



CLIENT TERMS AND CONDITIONS

BETWEEN:

EMPLOYII PTY LTD (ACN 649 023 549) as trustee for THE ELLA BURKE FAMILY TRUST (ABN 84 631 709 504) trading as "Employii" ("Employii")

AND

THE CLIENT means you, the user of the Products and / or Services and the party engaging with Employii (including employee and employer clients) ("The Client")

DEFINITIONS

"Administration Costs" means costs incurred by us as a result of your Account being unpaid by the due date and include the Default Fee;

"Account" means your account with Us;

"Agreement" means these terms and conditions as amended from time to time and includes the Quote if relevant;

"Authorised Persons" means You and any persons authorised by You to liaise with Us on Your behalf and includes your employees, contractors, sub-contractors, executors and / or administrators;

"Brief" means the brief provided by You, usually by phone, from which We provide our Quote and such brief is confirmed in a written consulting proposal;

"Commencement Date" means the date of this Agreement or the date any Product, Service or Quote is provided to You, whichever is earlier;

"Costs" means any costs associated with this Agreement and Your use of the Service as detailed in the Quote or Service Agreement;

"Customised Services" means services provided to You on an ad hoc basis and / or in a customized package for You, as detailed in the Quote or Service Agreement;

"Delivery" means the delivery of the final Products and / or Services;

"Demand Costs" means the legal costs incurred by Us to issue a letter of demand to You if your Account remains unpaid for a period of 28 days from the due date, being \$250.00 plus GST as at the date of this Agreement;

"Default Fee" means the sum of \$50.00 plus GST being the fee payable if your Account shall be in arrears for greater than 14 days and we issue any reminder notices to You;

"Employee Clients" means clients who are employees;

"Employer Clients" means clients who are employers, corporate entities and / or business owners;

"Force Majeure" shall mean any event causing delays or issues in the provision of the Services by Us, for any reason whatsoever outside of Our control including war, terrorism, inclement weather, illness, death, information technology failures and any other event which We determine, acting reasonably, stops Us from complying with this Agreement;

"Invoice" means a tax invoice issued by Us to You for the supply of Products and / or Services, as required from time to time;

"ISP" means Internet Service Provider;

"Clients" means Employee Clients, Employer Clients and / or ad hoc clients as the case may be;

"Packaged Services" means the products and services package chosen by You, and as advertised by Employii from time to time;

"Portal" means any of the online and application portals available to Clients via Employii or third parties, including the Kajabi website and application, as the case may be;

"Privacy Policy" means our privacy policy which can be found at www.employii.com.au/privacy;

"Products" means the products supplied by Us to You in accordance with this Agreement and include tangible items such as reports and / or manuals, templates, online training modules / online courses, documented systems or other intellectual property created in accordance with this Agreement;

"Quote" means a quote provided by Us to You for the Products and / or Services required in accordance with the Brief, provided by way of a written consulting proposal;

"Service" means any service utilised or requested by You from Employii in accordance with this Agreement, including but not limited to the development, implementation and maintenance of human resource documents (including those accessible via the Portal), training, consulting and internal auditing services / audit preparation (including report compilation) and / or any other human resources and industrial relations service provided by Us to You in accordance with this Agreement. These Services may be Packaged Services, Customised Services or a combination of the same as agreed from time to time;

"Service Agreement" means the agreement detailing the specifics of the Client, the Costs, the Term and the services to be provided by Employii;

"Supported Browser Versions" means those browser versions which can support the Portal and Website and subject to variation from time to time;

"Term" means the term of this Agreement per clause 6 of this Agreement;

"Us" / "Our" / "We" means Employii;

Website means Our website which can be found at www.employii.com.au and includes any Employii social media platforms;

"You" means the Client or a person who contracts with Us, or engages Us to quote or provide any Services.

1 THE SERVICES

- 1.1 Employii agrees to provide the Services to the Client as noted in this Agreement, and as may be amended from time to time as agreed to in writing by both parties.
- 1.2 Employii may meet with Clients prior to being engaged by the Client for a one off, no fee introductory meeting for up to 1 hour. No advice will be provided in this meeting and Employii will discuss its Product and Service offerings and the needs of the Client.
- 1.3 Making payment to Employii for a Packaged Service or creating an Account with Employii, implies that you agree to Employii's terms and conditions. If You accept a Quote (for Customised Services), You also are deemed to have accepted these conditions.
- 1.4 You agree and acknowledge that Employii cannot provide You / the Client with any legal advice nor workplace safety (including OHS) recommendations, nor can they provide any guarantee that the systems developed or services provided comply with the laws, standards or requirements of any jurisdiction.
- 1.5 Employii warrants that the Services and Products will comply with Fair Work Australia requirements in existence and published at the date of the Quote. Should Fair Work Australia or Fair Work Commission make a determination that redefines any requirements or their application thereof, Employii will make best and reasonable endeavours to notify You (during the Term and provided that You are an existing, fee paying Client) of these changes and advise if there are any additional costs payable by You to enable Employii to provide any additional Services or Products that may be required for your continued compliance.
- 1.6 You may rely on the Services provided to assist You in achieving a certification or compliance, but the ultimate responsibility for compliance and meeting any standards applicable remain with You / the Client.
- 1.7 For Employee Clients, any guidance provided relating to job applications and CVs is general advice only. Employii cannot guarantee that engaging Employii's services will result in securing employment of any kind.
- 1.8 Employii cannot guarantee any outcome as a result of its advice, guidance or provision of any other kind of information and/or project work. Outcomes can be influenced by a multitude of factors that Employii cannot control. This includes, but is not limited to, the behaviours, actions, values, priorities and decisions of individuals, external organisations and environmental factors.
- 1.9 Please refer to the current 'Course Terms and Conditions' on the Website for terms and conditions relating to any of Employii's courses.
- 1.10 Employii does not provide services in workers compensation, or civil and criminal proceedings.
- 1.11 Employii does not guarantee assistance in hearings within Commissions, Tribunals or other dispute settlement bodies or processes.
- 1.12 All analyses, forecasts and recommendations are made in good faith and are based upon the information available to Employii at the time and depends largely on the effective cooperation and ability of the Client and the Client's agents and employees, as well as timeliness of information.
- 1.13 Employii has the right to vary any Products or Services at any time with notice of deemed necessary by Employii, acting reasonably.
- 1.14 Where the Client is a subcontractor to an ultimate client, the Client will ensure the said ultimate client and / or user or beneficial user of the Information provided by Employii enters into a suitable agreement between the Client and the ultimate client to protect the Intellectual Property and the Client will indemnify Employii from any losses suffered by Employii as a result of the Confidential Information not be treated confidentially by the Client and / or ultimate user as required.

2 THE BRIEF & CLIENT OBLIGATIONS

- 2.1 For Customised Services, Employii may seek a Brief from You to assist in determining fee, workflow and time estimates. If the Brief varies greatly as the job evolves this may result in a change in estimated cost and timeframe parameters.
- 2.2 When quoting, We make assumptions based on the Brief and You must ensure all information contained in the Brief is accurate and complete. Our Quotes will note assumptions made as We determine reasonably necessary.
- 2.3 Any variations to the scope of Works following the Brief and Quote shall be brought to Your attention, for additional fees to be agreed before Employii proceeds with any additional Services.

- 2.4 You must provide Us with ongoing information and support, by way of an updated brief, including access to such personnel, information and documentation as may be reasonably be required to permit our team to provide the Services in an effective manner.
- 2.5 You must ensure You provide Us with enough time and resources for the Services to be provided.
- 2.6 You must provide sufficient support to *Employii* (e.g. managerial input) to assist in the development of the Products and provision of the Services.
- 2.7 We will endeavour at all times and wherever reasonably practicable to ensure that the Products and Services provided to You are as described and as requested.

3 PAYMENT TERMS

- 3.1 The Client agrees and covenants with *Employii* to pay any Packed Services fees in advance and any Customised Service Invoice within 14 days of an invoice being raised by *Employii*, unless otherwise expressly agreed in writing.
- 3.2 The Client acknowledges that *Employii* may request a deposit for Customised Services, at *Employii's* sole discretion.
- 3.3 For Packaged Services, subscription fees for the duration of the 12 month contract are paid in advance, unless a monthly or quarterly payment plan is agreed with *Employii*.
- 3.4 You may elect to upgrade to a higher subscription Packaged Service by written request to *Employii*. The *Employii* team will process your upgrade and invoice for any pro rata increased fees.
- 3.5 If the Client requires any additional Services provided outside of the Services provided under this Agreement, then such additional Service shall attract a fee as agreed to by the parties.
- 3.6 Any concerns relating to an invoice should be addressed to *Employii* within seven (7) days of receipt of said invoice.
- 3.7 We reserve Our right to charge You interest on any accounts in arrears for more than 14 days (or outside of any other agreed payment terms) at a rate of 15% per annum. The interest charged will form part of the arrears and must be paid in full before the release of any Products or provision of any further Services to You.
- 3.8 You may be liable for additional fees if You wish to pay an Invoice by credit card.
- 3.9 We may charge you Administration Costs, Demand Costs and / or Default Fees in accordance with this Agreement if You do not pay Your Invoices as required. These costs also include any debt recovery and legal costs (on an indemnity basis) that may be incurred by Us should you default on this Agreement.
- 3.10 All Costs and charges are exclusive of GST and are in Australian dollars unless otherwise stated.

4 COST AND TIMING ESTIMATES

- 4.1 The Quote for Customised Services is provided to You based upon your initial Brief. These estimates will vary depending upon the changes / works required by You.
- 4.2 Quotes are valid for 30 days. Prices are subject to change after this time period has elapsed.
- 4.3 We base all cost estimates on the Brief and Your required time frames, which are confirmed in our Quote. If a Job is required to be completed in a time frame shorter than in the Quote, we will revise the costings and update You accordingly. Unless specific terms are agreed, *Employii* does not guarantee a turnaround time for human resources and industrial relations advice, support or work.
- 4.4 Estimates of the time for the completion of services are given on the assumption that we will receive the full cooperation of the Client's staff, and that the Client has provided us with full information prior to this quote being provided and approved.
- 4.5 We will endeavour to notify You as soon as possible if We expect that the time for provision of the Products or Services (as noted in the Quote) may be delayed for any period of time, whether through supply issues or account payment issues in so far as we are able to monitor the same.

5 PRODUCT AND SERVICE LIABILITY

- 5.1 Force Majeure
For any delays that may arise due to Third Parties, or for other reasons outside of Our control (such as Force Majeure) You agree and acknowledge that We will not be liable for any costs or delays for any Product Delivery or Services to be provided by Us pursuant to this Agreement.
- 5.2 Third Parties
(a) Should Our ability to supply the Products or Services to You be impacted by third parties, You agree that We will not be held liable.
- (b) Should third parties believe, based on representations made by You, that We are employed by You and not clearly represented to the third parties as an independent advisor, You will ensure that We are not held liable in any way whatsoever (and you indemnify

us absolutely) for any losses, damages or claims of any party who has sought to rely on any representation that we are anything other than an independent contractor.

6 TERM AND TERMINATION OF AGREEMENT

- 6.1 This Agreement will commence once acceptance by You.
- 6.2 You will be deemed to have accepted the terms and conditions of this Agreement if You:
- Request or accept a Quote from Us;
 - Purchase any Products or request any Services from Us;
 - Pay a Deposit to Us; and / or
 - In any other way communicate with us in relation to the Products or Services after You have been provided with a copy of this Agreement.
- 6.3 This Agreement will continue in full force and effect for the Term, being:
- The Term noted in the Service Agreement signed by You; or
 - Where no term is specified in the Service Agreement, the default term of 12 months will apply;
- unless and until this Agreement is terminated by either party in accordance with this Agreement.
- 6.4 Packaged Services Clients acknowledge:
- This Agreement shall be for a 12 month term unless otherwise expressly agreed in writing;
 - After expiry of the term, there is no ongoing obligation of engagement; and
 - At the end of this Agreement, or prior to the end of this Agreement, You may engage in a new Agreement with us.
- 6.5 Customised Services Clients agree this Agreement shall terminate upon finalisation of the agreed Services and payment being made by the Client in full.
- 6.6 *Employii* may terminate this Agreement with immediate effect, by notice in writing if:
- you fail or neglect to provide us with adequate instructions to enable Us to provide You with the Customised Services;
 - We form the opinion, on reasonable grounds, that mutual confidence and trust do not exist between Us and You (including, but not limited to, in circumstances where You take legal action against Us);
 - You unreasonably refuse to act under our advice or recommendations;
 - A Client has, in any capacity, been engaged in gross misconduct, as determined by *Employii* on reasonable grounds; and / or
 - We consider, on reasonable grounds, that the Client has breached our core values and / or moral codes such that We cannot continue to work with them.
- 6.7 We may suspend the Services and supply of services to You if:
- required by law;
 - there is a Force Majeure event;
 - there is a threat or risk to security to Our employees or agents;
 - You are in default of this Agreement;
 - any Account held by You is in arrears;
 - there is suspected fraud by You;
 - You are considered by Us (in our absolute discretion) to be an unacceptably high credit risk,
 - An insolvency event occurs.
- 6.8 Your obligation to pay monies to Us and comply with intellectual property conditions in accordance with this Agreement will survive the termination of this Agreement.
- ### 7 COMPLIANCE
- 7.1 You are responsible for ensuring any and all disclosures that are required to be made in accordance with any act, rules and / or regulations are complied with by You, unless otherwise expressly agreed in writing.
- 7.2 You agree and acknowledge that *Employii* do not provide any form of legal compliance to the Client in any place wheresoever located, regardless of which country this contract is entered into or which laws may apply to this Agreement. You expressly agree that You and / or the Client must obtain independent advice at Your expense and You indemnify *Employii* from any and all claims by You and / or the Client against *Employii* due to any issues with compliance or non-compliance as the case requires, on the basis *Employii* at no time warrant that the Products or Services comply with any laws or certification requirements.

7.3	<p>You agree and acknowledge that <i>Employii</i> is not and does not represent to be an independent workplace investigator within the meaning of the <i>Security and Related Activities (Control) Act 1996</i>. Where applicable, <i>Employii</i> supports your role in workplace disciplinary and investigation matters.</p>		absolutely for their actions in relation to Your Account and the Portal.
		10.3	<p>Account Information</p> <p>(a) If You hold an Account, You warrant that any information provided by You in the course of applying for an Account and in the course of using the Portal, is current, complete and accurate. You must maintain and update all information provided to Us and ensure that such information is current at all times. You must not register as a User under false identities or personas.</p> <p>(b) You agree that We may store and use Your information in accordance with our Privacy Policy and the terms and conditions of our Privacy Policy form part of this Agreement.</p>
8	INTELLECTUAL PROPERTY RIGHTS		
8.1	<p>Any and all documents, reports or other items prepared or developed in the performance of this Agreement ("collectively referred to as the Intellectual Property") shall be the absolute property of <i>Employii</i>, with the Client licensed to use such Intellectual Property within their business for no license fees. The Client must not share the Intellectual Property with any third parties (save for legal advisors) nor obtain any financial gain from the commercialisation of the same.</p>		
8.2	<p>The stylistic copyright, or copyright in any documents or information not personal to the Client (such as precedents, processes and style guides) and all other work capable of being the subject of copyright produced or created by <i>Employii</i> for the Client ("the copyright work") vests in <i>Employii</i> from the date on which it is created. In the case of copyright work commissioned by <i>Employii</i> and in any other case where the copyright in the copyright work is not already vested in <i>Employii</i>, <i>Employii</i> will use its best endeavours to hold and obtain all necessary rights in respect of the copyright work.</p>	10.4	<p>Security of Account Information</p> <p>You are responsible for keeping Your Account, sign-in, information, including your passwords, secret questions and other personal information secure. Without limiting the foregoing, you agree:</p> <p>(a) Not to permit any other person to use Your Account details;</p> <p>(b) You agree to notify Us immediately of any unauthorised use of your user name or password or if you believe that a password linked to Your Account is no longer confidential;</p> <p>(c) We reserve the right to require you to alter your user name and/or password if We believe that your Account is no longer secure; and</p> <p>(d) We shall not be responsible for any losses arising out of the unauthorised use of your Account.</p>
8.3	<p>The Client agrees that <i>Employii</i> may, at no liability to the Client whatsoever, stop using, refrain or cause any Intellectual Property to not be provided to the Client (or distributed, used or transmitted as requested by the Client), or which <i>Employii</i> has direct control over, to be used by the Client or the Client's agents, should any monies remain outstanding by the Client to <i>Employii</i> in accordance with this Agreement.</p>		
8.4	<p>The Client agrees and acknowledges that <i>Employii</i> have an irrevocable authority to cease the production or supply of any Intellectual Property to the Client or other third party should any monies remain outstanding by the Client to <i>Employii</i> in accordance with this Agreement.</p>	10.5	<p>Electronic Communication</p> <p>We will communicate with You via electronic means to the email address provided for your Account, or by SMS to your nominated mobile phone number. For contractual purposes, You:</p> <p>(a) Consent to receive communications from Us in an electronic form;</p> <p>(b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that We provide to you electronically satisfy any legal requirement that such communications would satisfy if it were in hardcopy writing;</p> <p>(c) must ensure you take all necessary precautions to ensure Our electronic communication is received by You, including but not limited to editing spam filtering rules or adding Us as a trusted email source.</p> <p>The foregoing does not affect your non-waivable rights.</p>
9	AUTHORISED PERSONS		
9.1	<p>An Authorised Person, as noted by You and amended from time to time in writing, may contract with Us on Your behalf and may pay for and collect Products and instruct Us as to the supply of Products and Services as required from time to time.</p>		
9.2	<p>An Authorised Person may incur expenses on Your Account which You agree and acknowledge You will be held liable for, absolutely.</p>		
9.3	<p>An Authorised Person may be responsible for the vetting and approval of any works prior to communication with third parties and / or the publishing of any material by Us on Your behalf. We are not liable if the Authorised person acts outside of Your instructions to them and / or their instructions to Us result in any costs (including fines) being incurred by You.</p>	10.6	<p>Requirements for Use of the Portal</p> <p>In order to use the Portal You will require:</p> <p>(a) Acceptance of this Agreement; and</p> <p>(b) The Portal installed on a compatible Device (in doing so accepting Apple's & Google's respective standard EULAs for the iTunes App Store and Google Play respectively).</p>
9.4	<p>You accept absolute responsibility for the actions of the Authorised Person.</p>		
9.5	<p>You may revoke the authority of an Authorised Person by providing us notice in writing, by email, by fax or by post, noting that the authority of the Authorised Person has been revoked. This will take up to 24 hours for Us to process and You will remain liable for any costs incurred by Us or charged to Your Account for 24 hours after you have provided us with the said notice.</p>	10.7	<p>Quality / Suitability of Portal</p> <p>We give no warranty or undertaking as to the quality or suitability of any Devices or ISPs.</p>
9.6	<p>We will do everything reasonably necessary to ensure any revoked authority is noted by Us and enforced, however You release Us from any liability for a period of 2 business days from the date You notify Us of the change in Authorised Persons for Your Account.</p>	10.8	<p>Availability of Portal</p> <p>You acknowledge and agree that the availability of the Internet and your ability to use the Portal is on an "AS IS" and "AS AVAILABLE" basis. You acknowledge availability of web-based services is not guaranteed. We are not responsible for any limitations of the Internet or the service provided by Your ISP or Our ISP. In the event Your ISP fails to deliver any communication to Us or You, in a timely fashion, due to, but not limited to, ISP issues, Internet issues, mobile network failure or non-compatibility of your Device with the Portal, you acknowledge and agree that We shall not be liable for any loss or damage. In addition and without limiting the foregoing in no event will We be liable for any error by You in using the Portal.</p> <p>You acknowledge that:</p> <p>(a) We do not warrant that the ISP used by Us or You will be uninterrupted or error-free;</p> <p>(b) We cannot guarantee a timeframe for restoration of any internet service, should it fail; and</p> <p>(c) We are not liable to you for any loss or damage you may suffer as a result of using the Internet to send or receive Information which may contain viruses or other harmful software.</p>
9.7	<p>In circumstances of alleged fraudulent charges to Your Account (by someone holding themselves out as an Authorised Person) You release Us absolutely for any costs and charges on your Account which have been charged by Us to You in good faith where we have acted reasonably.</p>		
10	PORTAL AND WEBSITE ACCESS AND USE		
10.1	<p>General Information</p> <p>Any information and documents provided within the Portal and Website is general only and does not consider the specific circumstances of an employer or individual's situation.</p>		
10.2	<p>User Name and Password</p> <p>(a) You must not allow third parties to access your Account and You must not share your user name and password with any third parties.</p> <p>(b) You will be responsible for all activities that occur with your Account, as if such actions have been completed by You, and therefore you should keep your password confidential. Any persons that You allow to use Your Account will be deemed to have Your authority at all times and You will be liable</p>	10.9	<p>Upgrading and Modification of Services</p> <p>We reserve the right, in Our sole discretion, to modify the Services and / or list of Trades from time to time without notice to You. Such modifications may include removing, adding or modifying the Products or Services. We shall have no liability to You for any</p>

modification or discontinuation of any data within the Portal providing that such loss or damage has not resulted from Our breach of this Agreement or Our negligent acts or omissions. Continued use of the Portal following any such changes shall indicate your acknowledgment of such changes and satisfaction with the Portal as so modified.

You agree and acknowledge that as each enquiry in the Portal is made by You, only the active Tradies who have the ability to assist you with the Services will be shown.

10.10 Supply of Portal

- (a) The Portals are provided by third parties and / or hosted on external platforms and are not directly under the control of Employii.
- (b) We do not guarantee, represent, or warrant that your use of the Portal will be uninterrupted or error-free, and You agree that from time to time we may remove the Portal for indefinite periods of time, or cancel the Portal at any time, without notice to you for maintenance or other reasonable issues.
- (c) We will use commercially reasonable efforts to make the Portal generally available 24 hours a day, 7 days a week, except for planned downtime (of which We shall endeavour to provide notice via the Portal and which We shall schedule to the extent reasonably practicable outside of normal business hours, subject to any Force Majeure.

10.11 Technical Support

You are entitled to standard support from Us consisting of online support services, as outlined at www.Employii.com.au/support. This relates to the use of the Website / Portal only, such as reporting of bugs, and is not related to the Services.

11 USE OF THE APPLICATION

11.1 Content Availability

We reserve the right to change content options (including eligibility for particular features) without notice.

11.2 Usage Rules

- (a) You shall use the Portal and your Account in compliance with the usage rules in this clause and in accordance with this Agreement.
- (b) We reserve the right to modify this Agreement at any time.
- (c) You shall not access or attempt to access an Account that you are not authorised to access.
- (d) Violations of system or network security may result in civil or criminal liability.
- (e) You must not share Your Account details with any third party.
- (f) **You must not** distribute and / or use any Intellectual Property within the Portal and Website in any commercial activity without the express written consent of *Employii's* Director which may be arbitrarily withheld.

11.3 Third-Party Materials

- (a) Services and information available via the Portal may be provided by third parties and We may provide links to third-party websites as a convenience to You.
- (b) You agree that We are not responsible for examining or evaluating the content or accuracy of any third-party information. You hereby release Us from any and all liability or responsibility resulting from any third-party Services or Website(s), or for any other materials, products, or services of third parties which you may use.
- (c) You agree that You will not use any third-party materials in a manner that would infringe or violate the rights of any other party and that We are not in any way responsible for any such use by You.

11.4 Intellectual Property

- (a) **Employii** owns and / or licenses all proprietary and intellectual property rights in the Portal (including text, graphics, logos, icons and sound recordings) and other material underlying and forming part of the Portal and no term of this Agreement shall be treated as vesting, transferring or otherwise parting with possession or ownership of any of those said rights at any time.
- (b) You may not without Our prior written permission (which may be withheld at our absolute discretion), in any form or by any means reproduce, copy, adapt, distribute, display, print, perform, publish or create derivative works from any part of the Website or Portal or commercialise, copy, or on-sell any information, or items obtained from any part of the Website or Portal.

(c) You agree that the Portal, including but not limited to domains, products, graphics, user interface, audio clips, video clips, editorial content, and the scripts and software used in the Portal to implement the Services, contains proprietary information and material that is owned by Us, and is protected by applicable intellectual property and other laws, including but not limited to copyright.

(d) You agree that you will not use such proprietary information or materials in any way whatsoever except for use of the Portal in compliance with this Agreement. No portion of the Portal or Website may be reproduced in any form or by any means, except as expressly permitted in these terms, or allowed in writing by Us. You agree not to exploit the Portal in any unauthorised way whatsoever.

(e) Notwithstanding any other provision of this Agreement, We reserve the right to change, suspend, remove, or disable access to the Portal, content, or other materials comprising a part of the Portal at any time without notice. In no event will We be liable for making these changes. We may also impose limits on the use of or access to certain features or portions of the Portal, in any case and without notice or liability.

(f) All copyrights in and to the Portal (including the compilation of content, postings, links to other Internet resources, and descriptions of those resources) and related software are owned by Us and We reserve all our rights in law and equity.

(g) You agree that the use of the Portal, except for use of the Portal as permitted in this Agreement, is strictly prohibited and infringes on the intellectual property rights of **Employii** and others and may subject You to litigation, including possible monetary damages, for copyright infringement.

(h) Any of our trading names, trademarks, service marks, graphics, and logos used in connection with the Website and / or Portal are trademarks or registered trademarks of Ours in Australia and/or other countries. Other trademarks, service marks, graphics, and logos used in connection with the Portal or Services may be the trademarks of their respective owners. You are granted no right or license with respect to any of the aforesaid trademarks and any use of such trademarks.

11.5 License to Use Portal

(a) The Portal made available (if included in the agreed Services) through Us is provided to You under a license and is not sold to You. Your right to use the Portal that you obtain through Us is subject to your prior acceptance of this Agreement in its entirety. We reserve all rights to the Portal not expressly granted to you under this Agreement. Your use of the Portal is deemed acceptance of this Agreement.

(b) Subject to the terms of this Agreement We grant to you a non-transferable, non-exclusive, royalty-free, fully paid, license (without the right to sublicense) to install and execute the Portal.

(c) The license described herein shall terminate upon termination of this Agreement, howsoever caused.

11.6 Scope of License

This license granted to you for the Portal by Us is limited to a non-transferable license to use the Portal on any Supported Mobile Platforms and / or Supported Browser Versions as applicable that You own or control and as permitted pursuant to this Agreement. This license does not allow You to use the Portal on any Device that You or a User does not own or control, and except as provided in the Usage Rules, you may not distribute the Portal.

11.7 Restrictions

The following restrictions are subject to the following restrictions:

- (a) you shall not license, sell, rent, lease, transfer, assign, distribute, host, outsource, disclose or otherwise commercially exploit the Portal or make the Portal available to any third party;
- (b) you shall not modify, copy, make derivative works of, disassemble, reverse compile or reverse engineer any part of the Portal or support others' attempts, to circumvent, reverse engineer, decrypt, break or otherwise alter or interfere with the Portal;
- (c) You must not access the Portal in order to build a similar or competitive product or service;
- (d) You must not access any re-engineering code or source code of the Portal;

- (e) except as expressly stated herein, no part of the Portal may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means, including but not limited to electronic, mechanical, photocopying, recording or other means;
- (f) Any future release, update, or other addition to functionality of the Portal provided by Us (if any) shall be subject to the terms of this Agreement unless We expressly states otherwise;
- (g) You shall preserve all copyright and other proprietary rights notices on the Portal and all copies thereof;
- (h) If You sell your Device to a third party, you must remove the Portal from the Device before doing so;
- (i) You agree that We shall have a royalty-free, worldwide, perpetual license to use or incorporate into the Portals any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by You relating to the Services, Tradies or Portals and hereby waive any claim to copyright of those ideas;
- (j) The terms of this license will govern any upgrades provided by Us that replace and/or supplement the original Portal, unless such upgrade is accompanied by a separate license in which case the terms of that license will prevail.

11.8 Consent to Use of Information

- (a) You agree that We may collect and use technical Information and related information—including but not limited to technical information about Your Device, system and Portal software, and peripherals—that is gathered periodically to facilitate the provision of software updates, product support, and other services to You (if any) related to the Portal. We may use this information, as long as it is in a form that does not personally identify You, to improve its products or to provide Services or technologies to You and this information will at all times be held and / or used in accordance with our Privacy Policy.
- (b) You acknowledge that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of this Agreement, We give no warranty or representation that the Website/App will be wholly free from defects, errors and bugs.
- (c) You acknowledge that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of this Agreement, We gives no warranty or representation that the Website/App will be entirely secure and take own security precautions.
- (d) You acknowledge that the Website/App are designed to be compatible only with the Supported Mobile Platforms and Devices and We do not warrant or represent that the Portal will be compatible with any other software or systems.
- (e) You must not conduct any systematic or automated Information scraping, Information mining, Information extraction or Information harvesting, or other systematic or automated Information collection activity, by means of or in relation to the Portal.
- (f) We will make best endeavours to ensure the Portal and Website and any electronic communication from Us is virus free, but we cannot guarantee the same and You agree and acknowledge that You must have up to date virus protection programs in place to afford You the best protection while using the same.
- (g) You must not promote or distribute by means of the Services, any viruses, worms, spyware, adware or other harmful or malicious software, programs, routines, applications or technologies.

12 EMPLOYII STAFF, AGENTS AND CONTRACTORS

- 12.1 Clients and Clients understand that work undertaken by *Employii* may be actioned by any of its team members, as deemed appropriate by *Employii*. This includes *Employii* managers and staff.
- 12.2 *Employii* managers and staff will have access to client information, including confidential information, as required within the scope of their role.
- 12.3 All employees are required to sign an Affirmation of Confidentiality as a part of their employment.
- 12.4 *Employii* supports the education of HR professionals and accordingly engages student interns from time to time.

- (a) *Employii* interns are onboarded as supernumerary team members and in a learning capacity.
- (b) Interns do not provide human resources and industrial relations consulting advice.
- (c) Interns will have access to client information, including some confidential information, but only in so far as necessary for their education and learning as a part of their internship.
- (d) All interns are required to sign an Affirmation of Confidentiality prior to commencing their internship and are subject to *Employii*'s privacy and confidentiality policies and procedures.
- (e) Interns are not employees of *Employii*. Any views or information shared by interns are those of the interns and not *Employii*.

12.5 From time to time, *Employii* may engage third parties (such as contractors) to assist with the work, as required. Third party involvement will be declared with clients and Clients as reasonably required and relevant to their services.

- (a) *Employii* may commence, pause or discontinue their working arrangements with third parties at their sole discretion.
- (b) *Employii* is not liable for any advice, opinions or other work provided by third party entities.
- (c) Each contractor and/or other third party is liable for their conduct, advice and other services.
- (d) Any views or information shared by third party entities are those of the third party and not *Employii*.

13 LIABILITY

13.1 *Employii* accepts no responsibility for or damage causing financial hardship to the Client for any reason whatsoever other than proven negligence or malicious damage by *Employii*. In particular, but not limited to, from and against all claims, losses, proceedings, demands, actions, damages, costs (including legal costs), charges and expenses whatsoever in respect of personal injury (including death or disease) to any person, loss of or damage to any property or any economic loss arising out of or in connection with the execution of the Services by *Employii* or its or their agents, officers or employees (whether such services are provided in accordance with this agreement or arising from any direction, authorisation or requirement of the Client or otherwise) or arising from a failure of the *Employii* to perform any of its obligations under this agreement unless and only to the extent that the Client proves such injury, loss or damage or economic loss was caused solely by the intentional or negligent act or omission of *Employii*.

13.2 *Employii* is not liable for anything that happens during a wellbeing or team building activity provided by third party providers (whether paid for by the Client or *Employii*). Clients / Employers assume all risk and liability associated with these activities, including but not limited to additional costs, harm or injury.

13.3 In entering into this Agreement, the Client has not relied upon any warranty or representation in relation to *Employii*' Services or *Employii* which are not expressly set out in this Agreement and the Client has relied entirely upon its own enquiries in relation to the Services and *Employii*.

14 AGREEMENT PREVAILS

Should We enter into any subsequent agreement with You relating to any Products or Services and any further agreement conflicts with the terms of this Agreement, this agreement shall prevail to the extent of any inconsistencies, unless otherwise expressly noted.

15 ENFORCEMENT

Should We be required to instruct solicitors to enforce this Agreement against You, such as contacting You to demand the payment of Costs in relation to this Agreement, as well as commence any proceedings against You, You agree and acknowledge that You will be liable for all of our legal costs and expenses on a full indemnity basis.

16 FEEDBACK

Employii frequently uses third party survey providers as a means to collect information and feedback from its clients. *Employii* is not liable for the connectivity, maintenance, security or privacy of the said third party providers and their websites and programs.

17 REFERRAL INCENTIVES

17.1 At the discretion of *Employii*, referral incentives may be made available to Clients or third parties as *Employii* sees fit. Such incentives / agreements do not form part of this Agreement and have no impact on your fees or these conditions.

17.2 From time to time *Employii* may partner with third party services and organisations and may make referrals to these third parties. There may or may not be a commercial benefit to *Employii* for

these referrals. If you would like information pertaining to any Employii referral partners, please contact Employii directly.

18 INDEMNITY

- 18.1 We do not guarantee, represent, or warrant that your use of the Product or Services will be uninterrupted or error-free. Third Parties may be involved in our provision of the Services and we may be limited through no fault of Our own in providing the same, such as Force Majeure and interruptions to telecommunications and utilities, outside of our control.
- 18.2 You agree that, to the maximum extent permitted by law, any and all liability and responsibility of Us to You or any other person under or in connection with this Agreement, or in connection with the Services or the Product, or Your use of or inability to use the Product or the Services is excluded regardless of whether such liability arises in contract, tort (including negligence), equity, breach of statutory duty or otherwise providing that such loss or damage has not resulted from Our breach of this Agreement or Our negligent acts or omissions.
- 18.3 Our liability and responsibility is excluded in respect of any and all loss or damage, whether direct or indirect, including, without limitation, general and special damages and consequential and incidental loss.

19 PRIVACY

We may use Your address, contact and email account details as provided in this Agreement to provide You with Quotes, Invoices, reminder notices and other administrative notices and receipts from Us.

20 VARIATIONS TO THIS AGREEMENT

This Agreement may be varied by Us from time to time by notice in writing to You.

21 JURISDICTION

The proper law of this Agreement shall be the law of Western Australia and the parties to this Agreement agree to unconditionally submit to the non-exclusive jurisdiction of the courts of Western Australia.

22 NOTICES

All Notices must be in writing and addressed to the party at their address nominated in this Agreement, or as amended in writing from time to time.

23 ASSIGNMENT OF THIS AGREEMENT

You must not assign any of Your rights or obligations under this Agreement without Our written consent, which may be arbitrarily withheld.

24 ELECTRONIC COMMUNICATION

We will communicate with You via electronic means to the email address provided by You from time to time. For contractual purposes, You:

- (a) Consent to receive communications from Us in an electronic form; and
- (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that We provide to You electronically satisfy any legal requirement that such communications would satisfy if it were in hardcopy writing.

25 REFUND POLICY

- 25.1 Employii does not provide refunds unless required by Australian law.
- 25.2 Clients who wish to request a refund must outline their request and reasoning in writing to *Employii*.
- 25.3 Refund requests will be considered on a case by case basis, at the discretion of Employii – unless there is a requirement for the refund as per Australian law.
- 25.4 Potential clients and Clients are encouraged to utilise the free initial consult, to determine whether Employii can assist them with their needs, prior to purchasing any service.

26 WAIVER

Subject to any express consent in writing of any of the parties no waiver by any party or any default in the strict and literal performance of, or compliance with, any provision, condition, or requirement of this Agreement shall be deemed to be a waiver of strict and literal performance of, and compliance with, any other provision, condition or requirement, nor to be a waiver of, or in any manner release of, any other party from strict compliance with any provision or requirement in the future or in any manner impair the exercise of any such rights accruing to it.

27 GENERAL

- 27.1 This agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements, representations or understandings between the parties in connection with its subject matter.
- 27.2 Nothing in this Agreement shall constitute or be deemed to constitute a partnership, joint venture, or relationship of principal and agent or any other fiduciary relationship between the parties.
- 27.3 Any time or indulgence or any waiver by us of any terms or conditions of this Agreement shall not affect any of our other rights under this Agreement nor shall it at the same time be deemed to be a waiver by us of any other terms or conditions of this Agreement or subsequent breach of such term or condition.
- 27.4 *Employii* has the right to use its own staff for services provided to The Client as it sees fit in its absolute discretion (e.g. *Employii's* administrative staff may be engaged to assist in systems developed and Products and Services provided to The Client).