

Standard Terms & Conditions

These Standard Terms and Conditions must be read together with any applicable Additional Terms and Conditions. The Additional Terms and Conditions, and other documents such as Truis' Service Level Agreement, are published at truis.com.au.

1. BACKGROUND

- A** The Customer has requested that Truis provide the Customer with certain goods and/or services.
- B** This Agreement outlines the terms under which those goods and/or services will be provided by Truis to the Customer.

2. DEFINITIONS AND INTERPRETATION

- 2.1 In this Agreement unless the context otherwise requires:

Additional Terms and Conditions means any additional terms and conditions issued or published by Truis that apply to particular goods, services or transactions, as identified in, incorporated into, or otherwise applicable to a Sales Agreement, Statement of Work, or Customer Order.

Agreement means these Standard Terms and Conditions, any Sales Agreements, Customer Orders, Statement of Work, any documentation evidencing a Customer Order, and all applicable Additional Terms and Conditions, as amended from time to time.

AML/CTF legislation means The *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No.1)* (Cth).

Australian Consumer Law or **ACL** means Schedule 2 of the *Competition and Consumer Act 2010* (Cth).

Business Day means a day that is not a Saturday, Sunday, or public holiday in Brisbane, Queensland, Australia;

Confidential Information means any information marked as confidential or which received or developed by the Parties in connection with this Agreement.

Customer means each person to whom goods or services are supplied pursuant to this Agreement.

Customer Order means any order by a Customer for goods or services to be supplied by Truis to the Customer, which may be created by the Customer signing a Sales Agreement issued by Truis, signing or otherwise accepting a SOW, accepting a quote issued by Truis, issuing a purchase order to Truis for the goods or services, placing an online order for the goods or services or such other method of ordering goods or services that is accepted by Truis.

Early Termination Payment means the amount specified in a Statement of Work or Sales Agreement as payable by the Customer to Truis if the Agreement, a Statement of Work, Sales Agreement or relevant Service is terminated before the end of its agreed term, and includes any unrecovered, non-cancellable or reasonably committed costs, charges, vendor commitments or supplier commitments incurred by Truis for the Customer.

Force Majeure Event means an event beyond a party's reasonable control which occurs without the fault or negligence of that party, but excludes any event to the extent that it was caused by the affected party.

Goods means any hardware, equipment, consumables, parts, perpetual or one-off software licences, and tangible

items described in a Sales Agreement or Statement of Work.

GST has the meaning in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) Australia.

IP means all intellectual and industrial property throughout the world including copyright, moral rights, patents, trademarks, circuit layouts, confidential information, know-how, designs, trade secrets, whether registrable or not.

IP Rights means any rights to own any IP.

Loss means any loss, damage, liability, cost, charge, expense, outgoing, payment, penalty, fine, claim, demand, action, proceeding, judgment or settlement of any kind, whether actual, contingent, present or future, and includes all legal costs and expenses incurred in connection with any investigation, administration, claim, cause of action, or proceeding on a full indemnity basis (including on a solicitor and own client basis), in each case to the extent permitted by law.

Personal Information has the meaning as defined in any applicable Privacy Law.

Privacy Law means any legislation or administrative requirement (as amended from time to time) imposing an obligation in relation to the collection, use, disclosure, storage and transmission of Personal Information.

Sales Agreement means the document containing the description of the goods and services that Truis offers to provide to the Customer, including the specific commercial terms on which they are offered.

Services means the services to be provided by Truis to the Customer in accordance with this Agreement, and which may include the provision of Goods.

Standard Rates means Truis' standard time-and-materials rates for the relevant personnel, service type or work category, as notified to the Customer or published by Truis from time to time.

Statement of Work or SOW means a Statement of Work, Scope of Work, Service Catalogue, Service Level Agreement, project scope or any other written description, issued with, referenced, or incorporated into a Sales Agreement, that describes the goods and/or services to be provided by Truis and the terms on which they will be provided.

Vendor Terms means a vendor's applicable licence terms, end user licence agreement (EULA), service terms, acceptable use policy, service description and other mandatory conditions.

WHS Legislation means the *Work Health and Safety Act 2011* (Cth) and the *Work Health and Safety Regulations 2011* (Cth).

2.2 Interpretation

In this Agreement, unless the context otherwise requires:

- a reference to writing includes email and other electronic communications;
- the singular includes the plural and vice versa;
- references to clauses or Additional Terms are references to clauses and Additional Terms of this Agreement;
- references to individuals includes other entities;
- references to a party include that party's executors, administrators, successors and permitted assigns;
- expressions defined in this Agreement include other grammatical forms of that expression;

- g) headings are for convenience only;
- h) references to time are to Australian Eastern Standard Time;
- i) references to any legislation includes any statutory or re-enactment of that legislation;
- j) references to governmental bodies includes any successor authority;
- k) references to any agreement includes that agreement as novated, varied, or replaced from time to time;
- l) except where a Statement of Work specifically provides otherwise, if the date on which any act, matter or thing is to be done falls on a day which is not a Business Day, that act, matter or thing must be done on the next Business Day.

3. GENERAL

- 3.1 This Agreement applies to all transactions between the Customer and Truis relating to the provision of goods and services. This Agreement will prevail to the extent of any inconsistency with a purchase order or other document issued by the Customer. The Customer acknowledges that this is the only basis on which Truis will transact with the Customer and that this is an essential term of this Agreement.
- 3.2 This Agreement may be comprised of the following documents, which will be interpreted in the following order of precedence:
- a) any Statement of Work or Sales Agreement issued to the Customer by Truis and accepted by the Customer;
 - b) any applicable Master Client Agreement or Master Supplier Agreement,
 - c) the terms expressly agreed in any Customer Order;
 - d) any Additional Terms and Conditions; and
 - e) these Standard Terms and Conditions.

4. INVOICING AND PAYMENT

- 4.1 The Customer must pay invoices issued by Truis within 7 days after the date of invoice, without setoff, in cleared funds and in Australian dollars.
- 4.2 If any invoice is due but unpaid, Truis may withhold the provision of any further Goods or Services until overdue amounts are paid in full.
- 4.3 Truis may in its complete discretion apply any payment received from the Customer to any amount owing by the Customer to Truis.
- 4.4 Truis reserves the right to charge interest on overdue amounts at the rate of 10% per year, calculated monthly.
- 4.5 The Customer must pay Truis' costs and expenses associated with collecting overdue amounts.
- 4.6 Unless expressly stated otherwise, all amounts are exclusive of GST. The recipient of a taxable supply must pay to the supplier an additional amount for the supplier's GST.

5. TERM AND TERMINATION

- 5.1 Either Party may terminate this Agreement, or any Statement of Work, Sales Agreement or relevant Service, without cause by giving not less than 90 days' written notice to the other Party. Where the Customer terminates a Statement of Work, Sales Agreement or relevant Service before the last day of any applicable fixed term, the Customer must pay Truis on the effective date of termination:

- a) any applicable Early Termination Payment specified in the relevant Statement of Work or Sales Agreement affected by the termination; and
- b) any unrecovered, non-cancellable or reasonably committed vendor or supplier costs incurred by Truis for the Customer, to the extent those amounts are not included in the Early Termination Payment.

5.2 On termination of this Agreement, or any Statement of Work, Sales Agreement or relevant Service, to the extent applicable:

- a) each Party must pay to the other all amounts owing in respect of the terminated arrangement as at the effective date of termination; and
- b) each Party must immediately return to the other all property in its possession or control that is owned by the other Party and relates to the terminated arrangement, including the other Party's Confidential Information.

5.3 Termination of this Agreement, or any Statement of Work, Sales Agreement or relevant Service, is without prejudice to any rights or obligations that accrued before the effective date of termination.

6. FORCE MAJEURE

- 6.1 If a Party is prevented from performing its obligations under this Agreement by a Force Majeure Event, that Party will be excused from performance of the obligation during the continuation of that event. The time for performance of the obligation will be extended.
- 6.2 A party affected by a Force Majeure Event must immediately give the other party a notice of its occurrence and use all reasonable endeavours to minimise the effect of the Force Majeure Event. The party must promptly recommence performing its obligations once the Force Majeure Event has ceased.
- 6.3 Either party may terminate this Agreement if a Force Majeure Event continues for 90 days.

7. COMPLAINTS

- 7.1 Any complaint about the goods or services must be made in writing to Truis' relevant account manager within 7 days of the Customer becoming aware of the cause of the complaint.
- 7.2 Truis will take reasonable action, without cost to the Customer, to investigate and (unless it reasonably considers that the complaint was not justified) take reasonable remedial action.

8. LIABILITY

- 8.1 Neither party is liable to the other for any indirect, punitive, incidental, special, consequential damages including, without limitation, damages for loss of use, data, profits, reputation, goodwill, revenue or business opportunity, arising out of or in any way connected with this Agreement.
- 8.2 A party will not be liable to the other for any loss, claim, damage or expense to the extent that it was caused or contributed to by the act or omission of the other party or its employees, agents or contractors.
- 8.3 Truis' total liability to the Customer for all claims under this Agreement will be limited to 100% of the amount paid by

the Customer to Truis in the 6 months prior to the date of the claim.

9. INDEMNITY

The Customer indemnifies Truis against any Loss Truis, or any of its directors, officers, agents, employees or contractors incurs in connection with:

- a) Truis' cybersecurity advice;
- b) any act or omission by Truis, the Customer, or any of either of their employees, contractors, or agents, relating to any data breach or cybersecurity;
- c) the Customer's decision to follow or not follow Truis' recommendations, or its use of the Goods or Services for a particular purpose;
- d) any claim materials, data or third-party IP supplied or directed by the Customer infringe a third party's rights or breach a law;
- e) the Customer's breach of the Acceptable use or any Vendor Terms; or
- f) the Customer's breach of this Agreement.

The Customer's liability is reduced to the extent Truis caused the Loss through its material breach of this Agreement, negligence or fraud. This clause does not apply to any liability that cannot lawfully be excluded, and survives termination.

10. INTELLECTUAL PROPERTY

- 10.1 Truis and the Customer will each continue to own any IP Rights held by them prior to entering into this Agreement.
- 10.2 The Customer grants to Truis a worldwide, non-exclusive, perpetual, royalty-free, non-transferable licence to use the Customer's IP only to the extent necessary for Truis to perform its obligations under this Agreement.
- 10.3 Subject to the Customer paying all amounts due to Truis under this Agreement, Truis grants to the Customer a worldwide, non-exclusive, perpetual, non-transferable licence to use the IP Rights in the goods and services supplied by Truis to the extent necessary for the Customer to use and enjoy the goods and services provided by Truis under this Agreement.
- 10.4 All IP created by Truis in performing its obligations under this Agreement vest in and remain the property of Truis.
- 10.5 Where a party to this Agreement provides IP belonging to a third party for use in connection with the goods and services being supplied under this Agreement ("Third Party IP"), the party warrants that it has the right to use the third party's IP and that doing so will not be a breach of the third party's IP rights.
- 10.6 Where Third Party IP forms part of the goods and services provided to the Customer under this Agreement, the Customer must comply with any terms of use advised by the third party in connection with that Third Party IP.
- 10.7 Each party must promptly notify the other party, if it becomes aware of any infringement of the other party's IP Rights.
- 10.8 The Customer must not reproduce, modify, sublicense, reverse engineer or otherwise exploit Truis' IP except as expressly permitted under this Agreement.

11. CONFIDENTIALITY

- 11.1 The parties must keep the Confidential Information of each other party confidential.

- 11.2 The parties acknowledge that information resulting from the activities of the parties pursuant to this Agreement will also be regarded as Confidential Information.

- 11.3 Each party (Recipient) must keep confidential, and not disclose, any Confidential Information of the other party (Discloser) except:
 - a) as permitted under this Agreement;
 - b) as reasonably required for a party to perform its obligations under this Agreement;
 - c) with the prior written consent of the Discloser;
 - d) to the Recipient's officers, agents, professional advisers, auditors, employees, contractors, subcontractors, and insurers; or
 - e) as required by law.
- 11.4 The Recipient must only use the Confidential Information of the Discloser for the purpose for which it was disclosed.
- 11.5 The Confidential Information does not include information which:
 - a) is generally available in the public domain otherwise than as a result of a breach of this clause; or
 - b) was known by the Recipient prior receiving the information from the Discloser.

- 11.6 The Parties agree to indemnify each other fully against all liabilities, costs and expenses which they may incur as a result of any breach of this clause.

- 11.7 The obligations accepted by the parties under this clause survive termination or expiry of this Agreement.

12. PRIVACY

- 12.1 Each party must comply with all Privacy Laws when dealing with Personal Information acquired from the other party in connection with this Agreement.
- 12.2 Each party must:
 - a) immediately notify the other if it becomes aware of any unauthorised access to, or unauthorised disclosure of, Personal Information under its control by virtue of this Agreement;
 - b) conduct or assist the other party in conducting a reasonable and expeditious assessment of the breach or suspected breach, act reasonably when determining which party will discharge any mandatory reporting obligation arising from the incident; and
 - c) comply with all mandatory data breach reporting obligations arising out of the breach or suspected breach.

13. DISPUTE RESOLUTION

- 13.1 If a dispute arises between the parties in relation to this Agreement:
 - a) a party may give another party a notice of the dispute;
 - b) a party must not commence legal proceedings (except proceedings seeking interlocutory relief) in respect of a dispute unless the dispute has been referred for resolution in accordance with this clause; and
 - c) a party must not oppose any application for a stay of any legal proceedings that may be issued in respect of a dispute pending the completion or termination of the procedure set out in this clause.
- 13.2 If a dispute is notified, the dispute must immediately be referred to the parties' senior management. Those

representatives must meet to resolve the dispute event within 10 Business Days after notification of the dispute.

- 13.3 If the senior management of the parties cannot resolve the dispute within 10 Business Days after the date of their first meeting, either party may escalate the dispute for resolution by the Chief Executive Officers or Managing Directors of the parties.
- 13.4 Each of the parties' Chief Executive Officers or Managing Directors must then meet within 10 Business Days after the date of the written notice in clause 13.3, and attempt to resolve the dispute within 10 Business Days from the date of such meeting.
- 13.5 If the dispute is not resolved by the Chief Executive Officers or Managing Directors within 10 Business Days after their first meeting, and unless the Parties otherwise agree, the dispute must be referred to mediation.
- 13.6 The parties must appoint a mediator within 20 Business Days after the notice is given. If they fail to agree, the mediator must be nominated by the then current President of the Queensland Law Society or nominee. The mediation must be conducted in Queensland, Australia in accordance with the Mediation Rules of the Queensland Law Society.
- 13.7 The mediation ends if the dispute is not resolved within 20 Business Days after the mediator's appointment.
- 13.8 Despite the existence of a dispute (including the referral of the dispute to mediation), each party must continue to perform its obligations under this Agreement.
- 13.9 Neither party may commence court proceedings in respect of the dispute until the mediation period ends. This does not affect a party's right to seek injunctive or urgent declaratory relief.
- 13.10 Each party must pay its own costs in respect of the dispute resolution process. The parties must pay the mediator's costs in equal shares.

14. GOVERNING LAW

- 14.1 This Agreement is governed by the laws of Queensland and the Commonwealth of Australia.
- 14.2 Proceedings relating to this Agreement must be heard and determined in Queensland.
- 14.3 Each Party irrevocably submits to the non-exclusive jurisdiction of Queensland courts.

15. AML/CTF

- 15.1 Each party must provide to the other any information reasonably requested to allow the other party to comply with its obligations under the AML/CTF legislation.
- 15.2 Each party consents to the disclosure of such information as necessary for the collecting party to comply with its obligations under the AML/CTF legislation. The information collected will otherwise be Confidential Information.
- 15.3 Each party may terminate this Agreement by notice to the other, if:
- a) this Agreement breaches the AML/CTF legislation;
 - b) any action required to be undertaken by the party under this Agreement would cause the Party to breach the AML/CTF legislation;
 - c) the other party has breached the AML/CTF legislation.

16. NOTICES

- 16.1 Notices must be in writing and sent to the last known address for that party and delivered personally, or sent by pre-paid mail or email to the email address of the addressee.
- 16.2 A notice or other communication is taken to have been given if mailed, on the fifth Business Day after posting; or if sent by email on the day it is sent however any email sent after 5pm will be deemed to have been received on the next Business Day.
- 16.3 A Party may change its postal or email address for receipt of notices by giving notice of that change to the other party.

17. MISCELLANEOUS

- 17.1 This Agreement constitutes the whole agreement between the parties relating to the subject matter of this Agreement.
- 17.2 This Agreement supersedes all previous negotiations and communications.
- 17.3 The Customer has not relied on any warranty, representation or statement made by or on behalf of Truis relating to or in connection with the subject matter of this Agreement.
- 17.4 If any provision of this Agreement at any time is or becomes void, or unenforceable, the remaining provisions will continue to have full force and effect.
- 17.5 Failure or delay to exercise a power or right does not operate as a waiver of that power or right.
- 17.6 If a party consists of more than one person, an obligation of those persons is a joint obligation of all of them and a several obligation of each of them.
- 17.7 All variations and waivers must be in writing and signed by the party or parties to be bound.
- 17.8 Each person signing this Agreement:
- 17.9 as attorney, warrants to the other parties that, the signatory has not received notice of the revocation of the power of attorney; and
- 17.10 as an agent or trustee of a party, warrants to the other parties that the signatory has full authority to execute this Agreement on behalf of that party.
- 17.11 The terms of this Agreement survive its termination to the extent permitted by law.
- 17.12 This Agreement is binding upon the heirs, executors, administrators and successors in title of the parties.
- 17.13 This Agreement may be executed in counterparts. This Agreement may also be executed by an exchange of email transmissions of signed counterparts.