

The Subscription Product Contract Terms (“Terms”) as amended by us from time to time, will apply to any Product we supply to you now and in the future. This is the current version of the Terms and Conditions.

LICENCE:

STANDARD LICENCE FOR THE SUPPLY OF PRODUCTS

1 APPLICATION OF THIS LICENCE

- 1.1 When You place an Order with Us for the provision of Products (subject to Our acceptance of the Order) You enter into a Contract with Us which consists of:
- 1.1.1 the Order;
 - 1.1.2 this Licence; and
 - 1.1.3 Our Product rules, policies and guidelines (as amended from time to time by Us), available [<https://goo.gl/ZhdMgH>].
- 1.2 By placing the Order, You agree to be bound by this Licence.
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2 DEFINITIONS AND INTERPRETATION

- 2.1 In this Licence the following definitions apply:
- 2.1.1 “**Commencement Date**” means the date that You sign the Order or authorise it by written, electronic or voice processes or We start supplying the Product, whichever is earlier.
 - 2.1.2 “**Contract**” means the legally binding agreement between Us and You for supply or provision of the Product for valuable consideration.
 - 2.1.3 “**You**”, “**Your**” means a person that places an Order with Us.
 - 2.1.4 “**Cyber Networks**”, “**Us**”, “**We**” “**Our**” means Cyber Networks Pty Ltd (ACN 159 667 151), its assigns and successors in title.
 - 2.1.5 “**GST**” means the Goods and Services tax in the Commonwealth of Australia, as determined by the *A New Tax System (Goods and Services) Act 1999*.
 - 2.1.6 “**Licence**” means this licence, subject to and inclusive of the Order and Product rules.
 - 2.1.7 “**Order**” means a Contract between a person and Us for the supply or provision of a Product. Each Order constitutes a separate Contract between the parties.
 - 2.1.8 “**PPSA**” means the *Personal Property Securities Act 2001*;
 - 2.1.9 “**Products**” means [<https://goo.gl/ZhdMgH>].
- 2.2 In this Licence, unless the context requires otherwise:
- 2.2.1 the singular includes the plural and vice versa;
 - 2.2.2 a reference to any gender includes all other genders;
 - 2.2.3 a reference to a statute means that statute as in force from time to time, and to any statute passed in substitution for that statute;
 - 2.2.4 the word “includes” means “includes but is not limited to”;
 - 2.2.5 where one part of speech of a word is defined, other parts of speech of that word have corresponding meanings;
 - 2.2.6 a reference to A\$, \$A, dollar, or \$ is to Australian currency;
 - 2.2.7 if a day on or by which an obligation must be performed or an event must occur is not a business day in the place where it is to be performed, the obligation must be performed or the event must occur on or by the next business day;
 - 2.2.8 headings are for ease of use and reference only, and do not affect interpretation;

- 2.2.9 “*in writing*” includes emails; and
 - 2.2.10 “*person*” means a person, corporation, government agency, not for profit organisation or other entity capable of entering into legal contractual relationships.
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3 TERM OF YOUR CONTRACT OR PRODUCT

- 3.1 This Licence commences on the Commencement Date and will continue until the earlier of:
 - 3.1.1 completion of the Order; or
 - 3.1.2 termination of this Licence in accordance with the terms of this Licence.
 - 3.2 At the end of the minimum period for an online Product, We will continue to supply the Product to You on a month to month basis on the terms applicable at that time (including price), unless You tell Us in writing or We tell You otherwise, at least 30 days before the automatic extension.
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4 PROVISION OF THE PRODUCTS

- 4.1 The Products are intended for use by commercial entities and for non-domestic use. When You place an Order, You accept this limitation, and further accept that, to the full extent allowable by that legislation, any consumer protection legislation which operates in any jurisdiction is excluded.
 - 4.2 The Products are provided only to individual customers who are 18 years of age and older.
 - 4.3 We will commence supplying the Products to You within fourteen days of the date of Your first payment for the Product unless otherwise agreed in writing by Us with You, or you cancel the Contract by providing us with a completed cancellation form.
 - 4.4 We will continue to provide the Products unless the provision of the Products is suspended in accordance with clause 10 or until this Licence is terminated in accordance with clause 12.
 - 4.5 Each Product is as described in the Order. It is Your responsibility to ensure that the particular Product selected is appropriate for Your needs.
 - 4.6 As part of the sign-up process, We will provide You with the login information necessary for You to access and use the Products.
 - 4.7 We do not provide file transfer protocol or Cpanel access to Your (or any agent, employee or other representative of You) under any circumstances. Any changes required by You that need these tools must be emailed to Us to allow Us to make those changes. The changes will be implemented in a timeframe We notify to You, being not less than two business days.
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5 FORMAT AND CONTENT OF THE PRODUCT

- 5.1 **Fulfilling Your Content Entitlements**
 - 5.1.1 We are not obligated to collect content for You but We may do so. You are responsible for fulfilling any content entitlements that come with a Product We supply to You.
 - 5.1.2 You must give Us any content for a Product by the date and in the manner We specify. We may not be able to supply a Product to You until You do so.
 - 5.1.3 If You do not provide Us with content and want Us to source the content, You may be charged a separate fee for that service based on Our written agreement.
 - 5.1.4 We are not responsible for, and You must regularly check and keep current and accurate, the content (whether provided by You or collected by Us) in the Product that We supply to You. You can update Your content (for compatible

Products) by providing Us with information so that We may update Your content.

5.2 **Our Right to Reject or Remove Content**

5.2.1 We may at any time reject or remove any content from a Product or change, delete, withdraw, disable or suspend a Product or any content for any reason and without prior notice to You, including:

5.2.1.1 if provided for under the Product rules, policies and guidelines;

5.2.1.2 if We reasonably believe that the content, or the use of it, contravenes any law, infringes or is likely to infringe the rights of third parties or is inappropriate, unsuitable, offensive, obscene, defamatory or indecent;

5.2.1.3 if We reasonably believe that the content, or its use, will result in a breach of this Licence or affect Us or a subsidiary/outsource partners unfavourably; or

5.2.1.4 in order to comply with requirements, notices, standards or instructions given to Us or a subsidiary/outsource partners by any third party, including a regulatory body.

5.3 **Presentation, Classification and Availability of a Product and Content**

5.3.1 We may determine, control or change a Product, Your content, any page, site or other means of displaying the Product or Your content, including the duration, nature, content, size and presentation (such as format, design, placement, order and position).

5.3.2 If You have an online Product, mobile Product or other Products that We nominate from time to time:

5.3.2.1 You agree that We may include in the Product We supply to You:

- a. links to and content from third party sites or applications that We reasonably consider to be relevant to You (such as user-generated reviews and ratings);
- b. widgets, gadgets or other facilities that enable end-users to interact with third party sites or applications or with You via a Product; and
- c. links to, and content from, Our user-generated reviews and ratings;

5.3.2.2 You agree that to carry out these activities referred to in this clause 5, You:

- a. must provide Us with any account details (including login and password) requested by Us if You have already established accounts on third party sites or applications; and
- b. We may be required to accept third party terms on Your behalf and You agree to be bound by those third party terms; and

5.3.2.3 We do not accept responsibility or liability for:

- a. any communications or transactions between You or third parties and end-users (including Our end-users) via links, widgets, gadgets or other facilities We include in a Product;
- b. any content from a third party site or application or from Our websites (such as user-generated reviews and ratings) included in a Product;
- c. any other uses to which end-users put the links, widgets, gadgets or other facilities We include in a Product We

- supply to You (for example, to create and communicate user-generated content); and
- d. any loss or damage arising out of any such links, content, widgets, gadgets or other facilities for any reason.

5.4 Syndication Activities

- 5.4.1 You agree that We may Syndicate (as defined in clause 8.1) some or all of a Product or Your content to third party sites or applications and sites or applications owned and/or controlled by Us, such as via an application programming interface (or API).
- 5.4.2 You acknowledge that a Product or Your content may be displayed either by Us or third parties together with other content (such as user-generated ratings and reviews). You agree that We are not responsible for that other content.
- 5.4.3 Where We Syndicate a Product or Your content, You agree and acknowledge that We will determine:
- 5.4.3.1 what part of a Product or Your content We will Syndicate; and
- 5.4.3.2 the parties to which we will Syndicate.

5.5 Retention of Content

- 5.5.1 When Your Order is completed or terminated or when a Product is cancelled, we may retain or delete any content relating to the relevant Product.
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6 PAYMENT

6.1 Your Obligation to Pay Us

- 6.1.1 We may invoice You in various ways, including on Your website account, depending on the Product. You must pay Us the amount invoiced (in Australian dollars) that applies to any Product by the due date specified on the invoice. This obligation survives completion or termination (for whatever reason) of this Licence or cancellation of any Product.
- 6.1.2 The invoiced amount for a Product may include an additional administration fee, management fee or non-refundable set up fee.
- 6.1.3 You must pay Us the invoiced amount by the due date specified on the invoice for any Product You have authorised on behalf of another person, if We have been unable to collect that invoiced amount from that other person.

6.2 Failure to Pay Us

- 6.2.1 If You do not pay Us any amount You owe Us by the due date or if any payment You have made to us is declined or otherwise not received by Us because of insufficient funds in Your account, We may:
- 6.2.1.1 charge You interest on the unpaid amounts (at the Reserve Bank of Australia's Official cash rate at the time the amount was due, plus 5%) from the date the amount became due until it is paid in full;
- 6.2.1.2 charge You any reasonable debt collection and legal costs incurred as a result of You failing to pay Us the amounts You owe to Us;
- 6.2.1.3 charge You a late payment fee (as set out on the invoice);
- 6.2.1.4 cancel any or all of the Products You purchase from Us; and/or
- 6.2.1.5 charge You a dishonour fee, as notified to You by Us from time to time.

6.3 Credit Card Payments

- 6.3.1 If You pay any amount to Us by credit card, We may charge You a payment processing fee (as allowable by law) in addition to the amount invoiced on the day You make the relevant payment at the rate set out on the invoice, which may vary from time to time.

- 6.4 **Direct Debit Terms**
- 6.4.1 Where You have requested a direct debit arrangement, the result of any payment will be reflected against any account for the Product within five business days.
- 6.4.2 You consent to any increase in the amount invoiced for the supply or provision of Products or additional charges being included in any periodic direct debit authority granted to Us by You.
- 6.5 **GST on Payments**
- 6.5.1 Unless specifically stated otherwise, all amounts or fees in relation to the Products do not include any amount on account of GST.
- 6.5.2 Where We make a taxable supply to You and the consideration for that supply does not expressly include GST, You must also pay Us an amount equal to the GST payable by Us.
- 6.5.3 Subject to first receiving a tax invoice from Us, You must pay the GST amount when You are liable to pay Us the amount invoiced.
- 6.5.4 If either You or We must indemnify or reimburse each other (“Payee”) for any loss or expense incurred by the Payee, the required payment does not include any amount which the Payee (or an entity that is in the same GST group as the Payee) is entitled to claim as an input tax credit, but will be increased under clause 6.5.2 of this Licence if the payment is consideration for a taxable supply.
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7 USE OF THE PRODUCTS

- 7.1 You are responsible at Your own expense for the provision of all equipment, including computer hardware and telecommunication connections, needed to use and access the Products.
- 7.2 You must comply with:
- 7.2.1 all laws and all reasonable directions from Us in relation to the use of the Products; and
- 7.2.2 any other reasonable policies We may notify to You from time to time in connection with the provision or use of, or access to the Products.
- 7.3 If the Products include hosting Products that incorporate material created by third parties, You must obtain, at Your own expense, all necessary authorisations for Us to use or reproduce the material to the extent necessary to provide the Products.
- 7.4 You must ensure any person who accesses the Products does not use, or attempt to use, the Products:
- 7.4.1 to infringe the intellectual property rights of any person, including use, sale, or transmission of software or other material which infringes copyright;
- 7.4.2 to publish, distribute, or issue any information or material which is illegal in the Commonwealth of Australia, obscene, defamatory, threatening, or abusive, or which vilifies any group of persons;
- 7.4.3 for any purpose or activity which is illegal, or to promote any such activity;
- 7.4.4 in a way that is inconsistent with the Order, or use the Products to perform tasks or activities proscribed in the Order for that Product, if any;
- 7.4.5 to provide links to another website which contains any content which contravenes these conditions;
- 7.4.6 to interfere with or disrupt Us or Our business, other internet users or other service providers, or their computers, software or hardware, including by the propagation malicious software such as computer worms, trojans, and viruses;
- 7.4.7 to access without authorisation any other computer accessible via the Products; and

- 7.4.8 with any software that enables online anonymity, misleading IP identification, provides a hidden service, or prevents Us from complying with legal obligations.
 - 7.5 You must take all reasonable steps to ensure that the Your hardware, software, or network configuration (including IP addresses) are not used to cause any security breach or attack on Our or Our other customers' hardware, software or network configurations.
 - 7.6 You must not run software that is intended, or has the effect of, adversely impacting other customers, servers (physical or virtual), or platforms within Our network, or interrupting or causing data collection systems (including billing and rating systems) from correctly operating.
 - 7.7 You are responsible for all access and activities undertaken through your use of the Products. We are not responsible for any damages whatsoever arising from the disclosure of Your passwords or a third party gaining access to Your account due to insecure or weak password selection by You.
 - 7.8 If You have reason to believe or be concerned that Your Product has been compromised, You should notify Us immediately.
 - 7.9 You must ensure that the information You provides to Us is complete, accurate and up to date throughout the period that We provided the Products to You. We rely on this information provided by You for notifications and other communication. We are not liable for any damages or costs arising as a consequence of Your details being out of date or otherwise incorrect due to Your inaction or providing incorrect or incomplete information to Us.
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8 INTELLECTUAL PROPERTY

- 8.1 You grant Us and Our related bodies corporate a royalty free licence to use, reproduce, modify, adapt, and communicate to the public and sub license the content that you provide to Us or We collect from Your Product (“**Your Inputs**”) for the purposes of providing the Product and including the Product and the content in any directory, product, service, site, application or marketing material provided or used by Us, by Our related bodies corporate or by a third party to whom We syndicate, distribute or otherwise make available (“**Syndicate**”) the Product or Your content.
- 8.2 You agree that We or Our subsidiary/outsource partner own all intellectual property rights in:
 - 8.2.1 the Product other than Your Inputs; and
 - 8.2.2 in any new work created by modifying, amending, adapting or otherwise dealing with any part of the Product (including Your Inputs); and
 - 8.2.3 in any data, results and reports We generate, and give to You pursuant to this Licence.
- 8.3 Except in relation to Your Inputs, You must not (and must not permit others to) reproduce the Product or any new work created by Us using any part of the Product without Our prior written consent.
- 8.4 In addition to Our rights set out above, if You have a hyperlinked site which is a Product, You agree that:
 - 8.4.1 all intellectual property rights in the design, functionality and ‘look and feel’ of Your Product (except to the extent that Your Product contains Your business names, trade marks or other pre-existing intellectual property) are owned and will be retained by Us or Our subsidiary/outsource partner;
 - 8.4.2 You give Us and Our related bodies corporate a perpetual, royalty-free licence to use Your business names, trademarks and all other words and symbols displayed on Your Product in any domain name that We create for Your Product; and

- 8.4.3 We or Our subsidiary/outsource partner will own any domain name registration that We or that subsidiary/outsource partner create for Your Product, whether or not the URL for the domain name includes any of Your business names or trademarks.

9 BACK-UPS AND REDUNDANCY

- 9.1 Unless explicitly stated in the Order for a Product, We do not back up or otherwise replicate Your content or the data associated with the Product.
- 9.2 Unless explicitly stated in the Order for a Product, the Product is not provided on a redundant or high-availability basis. If a platform from which the Product is provided fails, You may permanently lose data.
- 9.3 We will only perform backups of Your Product if the Order explicitly states backups are included, or if there is an agreement between Us and You in writing for Us to perform backups as part of a Product.
- 9.4 You are solely responsible for performing or arranging any backups necessary to protect You from data loss, even if backups are taken by Us under clause 9.3.

10 SUSPENSION OF PRODUCTS AND REMOVAL OF YOUR CONTENT

- 10.1 We may from time to time, without need to issue notice to You, suspend a Product, or disconnect or deny You access to the Product if:
- 10.1.1 You breach this Licence;
 - 10.1.2 You provide Us with false, incomplete or out of date information that in Our reasonable opinion results in an operational issue;
 - 10.1.3 Your invoice is overdue or in arrears;
 - 10.1.4 it is necessary to do so due to any technical failure of, or for the upgrading or scheduled, preventative or remedial maintenance of Our systems and software;
 - 10.1.5 in Our reasonable opinion, it is required by law to do so; or
 - 10.1.6 in Our reasonable opinion, Your use of the Products adversely affects Our system performance or the integrity of the Our network or systems.
- 10.2 You must consult Us before undertaking any actions that that do not fall inside Your usual day to day operation of the Product, including the running of any load or penetrating testing. Failure to do so may result in immediate suspension of the Product if the actions are seen as a threat to Our network.
- 10.3 Products suspended under this clause 10 will not be reinstated until the breach is remedied, if capable of being remedied, or the resulting invoice and any fee is paid in full. We reserve the right to increase the reinstatement fee in the event that there are multiple instances of suspension caused by Your actions.
- 10.4 We may permanently remove Your content (including data, code, and applications) and backups if Your Product is suspended for more than 10 business days.

11 WARRANTIES AND LIMITATION OF LIABILITY

- 11.1 We do not give any express warranties and disclaim any implied warranties in relation to the Products, including warranties that:
- 11.1.1 You will have continuous access to, or usage of, the Products;
 - 11.1.2 data stored by Us will not be lost or corrupted;
 - 11.1.3 it will be possible to restore Your content from Our back up media (if any); or
 - 11.1.4 We will be able to prevent unauthorised persons obtaining access to Your content.
- 11.2 Any term, condition, guarantee, or warranty which would otherwise be implied into this Licence is excluded, to the degree permitted by law.

- 11.3 If a term, condition, guarantee, or warranty is implied into this Licence by law, Our liability to You in relation a breach of that term, condition, guarantee, or warranty is limited, to the extent it is lawful to do so, to one or more of the following:
- 11.3.1 the re-supply of the Product again; or
 - 11.3.2 the payment of the reasonable costs of having the Product supplied again.
- 11.4 You acknowledge that We do not and cannot control, supervise, or edit any information or material accessed through the Products and that We are not responsible for any content or information accessed via the Products. You will indemnify and keep indemnified Us and Our directors, managers and other employees, and agents and contractors (“**Related Persons**”) should We or Our Related Persons incur loss, damage, fines, costs, or expenses as a result of Us being treated as the author or publisher of any content or information stored, accessed, or published by You using the Products.
- 11.5 You acknowledge that the Products are not intended or authorised for use in circumstances where failsafe performance is required or where failures or errors in the operation of the Products could lead to significant financial detriment, loss or damage, or to personal harm, and You agree not to use the Products in such circumstances. You will indemnify and keep indemnified Us and Our Related Persons from and against any loss, damage or liability resulting from the use of the Products contrary to this clause.
- 11.6 We will not be liable to You for any remote, indirect, consequential, special or incidental loss or damage, including without limitation, loss or damages resulting from loss of profit or loss of data or loss of electronic materials resulting from the Products. You will indemnify Us and Our Related Persons from and against any claim made against Us or any of Our Related Persons by a third party as a result of the Product provided by Us to You.
- 11.7 Our aggregate liability to You for damages on any basis associated with use of the Products will not exceed the sum paid by You to Us in the month immediately preceding a claim by You.
- 11.8 Except for the express warranties set out in this Licence, any terms implied by law (that cannot be excluded) and Your rights under statutory guarantees provided under consumer protection laws, We provide no warranties or guarantees to You (including in relation to Our provision of a Product to You, the performance of a Product or Your return on investment in relation to a Product).
- 11.9 While We will use due care and skill in relation to the provision of the Product, neither we nor Our related bodies corporate warrant or guarantee that:
- 11.9.1 the Product will be free from errors or omissions or provided to You by or within a particular time; or
 - 11.9.2 We will monitor Your content to ensure that it complies with any law or Your obligations and warranties to Us under this Licence.
- 11.10 You agree that, apart from Your rights under clauses 11.3 and 11.8 of this Licence We, Our related bodies corporate and third party site or application owners (and representatives) will not be liable for any loss, damage, claim or demand incurred or made by any person (whether based in tort (including as allowable by law, negligence), contract, statute or otherwise) arising out of or in connection with this Licence, including from provision of the Product, or failure to provide the Product, or from exercising any of Our rights in relation to content.
- 11.11 Without limiting clause 11.3, We are not responsible for any loss, damage, claim or demand arising in connection with:
- 11.11.1 whether a third party publishes Your content;
 - 11.11.2 how a third party displays Your content;
 - 11.11.3 the way a third party determines the relevancy of Your content on their site or application;

- 11.11.4 any changes a third party makes to Your content; and
- 11.11.5 any changes a third party does not make or delays making to Your content.
- 11.12 Without limiting clause 11.3 of this Licence:
 - 11.12.1 We have no liability for any failure or delay in performing an obligation under this Licence due to matters outside Our reasonable control or to the extent it is caused by You or results from Your failure to take reasonable steps to avoid or minimise Your loss; and
 - 11.12.2 We are not liable for loss or damage that was not reasonably foreseeable.
- 11.13 You represent and warrant to Us that:
 - 11.13.1 You or Your licensors own all intellectual property rights in the content that You provide to Us or We collect from Your Inputs and if You are not the owner of Your Inputs, You have obtained the consent of the owner of Your Inputs to allow Us to collect content from Your Inputs and display that content in the Product that You receive from Us;
 - 11.13.2 You have the right to enter into this Licence and are the owner of, or are legally authorised to use and/or sub-licence the use of, the content in the Products that We supply to You;
 - 11.13.3 You will not purport to enter this Licence as an agent without authority from the principal;
 - 11.13.4 all information You provide for the purposes of this Licence is accurate, complete and current;
 - 11.13.5 You will not and will not cause Us to breach this Licence or any of Our privacy policies or third party terms;
 - 11.13.6 nothing in Your content (whether supplied by You or collected by Us) in the Products that We supply to You:
 - 11.13.6.1 contravenes any laws, or incites or encourages breaches of any law;
 - 11.13.6.2 infringes the rights (including intellectual property rights and moral rights) of any third parties;
 - 11.13.6.3 breaches any of this Licence or Your obligations to any third party (including confidentiality and privacy obligations) or third party terms;
 - 11.13.6.4 constitutes or may result in any consumer fraud, product liability, and tort, breach of contract, injury, damage or harm of any kind to any person or entity;
 - 11.13.6.5 fails to meet the requirements set out in any Product rules, policies and guidelines;
 - 11.13.6.6 prejudices Us or Our related bodies corporate's reputation or brand;
 - 11.13.6.7 is inappropriate, offensive, unsuitable for minors, obscene, indecent, defamatory, discriminatory, false, misleading or deceptive or likely to be misleading or deceptive, or promotes, incites or instructs in matters of crime;
 - 11.13.6.8 falsely represents (whether expressly or impliedly) that You have an association or affiliation with the business, products, goods or services advertised or referred to in Your content or falsely represents that they are endorsed, sponsored, approved or associated with Us; or
 - 11.13.6.9 identifies a person or can be used to identify a person (including any copy, photos or other pictorial representations), unless You

- have obtained that person's authority (or, if they are a minor, the consent of their parent or legal guardian);
- 11.13.7 You will monitor Your content to ensure You comply with these warranties;
 - 11.13.8 if You are required by law to restrict access to a Product or any part of Your content to persons with particular characteristics, You have taken all steps necessary to ensure that You comply with those requirements;
 - 11.13.9 You will not engage in spamming or similar marketing activities in relation to any Product; and
 - 11.13.10 You have all necessary rights to advertise, sell, distribute and/or communicate to others the business, products, goods or services advertised or otherwise referred to in Your content.
- 11.14 You agree to indemnify Us, Our related bodies corporate and third party site or application owners (and representatives) against all claims, demands, damages, costs, penalties, suits and liabilities of any nature caused directly or indirectly by Your act or omission or any breach by You of any provision of this Licence including the warranties given by You under clause 11.13.
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12 TERMINATION

- 12.1 Either party may terminate this Licence immediately by giving notice in writing to the other if the other commits a material breach of any provision of this Licence which:
 - 12.1.1 can be rectified, and fails to rectify the breach within thirty days of notice being given by the party alleging the breach, describing the breach and the action which must be taken to rectify it; or
 - 12.1.2 cannot be rectified.
- 12.2 We may at Our own absolute discretion cancel your account and the Products, subject to Us giving to You at least twenty-one days' prior notice of termination in writing.
- 12.3 You may terminate this Licence by giving Us notice of termination at least five business days before the end of any billing period for which You have paid for provision of the Products ("**Billing Period**"), such termination to take effect at the end of that Billing Period.
- 12.4 If this Licence is terminated by Us under clause 12.1 or 12.2, all outstanding amounts to be invoiced will become immediately payable by You to Us upon the giving of notice of termination.
- 12.5 We are not required to refund any prepaid monies, unless required by law.
- 12.6 We may erase, in a timely fashion upon termination of a Product, all data (including software, code, and backups) relating to that Product from Our systems unless We and You have agreed in writing the data is to be preserved for an agreed period of time. All costs associated with the storage of such data will be borne by You.
- 12.7 We may terminate this Licence (in whole or in part) or suspend or cancel one or all of Products We supply to You, and You must pay any cancellation fee invoiced for the affected Products, immediately:
 - 12.7.1 if You breach the terms of this Licence; or
 - 12.7.2 if You:
 - 12.7.2.1 are unable to pay Your debts as they fall due, You make or commence negotiations with a view to making a general rescheduling of Your indebtedness, a general assignment, scheme of arrangement or composition with Your creditors;
 - 12.7.2.2 take any corporate action, or any steps are taken or legal proceedings are started, for:
 - a. Your winding up, dissolution, liquidation, or re-organisation, other than to reconstruct or amalgamate while solvent; or

- b. the appointment of a controller, receiver, administrator, official manager, trustee, or other similar officer, of You or of any of Your revenue or assets; or
 - 12.7.2.3 seek or are granted protection from Your creditors under any applicable legislation,
 - 12.7.3 if We become unable to perform Our obligations under this Licence due to a force majeure event affecting either Us or Our nominees; or
 - 12.7.4 but with as much warning as We reasonably can, if:
 - 12.7.4.1 We are required by law to do so;
 - 12.7.4.2 We believe on reasonable grounds that providing You with the Product is illegal or may become illegal;
 - 12.7.4.3 We reasonably believe that there is a real risk of loss or damage to Us or another if We do not terminate this Licence or suspend or cancel a Product (including credit risk resulting from You not paying any fees owed to Us on time); or
 - 12.7.4.4 a third party directs Us to do so.
- 12.8 We may terminate this Licence (in whole or in part) or suspend or cancel one or all of the Products by 30 days' written notice to You without cause (and We will refund any amount paid by You to Us on a pro-rata basis if applicable).
- 12.9 After termination or cancellation of this Licence:
 - 12.9.1 We will have no obligation to refund any component of the paid amount (together with any GST paid), which has already been paid prior to the termination (other than as set out in this Licence);
 - 12.9.2 You will not be required to pay further components of the invoiced amounts to Us, other than payments which were due before termination, and any cancellation fee;
 - 12.9.3 We may remove the Product We supplied to You and Your content; and
 - 12.9.4 if Product We supplied to You has a campaign spend and at the date of cancellation or termination the campaign spend has not been spent, We will continue to provide the unused campaign spend until that spend is reached.
- 12.10 We will seek to ensure that Your campaign spend is spent, however we are not liable if any campaign spend is not spent, nor are We liable to refund any unspent campaign spend.

13 SUB-CONTRACTS

- 13.1 We may sub-contract the whole or any part of the performance of its obligations under this Licence without obtaining Your consent.
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14 VARIATION OF LICENCE

- 14.1 We may modify this Licence, including the prices charged for Products, at any time by posting a revised Licence and/or revised pricing on Our website, and send a notification to all customers impacted by the change to the email address We have on record. You will be deemed to have accepted such modifications to this Licence by continued use of the Products after such modifications have been posted.
- 14.2 This standard Licence may only otherwise be modified by a written agreement between Us and You.
- 14.3 We may change any term in this Licence or any Product at any time.

15 NOTICE

- 15.1 Any notice issued by Us or You pursuant to this Licence shall be in writing. Notices may be delivered by email to the email address We have on file for You.
 - 15.2 Notice will be treated as given in the case of email, on receipt by the sender of notification that the email has been received by the recipient's email server, but if the delivery or receipt is not on a business day or is after 5:00 pm on a business day in the place where it is received, the notice is taken to be received at 9:00 am on the next business day.
 - 15.3 It is Your responsibility to notify Us of any changes to Your contact details.
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16 CONFIDENTIALITY

- 16.1 All information of a confidential nature disclosed by Us to You under this Licence is and will remain confidential and must not be disclosed by You (or by Your employees, officers, advisers or contractors) to any third party, except for the purposes of this Licence. This does not apply to the extent that any such information:
 - 16.1.1 is already known by You, or is in Your possession;
 - 16.1.2 has been lawfully obtained by You from another source;
 - 16.1.3 is or becomes publicly known through no wrongful act by You; or
 - 16.1.4 must be disclosed pursuant to any obligation You have at law.
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17 PRIVACY

- 17.1 Our commitment to privacy is set out in Our privacy collection statement (“**Privacy Collection Statement**”) [<https://www.cybernetworks.com.au/assets/pdf/Privacy-Policy.pdf>].
- 17.2 You acknowledge that You have read and understood the Privacy Collection Statement and consent to the collection, use and disclosure of Personal Information (as defined in the Privacy Collection Statement) on the terms and for the purposes set out in the Privacy Collection Statement.
- 17.3 Except for tracking tools used in relation to performance based advertising Products and authorised by Us, Your content must not include any mechanism that enables the collection of Personal Information.
- 17.4 You acknowledge that We may use Your content in any electronic mapping or navigation Product that includes Our mapping data, and Our Syndication activities to allow users to search for Your address or name using only Your phone number or address (as the case may be). If You do not wish Your content to be used for this purpose, You can opt-out sending an email to admin@cybernetworks.com.au.
- 17.5 We may communicate with You via any method we determine including email, SMS message or fax, and those communications may not include an unsubscribe facility, unless You tell Us not to. If You do not provide Us with an email address for this purpose, We may send emails to You using any email address that appears in any Product that We supply to You, whether this email address is from content You supply to Us or that We collect for You.
- 17.6 When We communicate with You via email:
 - 17.6.1 You are solely responsible for ensuring that Your contact details are current (including email address), Your email service is operational and that You check Your emails regularly;
 - 17.6.2 You must promptly notify Us of any changes to Your contact details;
 - 17.6.3 You are deemed to have received the email We have sent You and We are not obliged to take any further action to confirm that You have received, opened or

- read the email, unless You promptly notify Us and demonstrate that the email was not delivered to Your email address; and
- 17.6.4 if We receive an automated email non-delivery notification indicating You have not received the email that We have sent You, We will use reasonable endeavours to attempt to contact You using other contact details We have for You, but We do not guarantee that We will be able to contact You.
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18 PPSA

- 18.1 Defined terms in this clause have the same meaning as given to them in the PPSA.
- 18.1.1 The parties acknowledge that this Licence constitutes a Security Agreement and gives rise to a Purchase Money Security Interest (“**PMSI**”) in favour of Us over the Products supplied or to be supplied to You, as Grantor, pursuant to this Licence.
- 18.1.2 You acknowledge that the We, as Secured Party, are entitled to register Our interest in the Products supplied or to be supplied to You, as Grantor, under this Licence on the PPSA Register as Collateral.
- 18.1.3 You waive Your right to receive notification of or a copy of any Verification Statement confirming registration of a Financing Statement or a Financing Change Statement relating to a Security Interest granted by You, as Grantor, to Us.
- 18.1.4 You agree to indemnify Us on demand for all costs and expenses, including legal costs and expenses on a solicitor/client basis, associated with the:
- 18.1.4.1 registration or amendment or discharge of any Financing Statement registered by or on behalf of Us; and
- 18.1.4.2 enforcement or attempted enforcement of any Security Interest granted to Us by you.
- 18.2 You agree:
- 18.2.1 that, to the extent permitted at law, nothing in sections 130 to 143 of the PPSA will apply to this Licence or the Security under this Licence;
- 18.2.2 to waive Your right to do any of the following under the PPSA:
- 18.2.2.1 receive notice of removal of an Accession under section 95;
- 18.2.2.2 receive notice of an intention to seize Collateral under section 123;
- 18.2.2.3 receive notice of disposal of Collateral under section 130;
- 18.2.2.4 receive a Statement of Account if there is no disposal under section 130(4);
- 18.2.2.5 receive notice of retention of Collateral under section 135;
- 18.2.2.6 redeem the Collateral under section 142;
- 18.2.2.7 reinstate the Security Agreement under section 143;
- 18.2.2.8 object to the purchase of the Collateral by the Secured Party under section 129; and
- 18.2.2.9 receive a Statement of Account under section 132(3)(d) following a disposal showing the amounts paid to other Secured Parties and whether Security Interests held by other Secured Parties have been discharged.
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19 GENERAL

- 19.1 This Licence (and the validity and enforceability of this Licence) are governed by and to be interpreted in accordance with the law of the State of South Australia in the Commonwealth of Australia. The parties submit to the non-exclusive jurisdiction of the courts of the State of South Australia, and the Federal Court of the Commonwealth of

- Australia. Any application to the Federal Court of the Commonwealth of Australia must be instituted in the South Australian registry of that Court. The parties irrevocably waive any right they may have to object to those courts exercising jurisdiction on the ground that the court is not a convenient forum.
- 19.2 We may use any third parties (locally or overseas) We consider fit to provide any part or all of a Product, without informing You or obtaining Your consent.
- 19.3 If any provision of this Licence is illegal, unenforceable or void in any jurisdiction, then, with respect to that jurisdiction only:
- 19.3.1 that provision shall be read down if possible so that it is no longer illegal, unenforceable or void in that jurisdiction; and
- 19.3.2 if it is not possible to read down that provision, it shall be severed from the remaining provisions of this Licence, with respect to that jurisdiction only.
- 19.4 No act or omission by a party shall constitute a waiver of any of its rights under this Licence, other than an express waiver of those rights in writing signed by the party to be bound.
- 19.5 We may assign or novate Our rights and obligations under this Licence at any time. You may not novate or assign Your interest under this Licence without Our express written authority.
- 19.6 This Licence supersedes all prior agreements and understandings between the parties as it relates to the Products provided under this Licence, and constitutes the entire agreement between the parties relating to the subject matter of this Licence.