

TERMS AND CONDITIONS

Certain legislation in Australia may provide consumer guarantees or impose obligations on Rapid Global which cannot be excluded, restricted or modified. These terms and conditions are subject to such legislation, including without limitation the Australian Consumer Law.

References to laws and legislation are to the laws and legislation in Australia, but include analogous or comparable laws in the jurisdiction of the Authorised User where those laws cannot be excluded by contract.

1. DEFINITIONS AND INTERPRETATION

In this document:

Active User means an Authorised User who has logged in to, completed a course (not including a site course), uploaded a document or submitted a form to the Services or Software in the previous 12 months.

Australian Consumer Law means the law as set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth).

Authorised Users means those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services under these terms and conditions.

B2B Platform is the online job-posting platform provided by Rapid Global as part of the Services.

B2B Provider means the entity providing (or applying to provide) the B2B Services.

B2B Recipient means the entity requesting and receiving the B2B Services.

B2B Services means the services to be provided by the B2B Provider to the B2B Recipient in accordance with a Listing.

Business Day means a day on which all banks (as defined in the *Banking Act 1959*) with offices in the City of Adelaide are open for business in the City of Adelaide.

Business Hours means between the hours of 8.30am and 6.00pm (AEST).

Commencement Date means the date set out in an Order Acknowledgement or the date that access is provided to the Services or Software is downloaded.

Confidential Information means all information provided by one party to the other in connection with these terms and conditions where such information is identified as confidential at the time of its disclosure or ought reasonably be considered confidential based on its content, nature or the manner of its disclosure, but excluding information that enters the public domain or is disclosed to a party by a third party, other than through a breach of these terms and conditions.

Corporations Act means the *Corporations Act 2001* (Cth).

Customer means the customer specified in an Order, Order Acknowledgement, Rapid Global's invoice or quotation or the person or entity that acquires the Services from Rapid Global.

Customer Data means all works and materials:

- uploaded to, stored on, processed using or transmitted via the Services or the Software by or on behalf of the Customer, Authorised Users, or Rapid Global on the Customer's behalf; and
- otherwise provided by the Customer to Rapid Global in connection with these terms and conditions.

Device means a device, usually electronic, that processes data according to a set of instructions, which may include workstations, personal computers, laptops, netbooks, personal digital assistants, tablets and smartphones.

Documentation means any documentation (whether electronic or printed) made available via the Website or otherwise provided by Rapid Global to the Customer or Authorised User which accompanies the Services or Software.

DPA means the UK's *Data Protection Act (2018)*.

Fees means the Instalment Fee, the User Subscription Fee and the Licence Fee, where the context permits.

Force Majeure Event means any event beyond the control of the relevant party.

GDPR means the General Data Protection Regulation (being Regulation 2016/679 of the European Parliament and of the Council).

GST means the tax payable on taxable supplies under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Hardware means terminals, dongles or other computer equipment or physical goods to be delivered by Rapid Global as specified in an accepted quotation or proposal of Rapid Global or in an Order confirmed in an Order Acknowledgement.

Insolvency Event means:

- In relation to a natural person, that person becoming an insolvent under administration as that term is defined in the Corporations Act;
- In relation to a body corporate, that body corporate being deregistered, suffering the appointment of a controller over any of its assets, suffering the appointment of a provisional liquidator, (except to reconstruct or amalgamate while solvent) or becoming a Chapter 5 body corporate as that term is defined in the Corporations Act; or
- anything analogous or having a substantially similar effect to the events specified in the paragraphs above occurs in relation to a party.

Instalment Fee means the amount set out in an accepted quotation or proposal of Rapid Global or in an Order confirmed in an Order Acknowledgement (or as otherwise set out on the Website).

Intellectual Property Rights means any and all, current and future, intellectual and industrial, property rights and interests, including any:

- patents, trademarks, service marks, rights in designs, trade names, copyrights, topography rights, utility models, eligible layout rights, inventions, discoveries, trade secrets, Confidential Information, know-how, software and improvements, and any applications, or rights to apply, for registration of any of them;
- rights under licences and consents in relation to any of them; and
- other forms of protection of a similar nature or having equivalent or similar effect to any of them,

in Australia and in the world, whether registered or unregistered, for the duration of the rights and interests.

Liability means any claim, action, loss, cost, expense, charge, outgoing or payment (including any legal costs, on a full indemnity basis) and damage or liability of any kind.

Licence Fee means the amount in an accepted quotation or proposal of Rapid Global or in an Order confirmed in an Order Acknowledgement (or as otherwise set out on the Website).

Listing means any post on the B2B Platform seeking the supply of goods or services from a B2B Provider.

Maintenance Services means such routine maintenance services as Rapid Global considers necessary to ensure the proper functioning of the Services, including:

- reviewing the Services on a regular basis and applying updates where appropriate; and
- performing regular security and maintenance checks for evidence of security breaches, software malfunction and resource limit warnings.

Maximum Number of Users means the maximum number specified in an accepted quotation or proposal of Rapid Global or in an Order confirmed in an Order Acknowledgement.

Order means an order or offer to purchase Services made by the Customer to Rapid Global, including orders made via the Website.

Order Acknowledgement means a written acknowledgement of an Order provided in writing or electronically by Rapid Global to the Customer (including via the Website).

Payment Gateway means payment for the Services made on behalf of the Customer by its agents or contractors via eWay, facilities provided by National Australia Bank Limited or by other means specified on the Website or as advised by Rapid Global from time to time.

Personal Information has the meaning as defined in the Privacy Act.

PPSA means *Personal Property Securities Act 2009* (Cth).

Privacy Act means the *Privacy Act 1988* (Cth).

Privacy Laws means any Laws relating to privacy or requiring secrecy or confidentiality in dealing with information, including:

- any laws relating to the protection of Personal Information;
- the Privacy Act and the Australian Privacy Principles established under the Privacy Act; and
- where applicable, the DPA and GDPR.

Privacy Policy means Rapid Global's privacy policy as amended by Rapid Global from time to time in its sole discretion, which is available on the Website.

Rapid Global means Rapid Global Pty Ltd (ACN 161 913 882) (ABN 79 161 913 882)

Sensitive Information has the meaning as defined in the Privacy Act.

Services means the services to be provided by Rapid Global to the Customer under these terms and conditions via the Website or to be accessed via Devices using the Software, together with any Documentation as specified in an accepted quotation or proposal of Rapid Global or in an Order confirmed in an Order Acknowledgement.

Software means any program or data file relating to the Services supplied by Rapid Global to the Customer or downloaded or installed by the Customer on a Device but excludes any Third-Party Software.

Support Services means, if specified in an accepted quotation or proposal of Rapid Global or in an Order confirmed in an Order Acknowledgement, training, consultation by means of email and telephone during Business Hours, updates of Software as they become available and support for Authorised Users via email or telephone during Business Hours.

System Administrator means a person who has been provided a role to access administration functions within the Services or Software.

Third Party Software means freeware or open-source software or software that is owned by third parties and licensed to Rapid Global.

Update means new versions of, and updates to, the Services, whether for the purpose of fixing an error, bug or other issue or enhancing the functionality of the Services but excludes any software, services or updates marketed, licensed or sold by Rapid Global as a new version or new release.

User Subscriptions means the user subscriptions purchased by the Customer which entitle Authorised Users to access and use the Services in accordance with these terms and conditions.

User Subscription Fee means the amount set out in an accepted quotation or proposal of Rapid Global or in an Order confirmed in an Order Acknowledgement (or as otherwise set out on the Website).

Virus means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

Website means www.rapidglobal.com.

2. ORDERS AND TERMS AND CONDITIONS

- 2.1 An Order or an offer to purchase can be made by the Customer in writing, verbally or via the Website or by the Customer accepting a quotation or proposal issued by Rapid Global. An Order is accepted when the Customer receives from Rapid Global an Order Acknowledgement, access is provided to the Services or Software is downloaded, whichever first occurs.
- 2.2 These terms and conditions apply to every Order, unless otherwise agreed in writing by Rapid Global. Acceptance of Services by the Customer is conclusive evidence that these terms and conditions apply and are binding on the Customer.
- 2.3 These terms and conditions shall prevail over all inconsistencies in an Order (whether received before or after these terms and conditions are signed, provided to or are notified to the Customer), unless Rapid Global agrees otherwise in writing. Subject to clause 2.4, these terms and conditions are the only conditions to which Rapid Global will be bound and the Customer agrees that these terms and conditions will prevail over the Customer's terms and

conditions of purchase (if any and whether received before or after these terms and conditions are signed, provided to or are notified to the Customer).

- 2.4 These terms and conditions are subject to any further written, executed agreement entered into between Rapid Global and the Customer (**Further Agreement**). In the event of any inconsistency between these terms and conditions and a Further Agreement, the provisions of the Further Agreement will prevail to the extent of the inconsistency.

3. RIGHT TO USE THE SERVICES

- 3.1 These terms and conditions are effective from the Commencement Date and shall remain in force until terminated in accordance with clause 15.
- 3.2 If the relevant invoice or quotation issued by Rapid Global and accepted by the Customer, or the Order (as confirmed in an Order Acknowledgement) specifies that the Services are to be provided for a fixed period and the Customer allows Rapid Global to continue performing the Services after the expiration of that period, then these terms and conditions will be deemed to continue on a holding over basis (with the same Fees and other terms and conditions to apply) with either party then having the right to terminate these terms and conditions on one month's written notice.
- 3.3 Rapid Global hereby grants to the Customer a non-exclusive, non-transferable right to permit the Customer and Authorised Users to use the Services solely for the Customer's internal business operations.
- 3.4 These terms and conditions shall not prevent Rapid Global from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under these terms and conditions.

4. THE SERVICES

- 4.1 Rapid Global shall issue to the Customer or to its Authorised Users a username and password:
- 4.1.1 for each User Subscription, if the Customer is paying a User Subscription Fee; or
 - 4.1.2 for Authorised Users up to the Maximum Number of Users, if the Customer is paying an Instalment Fee, so as to enable access to the Services.
- 4.2 Rapid Global will use its best endeavours to maintain the reliability and efficiency of the Services subject to:
- 4.2.1 scheduled downtime for Maintenance Services or other interruptions to service specified in clause 8.1; and
 - 4.2.2 unscheduled interruptions to the availability of the Services due to factors beyond the control of Rapid Global including any actions of the Customer or third parties (including telecommunications providers).
- 4.3 The Customer will communicate any difficulties encountered with the Services to Rapid Global as soon as is reasonably practicable following detection.
- 4.4 Rapid Global may, in its sole discretion, make Updates available through the Services.
- 4.5 Estimates of dates for delivery of Hardware or access to the Services or Software shall not be binding on Rapid Global.
- 4.6 The Customer acknowledges that certain elements of the Services or Software are provided by third parties or comprise Third Party Software and the Customer:
- 4.6.1 acknowledges and agrees that the licence agreement for any Third-Party Software shall be between the Customer and the relevant third party directly and the Customer shall comply with such terms in relation to the use of the Third-Party Software; and
 - 4.6.2 consents to Rapid Global subcontracting certain elements of the Services to subcontractors or subprocessors (details of which can be found on the Website/Privacy Policy).

5. CUSTOMER'S OBLIGATIONS

5.1 General

The Customer shall:

5.1.1 Provide Rapid Global with:

- (a) all necessary co-operation in relation to these terms and conditions; and

- (b) all necessary access to such information as may be required by Rapid Global,

in order to enable Rapid Global to render the Services, including but not limited to the provision of the Customer Data, security access information and configuration services.

- 5.1.2 Comply with all applicable laws and regulations with respect to its activities under these terms and conditions.

5.2 Hardware, Network and Systems

- 5.2.1 The Customer shall ensure that its hardware, network and systems comply with the relevant specifications provided by Rapid Global from time to time.

- 5.2.2 The Customer shall be solely responsible for:

- (a) procuring and maintaining its network connections and telecommunications links;
- (b) the support and maintenance of any computer hardware and non-Rapid Global software operated by the Customer; and
- (c) all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the Internet.

5.3 Use of the Services

- 5.3.1 The Customer shall be responsible for ensuring that its Authorised Users comply with these terms and conditions.

- 5.3.2 The Customer undertakes that

- (a) each Authorised User shall keep their username and password confidential; and
- (b) it shall permit Rapid Global to audit the Services to ensure the Customer's compliance with these terms and conditions.

- 5.3.3 Where the Customer is paying an Instalment Fee, the Customer agrees that the maximum number of Active Users that it authorises to access and use the Services shall not exceed the Maximum Number of Users.

- 5.3.4 Where the Customer is paying a User Subscription Fee, the Customer undertakes that:

- (a) it will not allow or suffer any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services;
- (b) if any of the audits referred to in clause 5.3.2(b) reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to Rapid Global's other rights, the Customer shall promptly disable such passwords and Rapid Global shall not issue any new passwords to any such individual; and
- (c) if any of the audits referred to in clause 5.3.2(b) reveal that the Customer has underpaid Subscription Fees to Rapid Global, the Customer shall pay to Rapid Global an amount equal to such underpayment within 10 Business Days of the date of the relevant audit.

- 5.3.5 The Customer shall not allow the number of System Administrators to exceed 1000 users.

- 5.3.6 The Customer shall not (and shall ensure that its Authorised Users do not) access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;
- (c) depicts sexually explicit images;
- (d) promotes unlawful violence;
- (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activity; or
- (f) causes damage or injury to any person or property.

5.3.7 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services or Software and, in the event of any such unauthorised access or use, promptly notify Rapid Global.

5.3.8 Without limiting the above, the Customer agrees that it will not:

- (a) attempt to gain unauthorised access to any portion or feature of the Services, Software or Website, or any other systems or networks connected to the Services, Software or Website or to any Rapid Global server, by hacking, password "mining" or any other illegitimate means;
- (b) probe, scan or test the vulnerability of the Services, Software or Website or any network connected to the Services, Software or Website, nor breach the security or authentication measures on the Services, Software or Website or any network connected to the Services, Software or Website;
- (c) reverse look-up, trace or seek to trace any information on any other user of or visitor to the Services, Software or Website, or any other customer of Rapid Global, including any Rapid Global account not owned by the Customer, to its source, or exploit the Services, Software or Website or any service or information made available or offered by or through the Services, Software or Website, in any way where the purpose is to reveal any information, including but not limited to personal identification or information, other than the Customer Data, as provided for by the Services, Software or Website;
- (d) take any action that imposes an unreasonable or disproportionately large load on the infrastructure of the Services, Software or Website or Rapid Global's systems or networks, or any systems or networks connected to the Services, Software or Website or to Rapid Global; or
- (e) use any device, software or routine to interfere or attempt to interfere with the proper working of the Services, Software or Website or any transaction being conducted on the Services, Software or Website, or with any other person's use of the Services, Software or Website.

5.4 Intellectual Property Rights

5.4.1 The Customer shall not:

- (a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties:
 - (i) and except to the extent expressly permitted under these terms and conditions, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Services or the Software in any form or media or by any means; or
 - (ii) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Services or Software; or
- (b) access all or any part of the Services or Software in order to build a product or service which competes with the Services; or
- (c) unless otherwise agreed by Rapid Global in writing, use the Services or Software to provide services to third parties; or
- (d) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services or Software available to any third party except the Authorised Users, or
- (e) attempt to obtain, or assist third parties in obtaining, access to the Services or Software, other than as provided under these terms and conditions.

5.5 Privacy & Surveillance

The Customer acknowledges and agrees that:

5.5.1 In providing the Services, Rapid Global will be required to collect Personal Information and Sensitive Information from Authorised Users.

5.5.2 In collecting such Personal Information and Sensitive Information, Rapid Global shall comply with the Privacy Laws and shall deal with such Personal Information and Sensitive Information in the manner set out in the Privacy Policy.

5.5.3 The Customer shall ensure that it obtains the consent of all impacted individuals (including Authorised Users) to Rapid Global collecting the Personal Information and Sensitive Information of the impacted individuals

(including Authorised Users) and to Rapid Global storing and sharing that Personal Information and Sensitive Information with the Customer as necessary for Rapid Global to provide the Services.

- 5.5.4 In collecting such Personal Information, Rapid Global shall be operating only as the processor of personal data, rather than as the controller of the personal data collected from the impacted individuals (including the Authorised Users).
- 5.5.5 The Customer shall ensure that it complies with its obligations under the Privacy Laws and GDPR (where applicable) to the collection, storage and use of Personal Information and Sensitive Information of impacted individuals necessary to receive the Services.
- 5.5.6 If the Services include GPS tracking services (through location services on the Device of Authorised Users or by other electronic means) (**GPS Tracking**):
 - (a) The Customer acknowledges that GPS Tracking shall be subject to the consent of the Authorised User and that GPS Tracking will only be effective whilst location services are enabled on the relevant Device (and that this setting may be varied by the Authorised User at any time); and
 - (b) the Customer shall ensure that it obtains the consent of the Authorised User prior to GPS Tracking being applied to that Authorised User and that, in particular, if the Authorised User is an employee of the Customer, their consent is obtained before they commence employment or, if they are an existing employee, 14 days prior to GPS Tracking commencing (or such other period as is required by surveillance legislation in the relevant jurisdiction).

6. HARDWARE

- 6.1 If Rapid Global is to transport or arrange transport of Hardware to the Customer: (a) Rapid Global does not guarantee a particular arrival date or time; (b) a receipt signed by an apparently responsible person at the nominated place of delivery is sufficient evidence of delivery unless proved to the contrary; (c) Rapid Global need not provide proof of delivery, unless the Customer made a prior written request for proof of delivery; and (d) Rapid Global may recover the agreed cost of transport from the Customer or, if that cost was not agreed in advance, a reasonable cost (if not included in the Fees).
- 6.2 Risk of loss or damage in Hardware passes from Rapid Global to the Customer when the Hardware is delivered. The Customer must insure the Hardware from the time of delivery.
- 6.3 Ownership of Hardware passes from Rapid Global to the Customer only when that Hardware is paid for in full. Rapid Global has a purchase money security interest under the PPSA for Hardware supplied to the Customer but not yet paid for.

7. CUSTOMER DATA

- 7.1 The Customer shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.
- 7.2 In the event of any loss or damage to Customer Data:
 - 7.2.1 Rapid Global shall notify the Customer where such loss or damage to the Customer comprises an 'eligible data breach' as defined by the Privacy Act; and
 - 7.2.2 To the extent permitted by law, the Customer's sole and exclusive remedy shall be for Rapid Global to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by Rapid Global. Rapid Global shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party.

8. SUSPENSION OF THE SERVICES

- 8.1 Rapid Global may suspend access to the Services:
 - 8.1.1 to carry out the Maintenance Services;
 - 8.1.2 to carry out modifications or updates to the Services, including the uploading of Updates;
 - 8.1.3 to preserve data and integrity; or
 - 8.1.4 in the event of a security breach.
- 8.2 Suspension of access to the Services will continue until the Maintenance Services, modifications or Updates are carried out, the problem or breach is rectified, or until otherwise agreed in writing between the parties.

- 8.3 Rapid Global also reserves the right to terminate or suspend access to the Services to the Customer indefinitely and without refund or compensation in the event that the Customer uses the Services, or appears to Rapid Global to be intending to use the Services, in a manner reasonably deemed inappropriate by Rapid Global or which breaches these terms and conditions (including in circumstances where the Customer has breached clause 5.3.8).

9. SUPPORT SERVICES AND ADDITIONAL SERVICES

- 9.1 Rapid Global will, as part of the Services and at no additional cost to the Customer, provide the Customer with the Support Services during Business Hours.
- 9.2 The Customer may, from time to time, request in writing that Rapid Global provide the Customer with services additional to those set out in these terms and conditions (**Additional Services**).
- 9.3 Any provision of Additional Services by Rapid Global to the Customer will be at Rapid Global's sole discretion. The parties will negotiate in good faith the fees payable by the Customer to Rapid Global in respect of the Additional Services.

10. FEES

- 10.1 The Fees shall be the amounts set out in an accepted quotation or proposal of Rapid Global or in an Order confirmed in an Order Acknowledgement (or as otherwise set out on the Website), unless otherwise agreed in writing.
- 10.2 The Customer shall pay the Fees in the manner set out in an accepted quotation or proposal of Rapid Global or in an Order confirmed in an Order Acknowledgement (or as otherwise set out on the Website).
- 10.3 If in an accepted quotation or proposal of Rapid Global or an Order confirmed in an Order Acknowledgement specifies that payment of any Fees is to be made to Rapid Global directly by the Customer, payment shall be made by cheque, EFT or via the Payment Gateway by the Customer within 14 days of invoice by Rapid Global.
- 10.4 If in an accepted quotation or proposal of Rapid Global or an Order confirmed in an Order Acknowledgement specifies that payment of any Fees is to be made on the Customer's behalf by its contractors or Authorised Users, payment must be made by the Customer's contractors or Authorised Users via the Payment Gateway before any User Subscriptions are issued by Rapid Global or access to the Software or the Services is provided by Rapid Global.
- 10.5 Rapid Global may, in its sole discretion, offer discounts to the Fees for certain Services (**Discount**) by way of email communication to the Customer or via the Website (**Discount Offer**). The Customer acknowledges and agrees that:
- 10.5.1 a Discount can only be applied to the Fees for the specific Services set out in the Discount Offer and purchased through the Website or B2B Platform;
 - 10.5.2 the Discount will only apply for the period specified in the Discount Offer;
 - 10.5.3 unless otherwise specified in the Discount Offer, a Discount can only be applied once and will only reduce the Fees payable for the relevant Services for a maximum period of twelve (12) months;
 - 10.5.4 any Discount offered is not transferable and cannot be exchanged by the Customer for cash or credit;
 - 10.5.5 multiple Discount Offers cannot be combined, and any Discount contained in a Discount Offer cannot be combined with any other promotions, discounts, or offers, unless otherwise stated by Rapid Global; and
 - 10.5.6 Rapid Global reserves the right to modify or cancel any Discount or the terms and details of any Discount Offer at any time without prior notice to the Customer.
- 10.6 All amounts payable under these terms and conditions are exclusive of GST unless stated otherwise. In respect of any taxable supply, the Customer must pay to the Supplier an additional amount equal to the prevailing GST rate, payable at the same time and in the same manner as the Fees.
- 10.7 All Fees must be paid in full, without set off or counterclaim.

11. INTELLECTUAL PROPERTY

- 11.1 The Customer retains all Intellectual Property Rights in the Customer Data.
- 11.2 The Customer grants to Rapid Global a non-exclusive, world-wide, royalty-free licence to use, copy, store, transmit, modify, create derivative works of and display the Customer Data solely to the extent necessary to provide the Services to the Customer.
- 11.3 The Customer acknowledges and agrees that Rapid Global and/or its licensors own all Intellectual Property Rights in the Services, Documentation and the Software.

- 11.4 Except as expressly stated herein, these terms and conditions do not grant the Customer any Intellectual Property Rights, or any other rights or licences in respect of the Services, Documentation or the Software.
- 11.5 Subject to payment of the Licence Fee, Rapid Global grants to the Customer a non-exclusive, world-wide, non-transferable licence to use Software and Documentation solely in connection with the Services, subject to and in accordance with the terms and conditions set out in these terms and conditions.

12. CONFIDENTIALITY

- 12.1 A party must not, without the prior written consent of the other, use or disclose the other party's Confidential Information unless expressly permitted by these terms and conditions or required to do so by law or any regulatory authority.
- 12.2 A party may:
 - 12.2.1 use the Confidential Information of the other party solely for the purposes of complying with its obligations and exercising its rights under these terms and conditions; and
 - 12.2.2 disclose the Confidential Information to its personnel or advisers to the extent necessary for them to know the information for purposes related to these terms and conditions, but only if reasonable steps are taken to ensure that the confidentiality of the information is retained.
- 12.3 Each party must implement and maintain effective security measures to prevent unauthorised use and disclosure of the other party's Confidential Information whilst it is in the receiving party's possession or control.
- 12.4 Each party must return, or at the other party's option destroy, all Confidential Information of the disclosing party in the receiving party's possession or control, on the earlier of Rapid Global's request or on termination of these terms and conditions for any reason.
- 12.5 The Customer acknowledges that details of the Services and the results of any performance tests of the Services or Software constitute Rapid Global's Confidential Information.
- 12.6 Rapid Global acknowledges that the Customer Data is the Confidential Information of the Customer.
- 12.7 This clause 12 shall survive termination of these terms and conditions, however arising.

13. B2B PLATFORM

13.1 General Use of the B2B Platform

The Customer acknowledges and agrees that:

- 13.1.1 the B2B Platform provided by Rapid Global provides an introductory service to facilitate the relationship between B2B Providers and B2B Recipients and the provision of B2B Services;
- 13.1.2 Rapid Global does not personally offer to the Customer, or endorse or recommend any B2B Services;
- 13.1.3 Rapid Global is in no way a party to any contractual relationship formed between B2B Providers and B2B Recipients in relation to any Listing or the B2B Platform;
- 13.1.4 the Customer must make its own evaluation in relation to the suitability of a B2B Provider to provide the B2B Services;
- 13.1.5 it is the Customer's responsibility to ensure that it complies with all applicable laws, including the Australian Consumer Law (as applicable) while engaging with the B2B Platform, including in relation to the posting of any Listing and the provision of B2B Services; and
- 13.1.6 the Customer will comply with all policies and directions of Rapid Global (as varied from time to time) in relation to their use of the B2B Platform.

13.2 B2B Recipient

Where the Customer uses the B2B Platform as a B2B Recipient:

- 13.2.1 The Customer grants to Rapid Global a non-exclusive, world-wide, royalty-free licence to use, copy, store, transmit, modify, create derivative works of and display the content comprised in any Listing made by it and any other content, data or information shared by the Customer or on the Customer's behalf in connection with the B2B Platform.
- 13.2.2 The Customer represents and warrants that it will have all necessary rights in the Listing and related content to grant Rapid Global the licences and rights set out in clause 13.2.1.

13.2.3 The Customer acknowledges that it is responsible for the content of its Listing and must ensure that all content contained in the Listing and published on the B2B Platform by the Customer is true, accurate and complete at all times, including, without limitation, the description of the requested B2B Services, price, applicable taxes or fees, delivery information, required legal disclosures and other advertisement, offer or promotional content.

13.2.4 Rapid Global may review and amend any Listing with notice to the Customer if Rapid Global reasonably believe that any content included in a Listing is inappropriate or does not comply with these terms and conditions.

13.3 B2B Provider

Where the Customer uses the B2B Platform as a B2B Provider:

13.3.1 The Customer must comply with all applicable laws, rules and regulations in relation to its supply of the B2B Services to a B2B Recipient.

13.3.2 The Customer acknowledges and agrees that as a B2B Provider it is responsible for providing customer service to B2B Recipients in connection with its B2B Services. The Customer is responsible for providing, managing, paying for and fulfilling any sales, warranty and customer service, returns, refunds or accommodations to B2B Recipients in connection with your use of the B2B Platform.

13.3.3 The Customer is responsible for ensuring the integrity, safety and quality of any B2B Services offered or provided. The Customer is solely responsible for any defect or non-conformity in any product or service comprised in the B2B Services offered or provided by the Customer and for complying with any recall or safety alert, or similar direction or notice, with respect to any product or service related to the Customer's B2B Services.

13.4 Liability and Indemnity

13.4.1 Rapid Global is not responsible for, and does not warrant the truth or accuracy of, any aspect of any information provided by a B2B Provider or B2B Recipient, including, but not limited to, the ability of the B2B Provider to perform tasks or supply items related to the B2B Services, or the honesty or accuracy of any information provided by the B2B Provider or B2B Recipient (including in any Listing), or the B2B Recipient's ability to pay for the B2B Services; and

13.4.2 Rapid Global excludes all warranties in relation to the B2B Provider's performance of the B2B Services.

13.4.3 Rapid Global excludes all Liability in relation to any aspect of the B2B Provider and B2B Recipient interaction, including but not limited to the description, performance, delivery of or payment for any B2B Services.

13.5 Disputes

Rapid Global may choose to (but has no obligation to the Customer to) assist or involve itself in any dispute between B2B Providers and B2B Recipients.

13.6 Reviews

13.6.1 Rapid Global may make ratings and reviews available about B2B Providers and their performance of B2B Services. Rapid Global takes no responsibility for the content of such ratings and reviews provided by B2B Recipients.

13.6.2 The Customer acknowledges and agrees that it does not own or have any rights in or to such ratings and reviews, and that any ratings or reviews submitted by the Customer shall comply with Rapid Global's policies and applicable law.

13.6.3 Without limiting the foregoing, the Customer may not submit or cause or allow others to submit illegitimate or inauthentic ratings or reviews.

14. WARRANTIES

14.1 Rapid Global warrants that:

14.1.1 it has all the rights in relation to the Services and the Software that are necessary to grant all the rights it purports to grant under, and in accordance with, these terms and conditions;

14.1.2 the Services and the Software will not infringe the Intellectual Property Rights of any third party; and

14.1.3 it will exercise reasonable skill, care and attention in providing the Services to the Customer in accordance with these terms and conditions.

14.2 Notwithstanding the foregoing, Rapid Global:

14.2.1 takes no responsibility for any delay, malfunction, non-performance or other degradation of the Services caused by or resulting from:

- (a) any alteration, modifications or amendments to the Services requested by the Customer; or
- (b) any middleware or other software which links or interfaces with the Services, which has not been prepared by Rapid Global or sold by Rapid Global as part of the Services;

14.2.2 does not warrant that the Customer's use of the Services will be uninterrupted or error-free; and

14.2.3 is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

14.3 The Customer acknowledges that the speed of response from the Services is dependent on the Customer's internal connection and performance of the Services may be affected by such external factors as the Customer's speed of connection, infrastructure bandwidth and the number of users on the connection.

14.4 Where the Services include pre-written materials provided by Rapid Global or other third parties (**Materials**), Rapid Global and its content providers will use reasonable endeavours to ensure that the Materials are accurate. However, the Customer acknowledges and agrees that:

14.4.1 the information provided in such Materials is intended only to provide a summary and general overview for the purposes of e-learning and training and is not intended to be a substitute for legal advice.

14.4.2 It will seek legal or other professional advice before acting or relying on any of the Materials.

14.4.3 If the Materials are edited by the Customer or its Authorised Users, neither Rapid Global nor its content providers will be responsible for any Liability arising from such amendments.

14.5 Without limiting the above:

14.5.1 the Services may include functionality which allows Authorised Users with real time access to information about the registration/licensing status of tradespersons held on government registers;

14.5.2 Rapid Global does not warrant or represent the accuracy, currency, reliability or completeness of data provided by integrated platforms such as government websites and third-party software;

14.5.3 Rapid Global does not warrant the accuracy or timeliness of searches provided by any government department or agency or other third-party provider;

14.5.4 Rapid Global accepts no liability for use of the above content or service. By using this service, the Customer holds Rapid Global harmless for any and all liability arising out of the Customer's or an Authorised User's use of the service. The Customer acknowledges that any use of the service is entirely at the Customer or the Authorised User's own risk and the Customer acknowledges and agrees that it is the Customer's or Authorised User's responsibility to verify any data.

14.6 The Customer warrants that:

14.6.1 it has obtained all of the consents necessary to lawfully use the Services and the Software;

14.6.2 it has informed the impacted individuals of the collection, use and disclosure of their Personal Information and Sensitive Information through the Customer's use of the Services and the Software;

14.6.3 it has fully complied with all surveillance and workplace laws in relation to the use of the Services and the Software; and

14.6.4 it has fully complied with all of the provisions of the Privacy Laws and the GDPR in relation to the use of the Services and the Software.

15. LIABILITY & INDEMNITY

15.1 To the full extent permitted by law, Rapid Global excludes all representations, warranties or terms (whether express or implied) other than those expressly set out in these terms and conditions.

15.2 Without limiting the above, the Customer acknowledges that any warranty to be provided in relation to the Hardware will be provided by the manufacturer of the Hardware and not by Rapid Global. Rapid Global will take all reasonable steps to ensure that the benefit of any warranty provided to Rapid Global by the manufacturer relating to the Hardware is assigned to the Customer.

15.3 These terms and conditions are to be read subject to any legislation which prohibits or restricts the exclusion, restriction or modification of any implied warranties, guarantees, conditions or obligations (including the Australian Consumer Law). If such legislation applies, to the extent possible, Rapid Global limits its Liability in respect of any claim to, at Rapid Global's option:

15.3.1 in the case of goods:

- (a) the replacement of the goods or the supply of equivalent goods;
- (b) the repair of the goods;
- (c) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
- (d) the payment of having the goods repaired, and

15.3.2 in the case of services:

- (a) the supply of the services again; or
- (b) the payment of the cost of having the services supplied again.

15.4 To the full extent permitted by law, Rapid Global excludes all Liability in respect of loss of data, interruption of business or any consequential or incidental damages, even to the extent that such Liability is caused by Rapid Global's negligence.

15.5 Each party agrees to indemnify the other from and against all Liability suffered by the other party arising either directly or indirectly from their negligent act or omission or breach of these terms and conditions.

15.6 Either party's Liability for any claim relating to these terms and conditions will be reduced to the extent to which the other party contributed to the damage arising from the Liability.

15.7 To the extent permitted by law, Rapid Global's total aggregate Liability for all claims relating to these terms and conditions (including under clause 14.5) is limited to the Fees payable under these terms and conditions.

16. TERMINATION

16.1 Rapid Global may terminate these terms and conditions:

16.1.1 at the expiration of the term set out in an Order or Order Acknowledgement; or

16.1.2 by convenience by the provision of one month's written notice.

16.2 Either party may terminate these terms and conditions by written notice to the other if any of the following events has occurred in respect of the other party:

16.2.1 a material breach of these terms and conditions which is not remediable or if capable of remedy, where the other party fails to remedy within 14 days of written notice; or

16.2.2 suffers an Insolvency Event.

16.3 If these terms and conditions are terminated or expires for any reason, then, in addition and without prejudice to any other rights or remedies available:

16.3.1 the parties are immediately released from their obligations under these terms and conditions except those obligations listed in clauses 11, 12, 13 and 14 and any other obligations that, by their nature, survive termination;

16.3.2 each party retains the claims it has against the other;

16.3.3 the Customer must immediately pay all outstanding Fees owing under these terms and conditions;

16.3.4 no refund of Fees paid will be given by Rapid Global (unless termination occurs under clause 15.1, in which case any Fees which relate to a specified duration shall be refunded on a pro-rata basis); and

16.3.5 the Customer's right to use Services immediately ceases and the licences granted under these terms and conditions terminate.

17. GENERAL PROVISIONS

17.1 Notices given by Rapid Global will be deemed to be received:

- 17.1.1 if given by email, on being sent, provided the notice is sent to the email address of an officer or employee of the Customer responsible for placing or administering orders for Services and no "out of office" or other automated reply is received indicating that the message has not been or will not be received or read by the intended recipient;
- 17.1.2 if given by facsimile transmission to a facsimile number shown in the application for credit (or any other number provided by the Customer) by production by Rapid Global of a copy of the facsimile transmission bearing the time and date of dispatch, on that date and at that time; and
- 17.1.3 if given by post, on the third Business Day after posting.
- 17.2 The Customer agrees to regularly check the Website for any notices of changes to these terms and conditions.
- 17.3 Rapid Global may appoint sub-contractors to perform Services under these terms and conditions.
- 17.4 Rapid Global shall have the right to advertise the Services and the fact that the Services have been provided to the Customer for the purpose of promoting Rapid Global's services to the public at large and for entering such work in competitions or for publication in award annuals, magazines, or publications.
- 17.5 The Customer shall not, without the prior written consent of Rapid Global, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these terms and conditions. Rapid Global may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these terms and conditions.
- 17.6 Nothing contained in these terms and conditions creates any relationship of partnership or agency between the parties.
- 17.7 If a provision of these terms and conditions are invalid or unenforceable it is to be read down or severed to the extent necessary without affecting the validity or enforceability of the remaining provisions.
- 17.8 Each party must at its own expense do everything reasonably necessary to give full effect to these terms and conditions and the events contemplated by it.
- 17.9 Subject to clause 2, these terms and conditions (and any documents executed in connection with it) are the entire agreement of the parties about its subject matter and supersedes all other representations, arrangements or agreements. Other than as expressly set out in these terms and conditions, no party has relied on any representation made by or on behalf of the other.
- 17.10 These terms and conditions may be amended only by a document signed by all parties.
- 17.11 A provision of or a right under these terms and conditions may not be waived or varied except in writing signed by the person to be bound.
- 17.12 A party will not be responsible for a failure to comply with its obligations under these terms and conditions to the extent that failure is caused by a Force Majeure Event, provided that the party keeps the other closely informed in such circumstances and uses reasonable endeavours to rectify the situation.
- 17.13 These terms and conditions are governed by the laws of South Australia and each party submits to the jurisdiction of the courts of South Australia.
- 17.14 If at any time the Customer grants in favour of Rapid Global a security interest over any collateral (all within the meaning of the PPSA): (a) at any time, without prior notice to the Customer but at the Customer's cost, Rapid Global may register in relation to such security interest/s one or more financing statements / financing change statements on the register maintained under the PPSA; (b) to any extent Rapid Global at any time requests, within two Business Days the Customer must do all things necessary to assist such registration/s and / or ensure the security interest/s priority over any other security interest (present or future) over the same collateral granted by the Customer to a third party; and (c) the Customer waives its right to receive a copy of any financing statement or financing change statement and irrevocably contracts out of those provisions of the PPSA that the PPSA allows to be contracted out of by the Customer.