, regulation, code or provision of a statute, regulation or code includes any modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
- (k) "including" and similar expressions are not words of limitation;
- (l) costs and expenses include legal costs and expenses on a full indemnity basis;
- (m) conduct includes an omission, statement or undertaking, whether or not in writing;
- (n) "property" or "asset" includes all property and assets of any nature, including a business, and all rights, revenues and benefits;
- (o) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this document or any part of it;
- (p) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day;
- (q) where time is to be calculated by reference to a day or event, that day or the day of that event is excluded;
- (r) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act; and
- (s) headings and table of contents are for ease of reference only and do not affect interpretation.



17.3 Parties

(a) If a party comprises 2 or more persons, a reference to that party includes each and any 2 or more of them, and this Agreement binds each of them separately and any 2 or more of them jointly.

(b) A party that is a trustee is bound both personally and in its capacity as a trustee.

(c) The relationship between the parties is an independent contracting relationship.

(d) Nothing in these Terms will be construed as creating a partnership or any other relationship between the Parties, or provide any exclusivity in the relationship between the Parties or the provision of the Services.