

# Elucidat Terms and Conditions

## WHAT SOME WORDS MEAN

In these Terms and Conditions, we have given specific meanings to the following words:

- “Customer” “you” and “your” means the individual or entity which is named as our customer when subscribing to an Elucidat Account (i.e. you, or your business) and who is contracting with Savv-e Products under these Terms and Conditions, which shall, where the context permits, include the Customer’s directors, officers, employees, agents or authorised personnel;
- “Elucidat Account” means a current subscription to The Service;
- “Terms and Conditions” means these terms and conditions found at [www.savv-e.com.au/terms-conditions](http://www.savv-e.com.au/terms-conditions) as may be amended or varied from time to time as explained below;
- “The Service” means our current Elucidat software service which is accessed and used via our password protected websites;
- “us” “we” and “our” refers to the Elucidat reseller which is Savv-e Products Pty Limited ABN 39 150 128 564 having its registered office at Level 7, 33 Chandos Street, St Leonards;
- “your Data” means any e-learning materials, data, text, imagery, videos or other files entered or uploaded by you while using The Service.

## THESE TERMS AND CONDITIONS

**Acceptance of Terms:** This website is provided by Savv-e Products Pty Limited, as a reseller of Elucidat, which provides The Services subject to the following Terms and Conditions, which may be updated by us from time to time without notice to you. By using this website and/or by applying for an Elucidat Account you are indicating your acceptance of these Terms and Conditions. **Additional items:** In addition to these Terms and Conditions, you will also be subject to any guidelines, pricing or other rules applicable to The Services, which are posted on our website from time to time. All such guidelines, pricing and rules are hereby incorporated by reference into these Terms and Conditions. **Notice:** The nature of Elucidat’s database driven technology means that it is technically impossible for you to own a transferrable copy of your Elucidat publications. If our business changes or if for any other reason we cannot continue to provide The Service, you will no longer be able to publish your Data using The Service. You agree not to hold Savv-e Products liable and we accept no responsibility in respect of the loss of any Data relating to your publications. You are therefore strongly advised to keep copies of your Data.

## THE SERVICE

The Service is subscription-based online e-learning authorware. The Service provides our Customers with the ability to simply and quickly author and publish online e-learning for mobile devices. The Service is continually changing and is described in more detail on our website.

## **THE SUPPORT SERVICE**

We will provide you with support services for the Elucidate learning authorware where applicable and included in your order. One Training and Support package is provided for one licence holder only. Training is provided at Savv-e premises unless otherwise agreed. All support services will be performed by us to a standard with accepted industry practice and all applicable laws and regulations. We may sub-contract the supply (in whole or part) of the support services provided that we will not be relieved from any of our obligations and liabilities under this agreement. Unless otherwise agreed in writing, our obligations to perform the support services and other obligations under this agreement do not include the correction of errors, defects or problems caused by:

- your fault or negligence or the fault or negligence of any person acting on your behalf;
- improper or unauthorised use, modifications or alterations of the e-learning authorware;
- causes beyond our control such as, but not limited to, any failure arising out of any network (including the internet) or communications, power failure, electric power surges or a Force Majeure event;
- your failure to comply with any reasonable guidelines, instructions, documentation or training provided by us or to implement any upgrades offered by us;
- any fault, defect, omission or error in any data, software or equipment not supplied by us (including your equipment); or
- use of the e-learning authorware with any software or equipment not approved or recommended by us, or in a manner or for a purpose in breach of these Terms and Conditions or not reasonably contemplated by this agreement.

## **CREATING AN ELUCIDAT ACCOUNT**

In order to use The Service, you must apply via our website for an Elucidat Account. If you are applying on behalf of your business, please ensure you name the correct entity (sole trader, LLP, limited company or PLC etc) as the 'Customer', as the contract will be formed between the named Customer and Savv-e Products. You must only apply for an Elucidat Account in the name of a Customer with the express authority of that person or entity. A binding contract is formed between Savv-e Products and the Customer when we email confirmation of your Elucidat Account. These Terms and Conditions shall govern the agreement between Savv-e Products and the Customer. We reserve the right, at our discretion, not to accept an application to create an Elucidat Account. This may be for any reason. No charge will be made by us for declined applications.

## **ACCESSING AND USING YOUR ELUCIDAT ACCOUNT**

- Unless permitted below, the Customer may not permit any third party to access or use their Elucidat Account.
- The Customer will only allow one named person access to each licence.
- Additional users within the Customer can obtain their own usernames and passwords if the initial user accesses The Service and uses the "Editor" function on the "Account" page.

(Some subscription packages may have limitations on the number of additional users which can be added.)

- You can upgrade your Elucidat Account at any time by contacting us and by paying any further applicable fees.

## YOUR RIGHTS

**Your rights:** From our confirmation of the creation of an Elucidat Account, we grant the Customer and its authorised personnel a non-transferable, non-exclusive licence to access and use The Service in accordance with these Terms and Conditions for the duration of the Elucidat Account. **Conditions:** The above licence is strictly subject to compliance with these Terms and Conditions by the Customer and its authorised personnel and, for Resellers, nominated clients. Access to The Service may be suspended at any time for reasonable cause.

## YOUR OBLIGATIONS

You must:

- Only use The Services for the Customer's own business purposes and, for Resellers, those of its nominated clients;
- Ensure only the named licence user accesses each licence and log-in details are not to be shared with any other person or third party;
- Only use The Services for legal purposes in accordance with honest trade practises;
- Use reasonable endeavours to maintain the security of all log-in details for the Elucidat Account;
- Only attempt to access The Service using authorised log-in details of the Customer;
- Comply with our reasonable requests and directions as to your use of The Service notified to you from time to time;
- Take full responsibility for the compliance with these Terms and Conditions by anyone accessing The Service using your Elucidat Account, including your authorised personnel and nominated clients.

You must not:

- Do anything which could reasonably be expected to damage, disable, overburden, or materially impair The Service or our website and systems generally or which is likely to interfere with any other party's use or enjoyment of The Service;
- Use The Service to infringe any third party intellectual property rights;
- Infringe, challenge or dispute our ownership of the intellectual property rights in The Service; or
- Seek to provide The Service to any third party in any way not expressly permitted by your Elucidat Account.

## SECURITY

The Customer is ultimately responsible for administering and safeguarding any log-in details and passwords created to control access to its Elucidat Account. Please keep any such details secure. Please let us know immediately if you think that there has been any unauthorised attempt to access The Service without permission.

## PAYING FOR THE SERVICE

**Free trials and beta trials:** No charge for use of The Service will be made during any 'free trial' period or any 'beta trial' period. The Customer is not however entitled to benefit from more than one 'free trial'. If we discover that more than one 'free trial' has been requested, we reserve the right to charge you for all use of The Service made after the first 'free trial' period. We may withdraw any 'free trial' or 'beta trial' services at any time without notice. **Subscription fees:** After any 'free trial' or 'beta test' period is over, a subscription fee for use of The Service is payable monthly or annually in advance by the Customer, depending on the subscription you choose. The current pricing may vary this from time to time. Changes posted on our website shall take effect for you from your next billing cycle i.e. you will only be subject to price increases after the period that you have already paid for. **How payments are made:** Customer subscription transactions can be paid via credit/debit card or we will invoice you by agreement, payment being required before your Elucidat Account will be activated. **Automatic renewal:** We will automatically renew the Customer's subscription on expiry and take further payment using the credit or debit card details provided to us or updated by you and/or invoice you every month or year (as applicable) thereafter, until your Elucidat Account is closed. **GST:** Prices are quoted in Australian dollars and exclude GST, which is also payable. **Non-payment:** We shall be under no obligation to provide The Service if the subscription fee (plus GST) is not paid to us on time. The Customer must ensure that we have complete and accurate billing and contact information throughout the subscription period, including the full name of the Customer, its business address, and a billing contact email address. If subscription fees become overdue, because for example the Customer's credit card has expired, we reserve the right to suspend your access to The Service until the balance is paid and/or we may close your Elucidat Account permanently without notice.

## YOUR DATA

**Rights in your Data:** You have sole responsibility for the accuracy and reliability of your Data. You retain ownership and/or control of any copyright, trade marks, database rights and any other intellectual property rights in your Data. Intellectual property ownership in your Data will not be transferred to us. We will only use your Data to the extent necessary to provide The Service, except that we reserve the right to disclose your Data to law enforcement and/or regulatory officials in the investigation and/or determination of alleged unlawful activities and legal disputes. You warrant that you have the rights to use your Data online via The Service. You take full responsibility for your Data, and indemnify Savv-e Products against any claims relating to breach of third party rights caused by such use of your Data, breach of any law or regulation or other legal rights as a result of the nature or use of your Data, or any other associated claim. Savv-e Products reserves the right to

remove your Data from our servers in the event of the above claims, threatened, alleged or issued, or for any other reasonable cause. All Elucidat data is backed up several times a day with encrypted copies of the backup data provided to multiple secure locations. Backed up data is stored for one 1 month after initial backup date.

## **RIGHTS IN OUR SOFTWARE AND OUR WEBSITE:**

All copyright, database rights, trade marks and other intellectual property rights in The Service (including any such rights in our website) are either owned by or licensed to us and nothing in these Terms and Conditions shall transfer any ownership rights to the Customer or any third party. Third party features: All copyright, database rights, trade marks and other intellectual property rights in any external data sources or embedded third party services used in The Service are the intellectual property of the relevant third party provider.

## **CLOSING AN ELUCIDAT ACCOUNT**

**Cancellation by you:** You may close your Elucidat Account at any time by accessing The Service and using the “cancel my account” option on the “Account” page. No further subscription fees will be billed and no refund will be made of any subscription fees already billed and paid except at our discretion. If you cancel your Elucidat Account, The Service and your Data will remain accessible by you until the subscription period that you have already paid for expires, after which your Elucidat Account will be locked and your Data shall no longer be publicly accessible via The Service.

**Suspension and closure by us in the event of a problem:** If you, or any other user of your Elucidat Account, fails to abide by these Terms and Conditions, or if the subscription fees are not paid on time, we reserve the right to suspend your access to The Service and/or permanently cancel the your Elucidat Account. If we withdraw access to The Service because these Terms and Conditions have been breached, no refund will be payable by us. **Non-fault closure by us:** In addition to our other rights under these Terms and Conditions, we also reserve the right to close any Elucidat Account (including during any ‘free trial’ or ‘beta trial’ period) for any reason by giving one months’ notice and refunding any unused subscription fees on a pro rata basis.

## **DISCLAIMER**

This section restricts the extent to which we are liable for any losses which may be suffered in connection with your use of The Service. It also requires the Customer to compensate us for any loss we suffer as a result of your failure to comply with these Terms and Conditions. Content disclaimer: Savv-e Products does not control the content posted via The Service and, as such, does not guarantee the accuracy, integrity or quality of such content. You understand that by using The Service, you may be exposed to third party content that is offensive, indecent or objectionable. Availability: We will use commercially reasonable efforts to make The Service available 24 hours a day, 7 days a week, except for: (a) planned downtime or maintenance (which we shall try to keep to a minimum and give at least 8 hours electronic notice, and which we shall schedule to the extent

practicable during Saturday and Sunday British Standard Time), and (b) any unavailability caused by circumstances beyond our reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving our employees), Internet service provider (or other Third-Party) failure or delay, or denial of service attack. No guarantees: We make no guarantee that The Service will be suitable for your intended use, neither do we guarantee that it will be error-free, timely, reliable, entirely secure, virus-free or available, especially since we are dependent on the reliability of the Internet and your use of your own computer to access The Service. Exclusion of our liability: You use The Service entirely at your own risk. We do not restrict our liability (if any) for personal injury or death resulting from our negligence, for fraud committed by us or for any matter which it would be illegal to limit or to attempt to restrict. We exclude all other liability and responsibility for any amount or kind of loss or damage arising in connection with The Service (even if we have been advised of their possibility.) Limitation of our liability: Where we are not legally entitled to exclude our liability, our total liability for any loss or damage relating to The Service (or to our website generally) shall not exceed an amount equal to the subscription fees which the Customer has paid to us in the previous month. Liability to us: The Customer shall be solely responsible for any content published via its Elucidat Account. The Customer shall be held liable for any reasonable costs and expenses incurred by Savv-e Products as a result of breach of these Terms and Conditions by you or anyone accessing your Elucidat Account with your permission.

## **GENERAL LEGAL MATTERS**

Entire agreement: These Terms and Conditions and our Privacy Policy describe the entire agreement between you, the Account Holder and us regarding The Service, and supersede any prior understandings or agreements. The headings are for convenience only and shall not affect the construction or interpretation of these Terms and Conditions. Changes to this contract: We reserve the right to change these Terms and Conditions as specified above from time to time. Changes to these Terms and Conditions will be posted here on our website and will be effective immediately except for changes to fees, which shall become effective from your next billing cycle as specified above. Therefore you should regularly review this page to check for changes to these Terms and Conditions. Any continued use of The Service will be deemed to constitute acceptance by the Customer of all of the new terms. These Terms and Conditions may not otherwise be changed without our written consent. Transfer of rights & obligations: We shall be entitled to transfer our rights and/or obligations under these Terms and Conditions to another party. The Customer may not transfer any of your rights or obligations under these Terms and Conditions without our written consent. Waiver and severability: If either you or we ignore any breach of these Terms and Conditions, it shall not mean that any further breach cannot be enforced. Similarly, if any part of these Terms and Conditions is held to be invalid or unenforceable for some reason, then it will be replaced with a provision which, as far as possible, achieves the same purpose as the original, and the remainder of these Terms and Conditions will still be binding. Resolving disputes: These Terms and Conditions shall be governed by and interpreted in accordance with the laws of New South Wales.

## BROWSER SUPPORT

**For Learners** Elucidat officially supports browsers back to Microsoft Internet Explorer Version 10 (IE10). We also provide limited support for IE8 (some minor functionality isn't available due to technical restrictions). Unfortunately we don't support IE6 or older browsers (IE6 is 13 years old) as they don't include the technologies required to allow responsive design, animations, videos and many other features that learners would expect to see in modern e-learning software. **For Authors** Elucidat officially supports browsers back to Microsoft Internet Explorer Version 10 (IE10). Whilst we would also like to support IE8 for Authors as well as Learners, unfortunately IE8 does not fully support the text editing, image uploading and layout functionality required for a modern web based application.

## Savv-e Central Terms and Conditions

### WHAT WE OFFER

Thank you for choosing Savv-e's proprietary Software. Access to and use of the Software and our Support Services are governed by these Terms and Conditions. In these Terms and Conditions, we or us means Savv-e Products Pty Limited (ABN 39 150 128 564) and you means the individual or entity who is named as the customer when subscribing to a Savv-e Central account and contracting with Savv-e Products under these Terms and Conditions.

### GETTING STARTED

Your Equipment: The Software is web-based; you must ensure that all equipment, software and the computing environment used to access the Software comply with the following minimum equipment requirements.

<b>Computer Processor</b>	1 gigahertz (GHz) 32-bit (x86) or 64-bit (x64) processor
<b>RAM</b>	1GB or higher
<b>Browsers</b>	Internet Explorer 8.0 or greater, Firefox, Safari 3.0, Web-kit or ChromeAdditional requirements: <ul style="list-style-type: none"><li>• JavaScript enabled</li><li>• Popup blockers disabled to launch elearning courses</li><li>• Cookies enabled</li></ul>

<b>Bandwidth</b>	512 kbps (upload and download)
<b>Operating Systems</b>	Microsoft Windows XP SP3 or later (32-bit or 64-bit), Windows 2003, Windows Vista (32-bit or 64-bit), Windows 7 (32-bit or 64-bit), or Windows 8 (32-bit or 64-bit) or higher Mac OS X 10.4, 10.5, 10.6 or 10.7.2 (Intel); Mac OS X 10.4 (PowerPC)
<b>Plug-in</b>	If Flash content is embedded Adobe Flash Player 10 or later is required
<b>HDD</b>	2GB free space
<b>Colour Saturation</b>	32 bit

**User Name and Password:** We will issue to your administrator a unique user name and password to access the Software. You are entirely responsible for any misuse or abuse of any user names, passwords or other log in details by any person.

## ACCESS AND HOSTING

**Licence:** Upon our acceptance of your order and provided you are complying with your obligations under this agreement, we grant to you from the Commencement Date a non-exclusive, non-transferable licence to access and use the Software hosted by us during the Subscription Period.

**Hosting and Maintenance:** Subject to the terms of this agreement, we will host the Software and make it available for access via <www.savvecentral.com.au> or other web address as notified by us from time to time. We will use our best efforts to provide you with access to the Software with a service availability of 99% uptime during Business Hours. You should be aware and agree that access to and use of the Software may be temporarily suspended for scheduled or urgent server maintenance work. We will give you at least 2 days' notice for any scheduled maintenance sessions and where practicable notify you in relation to any urgent maintenance services. We will use reasonable endeavours to conduct the maintenance services outside Business Hours. **Your Data:**

You may enter Data into the Software provided it does not exceed the Allocated File Space. You are solely responsible for the accuracy and the completeness of all Data you enter into the Software or create using the Software. We will ensure that back-up of all your Data is conducted daily. However, you are responsible for the backup of all Data downloaded onto your equipment. **Monitoring Use:**

You must supervise and control the use of the Software in accordance with these Terms and Conditions and ensure your employees, agents and contractors are made aware of and comply with them. You must immediately notify us in writing of any actual or suspected unauthorised use or disclosure of any user names, passwords or other log in details in relation to the Software.

**Restrictions on Use:** You must not and must ensure your employees or other authorised users gaining access to the Software do not (even after the termination or expiry of this agreement):

- acquire, download, reproduce, or install the Software, in whole or in part, on any computer equipment other than in the course of use permitted under these Terms and Conditions;



- sell, lease, license, sub-license, rent, loan, timeshare, encumber, provide, disclose, distribute or otherwise transfer or make available to, or permit use of the Software, in whole or in part, to any third party;
- use the Software in any application or for any purpose requiring continuous or fail-safe operation for the avoidance of personal injury, death or illness of any person;
- decompile, disassemble, reverse engineer, attempt to derive the source code for, modify, adapt, translate or copy the Software, in whole or in part; or develop any software or create derivative works based upon the Software;
- remove, tamper with, seek to override or otherwise interfere with any security or technological protection measure forming part of the Software; or
- remove, obliterate, or obscure from view any copyright, trade mark or confidentiality notice or legend appearing on or within the Software.

**Upgrades:** We may, at our discretion, offer Upgrades to the Software to you from time to time at no additional charge. We will give you at least 2 days' notice for the provision of Upgrades. Use and access to all Upgrades are subject to these Terms and Conditions.

## OUR SERVICES

**Services:** We will provide you with the Support Services for the Software and where applicable and included in your order. **Performance:** All Support Services and Additional Services will be performed by us to a standard with accepted industry practice and all applicable laws and regulations. We may sub-contract the supply (in whole or part) of the Support Services or the Additional Services, provided that we will not be relieved from any of our obligations and liabilities under this agreement. **Service Exclusions:** Unless otherwise agreed in writing, our obligations to perform the Support Services, the Additional Services and other obligations under this agreement do not include the correction of errors, defects or problems caused by:

- your fault or negligence or the fault or negligence of any person acting on your behalf;
- improper or unauthorised use, modifications or alterations of the Software;
- causes beyond our control such as, but not limited to, any failure arising out of any network (including the internet) or communications, power failure, electric power surges or a Force Majeure event;
- your failure to comply with any reasonable guidelines, instructions, documentation or training provided by us or to implement any Upgrades offered by us;
- any fault, defect, omission or error in any data, software or equipment not supplied by us (including your equipment); or
- use of the Software with any software or equipment not approved or recommended by us, or in a manner or for a purpose in breach of these Terms and Conditions or not reasonably contemplated by this agreement.

## FEES

**Licence Fees:** A licence fee for the use of the Software and Services is payable monthly or annually in advance by you depending on the subscription you choose. **Other Charges:** We will invoice you for any applicable set-up fee or Additional Service charges prior to the commencement of the relevant set-up or Additional Services. **Payments:** You agree to pay the full invoiced amount within 30 days of the date of the relevant invoice or pay by credit card by the due date. We reserve the right to charge

interest on any overdue payments or suspend access to the Software and the provision of Support or Additional Services until all outstanding amounts are paid. **GST:** The price for the licence fees, set up fees or the Additional Service charges does not include GST and you must pay all taxes (including GST) in addition to the licence fees, set up fees and the Additional Service charges. **Automatic renewal:** We will automatically renew the your subscription on expiry and take further payment using the credit or debit card details provided to us or updated by you and/or invoice you every month or year (as applicable) thereafter, until your Savv-e Central Account is terminated. **Variation:** We may update the licence fees by written notice to you at least 30 days prior to the next billing cycle. If you have chosen an annual subscription then a written notice variation can only be made 30 days before the due date for renewal.

## INTELLECTUAL PROPERTY

**Background Intellectual Property:** You acknowledge and agree that all Intellectual Property in and to the Software and all trademarks (registered and unregistered) used by us in connection with the Software belong to us (as between you and us). Apart from the permitted use under these Terms and Conditions, you acquire no right, title or interest in or to any of the above by virtue of this agreement. The Software is a web based application and none of their source or object codes will be made available to you. **Developed Intellectual Property:** Other than Intellectual Property in and to Data, all other Intellectual Property in any development, modification, adaptation, enhancement or improvement of the Software or otherwise created, conceived, developed or reduced to practice in the course of the performance of the Support Services vests in and is assigned to us with effect from its creation. **Data:** You will retain all your rights with respect to the Data. You grant us a royalty-free licence to host, reproduce, transmit, cache, store, publish, display and otherwise use all Data for the sole purpose of providing Support Services to you during the Subscription Period.

## WARRANTIES AND LIMITATION OF LIABILITY

**Warranty:** Subject to this clause, we warrant that:

- the Software will perform substantially in accordance with the relevant written specifications provided to you; and
- the Support Services and any Additional Services will be rendered with due care and skill.

We do not warrant that the Software will otherwise:

- be error free or that its use will be uninterrupted;
- operate in combination with other software or any particular equipment or other system; or
- provide any function other than set out in the relevant written specifications provided to you

**Exclusions:** To the extent permitted by law, all warranties given by us will be void and of no effect if the breach of warranty arises out of, in whole or in part, from causes specified in the Service Exclusions. **Prescribed Terms:** Nothing in this agreement excludes, restricts or modifies the application of any legislation which by law cannot be excluded, restricted or modified. Subject to the above and any express warranties provided in this agreement, all representations, warranties, guarantees, terms and conditions which would otherwise be implied in or imposed on this agreement in connection with any goods or services supplied by us or otherwise relating to the

performance of our obligations under this agreement, are excluded (including any warranty with regard to non-infringement of third party rights). **Limitation of Liability:** Without limiting the generality of this clause:

- we will not be liable to you for any special, indirect or consequential loss of damage, any loss of profit or business opportunity, any business interruption or loss of business information arising out of or relating to this agreement, including claims arising out of the use or not being able to use or any defect in the Software, Support or Additional Services; whether at common law, under contract, tort (including negligence), in equity, pursuant to statute or otherwise;
- to the extent permitted by law, our liability for any claim arising from a breach of warranty under this agreement or any term, condition or guarantee implied or imposed by statute which by law cannot be excluded is limited, at our option, to the repair or replacement of the goods, the re-supply of those services or the payment of the cost of re-supplying those services; and
- our aggregate liability under or in relation to this agreement however arising, including under contract, tort (including negligence), under statute or otherwise, arising out of any act, omission or event or connected series of acts, omissions or events will not exceed the amount of the Licence Fees and other charges paid by you to us in the 12 months prior to us being notified of such act, omission or event, and for all acts, omissions and events whenever occurring will not exceed in aggregate the total amount of Licence and Fees and other charges paid by you to us under this agreement.

## TERMINATION

**Termination by you:** You may close your Savv-e Central Account at any time. No further fees will be billed and no refund will be made of any fees already billed and paid except at our discretion. If you cancel your Savv-e Central Account, Software and Support Services will remain accessible by you until the Subscription Period that you have already paid for expires, after which your Savv-e Central Account will be locked and your Data shall no longer be accessible. **Termination for Breach:** This agreement may be terminated by a party by immediate written notice if the other party is in breach (other than a trivial breach causing no material harm); and where the breach is capable of remedy, the party in breach fails to remedy the breach within 30 days of written notice from the other party.

**Consequences of Termination:** On termination or expiry of this agreement for any reason, all licences granted under this agreement terminate and you must immediately cease using the Software. All Licence Fee and other payments paid to us remain our property. Restriction on Use, Intellectual Property and Warranties and Limitation of Liability survive termination or expiry of this agreement for any reason.

## GENERAL

**Entire Agreement:** These Terms and Conditions and your Order Form and any conditions imposed by applicable law constitute the entire agreement of between you and us with respect to this subject matter and supersede and replace all prior agreements and understandings between you and us relating to that subject matter. This agreement may only be modified by written agreement signed by both parties. **Assignment:** You may not assign or transfer your rights or obligations under this agreement unless with our prior written consent, which may not be unreasonably withheld.

**Notices:** All notices under this agreement must be in writing and sent by post or email. **Severance.** If any provision of this agreement is held invalid, unenforceable or illegal for any reason, this agreement shall remain otherwise in full force apart from such provision which shall be deemed deleted. **Force Majeure:** If the performance of this agreement or any obligations under this agreement (except for the making of required payments) is prevented, restricted, or interfered with by reason of Force Majeure, the affected party, upon giving prompt notice to the other party, is excused from such performance to the extent of such prevention, restriction, or interference. The affected party must use its best efforts to avoid or remove the Force Majeure or to limit the impact of the event on its performance and must continue performance with the utmost dispatch when the Force Majeure is removed. **Governing Law:** This agreement is governed by the laws of New South Wales, Australia.

## DICTIONARY

**Dictionary:** In this agreement, unless the context otherwise requires, capitalised terms have the meanings described in the Order Form or the following meanings: **Allocated File Space** means the maximum file space to store Data for hosting. **Additional Services** means the Additional Services ordered by you. **Business Day** means a day that is not a Saturday, Sunday or public holiday in Sydney, New South Wales, Australia. **Business Hours** means 9:00am to 5:00pm Australian Eastern Standard Time on Business Days. **Commencement Date** means the date the Subscription Period commences. **Data** means all content, data and information provided by you under this agreement or entered by you into the Software. **Force Majeure** means an act of God, fire, lightning, explosions, flood, subsidence, terrorist act, insurrection or civil disorder or military operations, communications infrastructure failure, government or quasi-government restraint, expropriation, prohibition, intervention, direction or embargo, inability or delay in obtaining governmental or quasi-governmental approvals, consents, permits, licences or authorities, strikes, lock-outs or other industrial disputes of any kind and, any other cause whether similar or not to the foregoing, outside of the affected party's control. **GST** means GST as defined in A New Tax System (Goods and Services Tax) Act 1999 (Cth) as amended from time to time or any replacement or other relevant legislation and regulations. **Intellectual Property** means statutory and other proprietary rights in respect of copyright and neighbouring rights, future copyright, all rights in relation to inventions, patents, plant varieties, registered and unregistered trademarks, registered and unregistered designs, circuit layouts and rights to require information be kept confidential, but does not include moral rights that are not transferable. **Software** means the Software ordered by you. **Subscription Period** means the period of use of the Software paid for in advance (this may be a month or a year). **Support Services** means the hosting services provided, the set-up, training, and email or telephone support services for the Software as specified in the invoice or order. **Upgrades** means any modifications, enhancements, improvements, or revisions to the Software, including updates to improve its performance or correct errors, to comply with changes to industry guidelines or technological enhancements.