

Acquire AI SaaS Terms & Conditions

1. Term

This Agreement commences on the Commencement Date and continues for the Subscription Term, unless terminated in accordance with this Agreement (**Term**).

2. Customer obligations

2.1 Access to Platform

- (a) The Customer must provide information to the Supplier that is true, accurate and not misleading or deceptive. If such information changes, the Customer must promptly notify the Supplier at support@thetodaybusiness.com.au, or an alternate email address notified by the Supplier for this purpose.
- (b) At all times during the Term, the Customer must (at its cost):
 - (i) obtain and maintain all hardware, software and communications equipment necessary for it and each Authorised User to access and use the Platform, and ensure that they comply with:
 - (A) applicable specifications and guidelines set out in the Documentation; and
 - (B) all reasonable security standards and any requirements otherwise communicated to the Customer from time to time;
 - (ii) take precautions to ensure that the network, systems, computer hardware or software used to access the Services does not expose either party to the risk of viruses, malicious computer code or other forms of interference;
 - (iii) provide the Supplier with all necessary co-operation and access to its systems, data and Personnel as may be required by the Supplier to provide the Services;
 - (iv) comply with all Relevant Laws;
 - (v) comply with all reasonable directions, policies and guidelines of the Supplier as notified from time to time;
 - (vi) perform all of its obligations in a timely and efficient manner; and
 - (vii) ensure that the Authorised Users use the Platform strictly in accordance with this Agreement. Any act or omission of an Authorised User is deemed an act or omission of the Customer.

2.2 Access restrictions

During the Term, the Customer must not access, store, distribute or transmit:

- (a) any Malware; or

- (b) any material, data or content that:
 - (i) is unlawful, unethical, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive or a contravention of the rights of any Third Party;
 - (ii) facilitates illegal activity;
 - (iii) causes damage or injury to any person or property; or
 - (iv) corrupts, degrades or disrupts the operation or functionality of the Platform.

2.3 Use restrictions

The Customer must not, and must not attempt to and must not assist any Third Party to:

- (a) adapt, alter, copy, create derivative works from, disassemble, display, distribute, download, duplicate, frame, mirror, modify, reduce to human readable form, republish, reverse compile, reverse engineer or transmit all or any portion of the Platform by any means;
- (b) infringe the Supplier's Intellectual Property;
- (c) build a product, service or platform which competes with the Platform;
- (d) assign, license, transfer any rights in, or otherwise commercially exploit, the Platform; or
- (e) engage in illegal behaviour or any the following:
 - (i) unauthorised access to or use of data, services, systems or networks, including any attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without express authorisation of the owner of the system or network;
 - (ii) interference with service to any user, host or network, including mail bombing, flooding, deliberate attempts to overload a system and broadcast attacks;
 - (iii) use of an Internet account or computer without the owner's authorisation; and
 - (iv) collect information by deceit, including Internet scamming, password robbery, phishing, security hole scanning and port scanning.

3. Supplier obligations

3.1 Service obligations and exclusions

- (a) During the Term, the Supplier must provide the Services to the Customer.
- (b) The obligation under clause 3.1(a) will not apply in the event of:
 - (i) any non-conformance which is caused, or contributed to, by use of the Platform contrary to the Supplier 's instructions or the terms of this Agreement;
 - (ii) modification or alteration of the Platform by any party other than the Supplier;
 - (iii) the unsuitability or malfunction of the Customer's network, systems, computer hardware or software; or
 - (iv) a Force Majeure Event.

3.2 Remedial action

- (a) In the event the Supplier fails to provide the Services in accordance with clause 3.1 and following notice from the Customer, the Supplier will use reasonable endeavours to:
 - (i) correct any such non-conformance; or
 - (ii) provide the Customer with an alternative means of accomplishing the desired outcome.
- (b) Notwithstanding the foregoing and subject to requirements of any Relevant Laws, the Supplier:
 - (i) does not warrant that the Customer's use of the Platform will be uninterrupted, Malware free, including virus-free, or error-free, nor that the Services and the information obtained by the Customer through the Services, will meet its requirements;
 - (ii) is not responsible for any delays, delivery failures, or any other Loss resulting from the transfer of data over communications networks and facilities and the Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities or networks; and
 - (iii) is not responsible for the reliability, accuracy or currency of any information or Customer Data. The Customer is solely responsible for uploading or submitting to the Platform the most up-to-date information or Customer Data.

3.3 Support services

The Supplier will provide the Customer with the Supplier's standard customer support services during Normal Business Hours in accordance with the Supplier's Support Services and Maintenance Policy as applicable from time to time.

3.4 General maintenance

The Supplier will use reasonable endeavours to make the Platform accessible 24 hours a day, 7 days a week, except for:

- (a) planned maintenance carried out at times advised in advance by the Supplier;
- (b) unscheduled maintenance which may need to be performed from time to time. The Supplier will, where practicable, use reasonable endeavours to conduct any unscheduled maintenance outside of Normal Business Hours; and
- (c) abnormal volume or activity on the Platform or an emergency.

3.5 Modification and discontinuance of the Service

- (a) The Supplier may add, modify or discontinue any functionality, feature or any other aspect of the Services, including in relation to the Platform, at its discretion and without further notice.
- (b) Where it is a material adverse change in the core functionality of the Services, then the Supplier will notify the Customer by sending a notification to the Customer's email address.
- (c) The Supplier will not be liable for any modification, suspension or discontinuation of any functionality, feature or any other aspect of the Services.

4. Exclusivity

During the Term, the Customer must not use products or services from a Third Party that are the same or substantially similar to the Services or the Platform, without the prior consent of Supplier.

5. Additional Services

- (a) Subject to compliance by the parties with clause 5(b), the Supplier will provide the Additional Services to the Customer in accordance with the terms of this Agreement.
 - (b) The Customer may, at any time during the Term, request the Supplier to provide Additional Services in relation to the Platform, including in relation to:
 - (i) any training requested by the Customer in relation to accessing and using the Platform; and
 - (ii) any changes or modifications to the Platform customised for the Customer's specific needs or requirements.
 - (c) Any agreement in relation to Additional Services or the associated fee structure must be set out in a Subscription Order Form.
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6. Third party providers

- (a) The Customer's access to the Platform may enable the Customer to use, access or otherwise integrate with Third Party Products.
 - (b) The Supplier makes no representations and will have no liability or obligation whatsoever in relation to the Third Party Products.
 - (c) The Supplier does not endorse, sponsor or approve any Third Party Products made available via the Platform. It is the Customer's sole responsibility to determine that specific products or services, introduced or used by the Customer, or by an Authorised User, meets the needs of its business or requirements and are suitable for the purposes for which they are used.
 - (d) Any rights the Customer may have to access Third Party Products will be limited to the:
 - (i) extent of the Supplier's ability to license such rights to the Customer; or
 - (ii) relevant Third Party Product usage terms or licence.
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7. Payment

7.1 Payment of Fees

- (a) In consideration for the Supplier's provision of the Services during the Term, the Customer must pay the Fees by the payment method agreed between the parties.
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- (b) If GST is imposed on a supply made under, or in connection with, this Agreement, the recipient of the supply must pay the supplier an amount equal to the GST payable on the supply in addition to, and at the same time as, any consideration for the supply.
- (c) The Fees must be paid within the period set out in the Subscription Order Form.

7.2 Outstanding amounts

- (a) If the Customer fails to pay the Supplier the Fees or any amount owing under this Agreement by the due date, without limiting any other remedies available to the Supplier, the Supplier may, in its discretion, either:
 - (i) immediately suspend the Services (without liability to the Customer) until all overdue amounts are paid in full; or
 - (ii) terminate this Agreement.
 - (b) The Customer must pay the Supplier all costs incurred in recovering any outstanding amounts owing under this Agreement.
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8. Intellectual Property and User Licences

8.1 General

- (a) Nothing in this Agreement assigns, transfers or grants any right, title or interest in or to a party's Intellectual Property, other than as expressly stated in this Agreement.
- (b) The Customer acknowledges and agrees that all Intellectual Property subsisting in, or otherwise underlying, the Platform and the Documentation, and any alterations or modifications implemented by the Supplier, is owned by the Supplier.
- (c) The Customer must not submit, publish or upload any Customer Data onto the Platform unless the Customer has the right to do so.
- (d) The Customer grants the Supplier permission to use and publish its name, logos and trade marks, together with reference to the fact that the Customer is a customer of the Supplier, in any medium whatsoever.

8.2 Licence to permit access by Authorised Users

- (a) The Supplier grants the Customer a non-exclusive, personal, non-transferable and non-sub-licensable licence to permit Authorised Users to access and use the:
 - (i) Platform; and
 - (ii) Documentation,during the Term solely for the Customer's internal and ordinary business purposes (**User Licence**).
- (b) The quantity of User Licences granted to the Customer must be specified in the Subscription Order Form or otherwise agreed between the parties.

8.3 Usernames and passwords

- (a) The Supplier will provide the Customer with a username and password for each Authorised User (**Credentials**).

- (b) The Credentials must not be shared with any other person for any reason.
- (c) The Customer must ensure each Authorised User changes its password:
 - (i) promptly after being issued with the Credentials; and
 - (ii) on a regular basis during the Term.
- (d) The Customer acknowledges that it is solely responsible for:
 - (i) maintaining the confidentiality of the Credentials; and
 - (ii) all access and use of the Platform that results from any person using the Credentials.
- (e) The Customer must implement security measures to ensure that no unauthorised person may gain access to the Platform using the Credentials or otherwise, and must notify the Supplier promptly of any such unauthorised access or use.

8.4 Access permissions

The Customer:

- (a) is solely responsible for setting and maintaining appropriate access permissions for each Authorised User; and
- (b) must not permit any Third Party to access the Services except as permitted in this Agreement; and
- (c) may revoke or change an Authorised User's access permissions at any time and for any reason.

8.5 Audit

- (a) The Supplier or its Personnel may audit the Platform to verify the Customer's compliance with this Agreement.
- (b) If such audit reveals that any Credentials have been provided to any person who is not an Authorised User, then, without prejudice to the Supplier's other rights, the Customer must promptly disable such Credentials and the Supplier may terminate that User Licence.

9. Confidential Information

9.1 Obligation not to disclose Confidential Information

- (a) The Customer must keep the Confidential Information of the Supplier confidential, and not disclose it except:
 - (i) to its Representatives for the purpose of performing its obligations under this Agreement;
 - (ii) as required by law or a regulatory body (including a relevant stock exchange), court or governmental or administrative authority, subject to clause 9.2;
 - (iii) as permitted or required by the Supplier; or
 - (iv) to its professional advisers engaged to provide legal, taxation or accounting advice, and to the extent necessary.

- (b) The Customer must comply with any direction of the Supplier to return, destroy or permanently delete all copies of the Confidential Information (to the extent reasonably practicable), at any time, at the Customer's expense.

9.2 Disclosure

- (a) Any disclosure made under clause 9.1(a)(i) or 9.1(a)(iv) must be on terms no less restrictive than this Agreement.
- (b) The Customer must notify the Supplier prior to disclosing any information pursuant to clause 9.1(a)(ii), and provide the Supplier the opportunity to challenge the requirement or redact information not required to be disclosed.

9.3 Uncertainty

If there is any uncertainty as to whether any information is Confidential Information, that information must be treated as Confidential Information of the Supplier.

9.4 Survival

This clause 9 applies as long as the information remains Confidential Information.

10. Customer Data

10.1 Licence for Customer Data

- (a) The Customer owns the Customer Data.
- (b) The Customer will have sole responsibility for its legality, reliability, integrity, accuracy and quality.
- (c) The Customer grants the Supplier a worldwide, non-exclusive, royalty-free, perpetual, transferable and sub-licensable licence to use the Customer Data for the Approved Purpose.

10.2 Back-Up Policy

- (a) The Supplier will follow its archiving procedures for Customer Data in accordance with its standard Back-Up Policy from time to time.
- (b) The Supplier will not be responsible for any loss, destruction, alteration, corruption or disclosure of any Customer Data caused, or contributed to, including by an act or omission of the Customer or any Third Party.

10.3 Personal Information and other sensitive data

The Customer warrants that, in relation to any Customer Data comprising Personal Information or otherwise sensitive data:

- (a) it has been collected in accordance with its own privacy policy and applicable Privacy Laws; and
- (b) it has obtained all necessary Approvals and consents to grant the Supplier the licence in clause 10.1(c), or to make such information available to the Supplier for its use.

11. Liability

11.1 Non-excludable Obligations

- (a) To the extent that the Customer acquires goods or services from the Supplier as a consumer within the meaning of the Australian Consumer Law, the Customer may have certain rights and remedies (including rights in relation to consumer guarantees) that cannot be excluded, restricted or modified by agreement.
- (b) Nothing in this Agreement operates to exclude, restrict or modify the application of any condition, warranty or provision implied by law, the exercise of any right or remedy, or the imposition of any liability under the Australian Consumer Law or any other statute where to do so would:
 - (i) contravene that statute; or
 - (ii) cause any term of this Agreement to be void,**(Non-excludable Obligation).**

11.2 Exclusion of liability

Except in relation to Non-excludable Obligations:

- (a) the Supplier will not be liable to the Customer or any other person for any Consequential Loss for breach, or otherwise suffered as a result, of this Agreement; and
- (b) the aggregate maximum liability of the Supplier (including legal costs incurred in defending a Claim) arising from, or in connection with, this Agreement is limited to the Fees paid by the Customer to Supplier under the relevant Subscription Order Form that is the subject of the Claim in the 3 months preceding the Claim.

11.3 No warranties or guarantees

Except in relation to Non-excludable Obligations:

- (a) all conditions, warranties, guarantees, rights, remedies, liabilities or other terms that may be implied or imposed by custom or law are expressly excluded under this Agreement; and
- (b) the Supplier makes no representations, warranties or guarantees in relation to the availability, continuity, reliability, accuracy, currency or security of the Platform.

12. Indemnity

The Customer indemnifies, and must continue to indemnify, the Supplier against any liability incurred by the Supplier in respect of damage to property, death or personal injury or any Loss, arising from or in connection with the Customer, its Related Bodies Corporate or any Personnel of those entities doing any of the following:

- (a) breaching this Agreement;
- (b) breaching any Relevant Law;

- (c) infringing any Third Party's Intellectual Property;
 - (d) uploading or transmitting the Customer Data;
 - (e) supplying any incomplete, false or misleading information; or
 - (f) engaging in wilful misconduct, fraud, an unlawful act or omission or negligence,
- and any reasonable costs (including legal costs), claims, demands and expenses arising out of, or in connection with, any liability referred to in this clause 12.
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13. Non-solicitation

- (a) During the Term and for a period of 6 months after, the Customer and its Related Bodies Corporate must not hire, solicit or induce, or assist any Third Party in soliciting or inducing, any of the Supplier's employees to leave their employ.
 - (b) The Customer acknowledges that the restraint set out in this clause 13 is reasonable and necessary for the protection of the Supplier's proprietary and legitimate commercial interests.
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14. Termination

14.1 Termination

- (a) Either party may terminate this Agreement by giving notice with immediate effect if the other party:
 - (i) commits a breach of any of its material obligations under this Agreement that is not capable of remedy;
 - (ii) commits a breach of any of its material obligations under this Agreement, and if the breach is capable of remedy, does not remedy that breach within 14 days after receipt of notice of the breach or any further time allowed by the non-defaulting party; or
 - (iii) suffers an Insolvency Event (and the Corporations Act does not prevent the party from terminating).
- (b) Either party may terminate this Agreement by giving notice with immediate effect if a Force Majeure Event continues for more than 30 consecutive days.

14.2 Effect of termination

Upon termination of this Agreement for any reason:

- (a) all licences and rights of access granted under this Agreement will immediately terminate;
 - (b) the Customer must pay within 7 days any outstanding Fees and any other amounts due to the Supplier under this Agreement; and
 - (c) the Customer must immediately destroy, delete or return to the Supplier (at the Supplier's election) all Confidential Information in its possession, custody or control and, in the case of destruction, certify to the Supplier that it has done so.
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15. Dispute resolution

- (a) Before commencing court or tribunal proceedings (except for interlocutory or interim relief), the parties must refer any dispute under or relating to this Agreement to a nominated representative of each party to endeavour to resolve the dispute within 30 days.
- (b) If the dispute is not resolved within this period, either party may initiate court or tribunal proceedings.
- (c) Each party must continue to perform its obligations under this Agreement during the dispute.

16. Force Majeure Event

The Supplier will have no liability to the Customer or anyone else if the Supplier is prevented from, or delayed in, performing its obligations under this Agreement by a Force Majeure Event.

17. Notices

A notice, agreement, approval, consent, direction, waiver, or similar given or required under this Agreement:

- (a) must be in writing, in English and signed by, or sent by email from, a person authorised by the sender;
- (b) must be delivered to the receiving party in person, by email or registered post to the receiving party's address for notices as agreed by the parties, or in the case of the Customer as otherwise set out in the Subscription Order Form; and
- (c) is deemed to be received by the receiving party:
 - (i) if delivered in person, on delivery;
 - (ii) if sent by email, when successfully transmitted, unless received after 5pm on a Business Day or any time on a non-Business Day, in which case, it is deemed received at 9am the next Business Day; or
 - (iii) if posted, 5 Business Days (or 8 Business Days, if posted outside Australia) after the date of posting to the receiving party.

18. General

18.1 Electronic communication

The parties consent to giving and receiving notices electronically, and this Agreement may be executed and delivered electronically.

18.2 No restraints

This Agreement will not prevent the Supplier from:

- (a) entering into the same or similar agreements with Third Parties; or
- (b) independently developing, using, selling or licensing documentation, products and/or services which are the same or similar to those provided under this Agreement.

18.3 Approvals and consent

Except as set out in this Agreement, a party may:

- (a) give or withhold approval or consent at that party's discretion; and
- (b) give approval or consent subject to conditions.

18.4 Amendments

No amendment or modification of any provision of this Agreement will be effective unless in writing and signed by both parties.

18.5 No waiver

A waiver of a right, power or remedy must be signed by the party giving it and cannot be implied by conduct, delay or failure to act.

18.6 Assignment

- (a) The Customer may not assign or deal with this Agreement except with the prior consent of the Supplier. The Supplier is not required to give consent or justify the withholding of consent.
- (b) The Supplier may deal with any of its rights or obligations under this Agreement without the Customer's consent.

18.7 Severability

If any part of this Agreement is or becomes invalid or unenforceable under any Relevant Law, it is severed in the relevant jurisdiction but only to the extent it is invalid or unenforceable.

18.8 No merger

On completion or termination of this Agreement, the rights and obligations of the parties set out in this Agreement will not merge and survive after termination or completion.

18.9 Relationship of the parties

Unless otherwise provided in this Agreement, no party is authorised to bind another party and nothing in this Agreement is to be construed as creating an employment, agency, partnership, fiduciary or joint venture relationship between any of the parties.

18.10 Remedies cumulative

Except as provided in this Agreement and permitted by any Relevant Law, the rights, powers and remedies provided in this Agreement are cumulative with and not exclusive to the rights, powers or remedies provided by any Relevant Law independently of this Agreement.

18.11 Entire agreement

This Agreement constitutes the entire agreement between the parties in relation to, and supersedes any prior conduct, arrangement, agreement or understanding of, its subject matter.

18.12 Costs

Each party must pay its own costs for the negotiation, preparation, execution and performance of this Agreement, unless otherwise set out in this Agreement.

18.13 Counterparts

- (a) This Agreement may be executed in counterparts.
- (b) All executed counterparts constitute 1 document.

18.14 Governing law and jurisdiction

- (a) This Agreement is governed by the laws in force in Victoria, Australia.
- (b) Each party irrevocably submits to the exclusive jurisdiction of courts exercising jurisdiction in Victoria, Australia and waives any right to claim that those courts are an inconvenient forum.

19. Definitions and interpretation

19.1 Definitions

Additional Services means services outside the then current scope of the Services.

Approval means any approval of a Government Agency, permit, licence, authorisation, registration or similar required under any Relevant Law in connection with this Agreement.

Approved Purpose means:

- (a) the purpose of performing the Supplier's obligations, and exercising its rights, under this Agreement;
- (b) any purpose specified in, or contemplated by, the relevant Subscription Order Form; and
- (c) any purpose otherwise agreed between the parties.

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

Authorised User means an employee, agent or independent contractor of the Customer authorised to access the Platform under a User Licence.

Back-Up Policy means the document that defines the policies and procedures for the Supplier to backup, archive and recover Customer Data, the Documentation and the Platform.

Business Day means a day other than a Saturday, Sunday, or gazetted public holiday in Melbourne, Victoria.

Claim means any claim, demand, remedy, suit, action, proceeding, right of action, however arising.

Commencement Date means the date both parties have agreed to enter into this Agreement, being 1 May 2021.

Confidential Information means all information of a confidential, commercially sensitive or valuable nature, including Intellectual Property of a party, financial, sales, customer, employee or supplier information, processes, statements, trade secrets and marketing plans data and terms contained in this Agreement, other than information that is public or information previously disclosed to the receiving party on a non-confidential basis.

Consequential Loss means any of the following:

- (a) incidental, special, remote or unforeseeable loss or damage;
- (b) loss of revenue, profit, income, bargain, opportunity, use, production, business, contract, goodwill, or anticipated savings, loss, damage or corruption of data, loss caused by business interruption, or the cost of obtaining new financing or maintaining existing financing;
- (c) costs incurred to prevent or reduce loss or damage which otherwise may be incurred or suffered by a Third Party; or
- (d) loss or damage set out above in paragraphs (a) to (c) that is incurred or suffered by or to a Third Party.

Corporations Act means the Corporations Act 2001 (Cth).

Customer means the person referred to as the customer in the Subscription Order Form.

Customer Data means all data, content, works, materials and metadata:

- (a) uploaded or submitted to or stored on the Platform, or otherwise made available, by the Customer or an Authorised User;
- (b) transmitted by the Platform at the instigation of the Customer or an Authorised User;
- (c) supplied by the Customer or an Authorised User to the Supplier for uploading to, transmission by or storage on, or via, the Platform; or
- (d) generated by the Platform because of the use of the Services by, or an act or omission of, the Customer or an Authorised User.

Documentation means the manuals, user guides, basic training materials and other documents made available to the Customer by the Supplier relating to the Services, including updates, replacements, revisions and additions to such documentation, provided or made available by the Supplier from time to time.

Fees means the fees specified in the Subscription Order Form, unless otherwise agreed between the parties.

Force Majeure Event means an act, event, omission or accident beyond a party's reasonable control, including strikes, lock-outs or other industrial disputes, failure of a utility service or transport or telecommunications network, act of God, fire, flood, storm, earthquake, other physical natural disaster or extreme weather conditions, or any other weather conditions which would be expected to place at risk the health or safety of the employees of a party or

any other person, sabotage, war, riot, civil commotion, acts of terrorism or hostilities, a quarantine, epidemic, pandemic, outbreak or recurrence of a contagious disease or virus (including COVID-19), or any derivative or mutation of such viruses or disease, or the threat or perceived threat of any of these, computer hacking, malicious damage, compliance with any law or governmental order, rule, regulation or direction, a state of emergency that has been declared by an authority, accident, breakdown of plant or machinery, default of hosting or data centre providers or other suppliers or sub-contractors and shortage of supplies, equipment and materials.

Government Agency means any governmental, judicial or statutory body with authority or jurisdiction over this Agreement or a party.

GST has the meaning given in the GST Act.

GST Act means the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Insolvency Event means in relation to a party, any of the following events or circumstances:

- (a) a step taken to enter into an arrangement between the party and its creditors;
- (b) a step taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a provisional liquidator, a liquidator, an administrator or other like person of the whole or part of that party's assets, operations or business;
- (c) the party cannot pay its debts as they become due; or
- (d) it ceases to carry on business or indicates it is likely to cease carrying on a business or a material part of its business,

in each case, unless the event or circumstance occurs as part of a solvent reconstruction, amalgamation, scheme, compromise, arrangement, merger or consolidation approved by the other party, not to be unreasonably withheld.

Intellectual Property means the business names, copyright, patents, trade marks, trade names, designs and similar industrial, commercial and intellectual property and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields anywhere in the world, regardless of the form and whether or not registered or registrable.

Loss means any liability, loss, injury, illness, damage, cost or expense, including legal costs on a full indemnity basis and Consequential Loss.

Maintenance Release means a release of the Platform which adds functionality to, or otherwise amends or upgrades, the Platform, but which does not constitute a New Version.

Malware means any virus, worm, trojan, malicious software or code, or similar harmful materials, that is intentionally designed to cause damage, adversely affect, or gain unauthorised access to the network, computer system, software, or electronic data.

New Version means any version of the Platform containing significant differences from previous versions as to be generally accepted as a new product.

Normal Business Hours means 9am to 5pm each Business Day.

Personal Information has the meaning given in the Privacy Act 1988 (Cth).

Personnel means, in relation to a party, its directors, officers, employees, contractors, agents and authorised representatives.

Platform means:

- (a) the downloadable and non-downloadable software operated by the Supplier and promoted by reference to the name 'ACQUIRE AI' or any other name updated from time to time;

- (b) the application (for example, front-end assets and back-end source code), database, system and server software, and all Intellectual Property contained in the software referred to in (a) above; and
- (c) any Maintenance Releases and New Versions.

Privacy Act means the Privacy Act 1988 (Cth).

Privacy Laws means all privacy and data protection laws and regulations relating to privacy, data security, cybersecurity and the collection, storage, use and disclosure of Personal Information in any relevant jurisdiction, including the Privacy Act.

Privacy Policy means the Supplier's privacy policy, available at [insert hyperlink] or such other web address notified by the Supplier to the Customer from time to time, which is incorporated into this Agreement.

Related Body Corporate has the meaning in the Corporations Act.

Relevant Law means any law, regulation, mandatory guideline or standard, ordinance, court ruling or requirement or direction of a Government Agency, or similar, in any jurisdiction in which any part of this Agreement is performed, or governing the Services or a party, at any time.

Representative means, in respect of a person, any director, officer, employee, agent, contractor, adviser or Related Body Corporate of or to that person, or any director, officer, employee, agent, contractor or adviser of or to a Related Body Corporate of that person.

Services means:

- (a) granting access to the Platform and the Documentation to the Customer in accordance with this Agreement;
- (b) any incidental services provided by the Supplier as it deems necessary to provide; and
- (c) other services as set out in the Order Form.

Subscription Agreement means this document, each Subscription Order Form and all documents and policies referred to in this document.

Subscription Order Form means a subscription order form issued under these Acquire AI SaaS Terms and Conditions in the form deemed acceptable by the parties (acting reasonably), and executed by the parties.

Subscription Term means the subscription term specified in each Subscription Order Form, unless otherwise agreed between the parties.

Supplier means View.com.au Pty Ltd (ACN 088 369 395).

Tax means any tax, levy, charge, impost, duty, fee, deduction, goods and services tax, compulsory loan or withholding, which is assessed, levied, imposed or collected by any Government Agency, including any interest, fine, penalty, charge, fee or any other amount imposed on or in respect of any of the above, including GST.

Term has the meaning in clause 1.

Third Party means a party other than a party to this Agreement.

Third Party Products means any software, product, service or material (including any related Intellectual Property) provided by a Third Party.

User Licence has the meaning in clause 8.2(a).

19.2 Interpretation

In the interpretation of this Agreement, unless stated otherwise:

- (a) a reference to a party is to a party to this Agreement;
- (b) a reference to a person includes a natural person or legal entity;
- (c) a reference to time is a reference to time in Melbourne, Victoria;
- (d) a reference to AUD, \$A, dollar or \$ is to Australian currency;
- (e) if an obligation must be performed or an event must occur on a day that is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day;
- (f) words such as 'including' or 'for example' do not limit the preceding words;
- (g) all grammatical forms of defined terms have a corresponding meaning;
- (h) a provision of this Agreement must not be construed against a party on the basis that party was responsible for preparing it; and
- (i) the main body of this Agreement will prevail to the extent of any inconsistency with any other part of this Agreement.