

Software Licence Agreement Terms and Conditions

1. Definitions and Interpretation

1.1. Definitions

In this Agreement, the following words have the following meanings, unless expressly agreed otherwise:

Agreement means the invoice and Part B of this Software Licence Agreement.

Australian Consumer Law means schedule 2 to the *Competition and Consumer Act 2010* (Cth).

Business Day means Monday - Friday excluding public holidays in Sydney.

Business Hours means 9:00am - 5:00pm on Business Days.

Commencement Date means the date set out in the invoice.

Confidential Information means as defined in clause 10.

Documentation means as set out in the invoice.

Fees means as set out in the invoice.

Force Majeure Event means war, strike, lockout, natural disaster, flood, earthquake, act of God, or other circumstances beyond the reasonable control of JCS.

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

Insolvency Event means: (a) where the party is an individual, that party commits an act of bankruptcy or is declared bankrupt or insolvent or that party's estate otherwise becomes liable to be dealt with under any law relating to bankruptcy or insolvency; (b) where the party is a company, a resolution is passed or Court order made for the winding up of that party or an administrator is appointed to that party pursuant to any relevant law; (c) a receiver or manager or receiver and manager is appointed to the assets or undertaking of the party or any part thereof; or (d) the party is unable to pay its debts as and when they fall due.

Intellectual Property Rights means all copyright, trademark rights, patent rights, and design rights, whether registered or unregistered, and all other rights to intellectual property as defined under article 2 of the convention establishing the World Intellectual Property Organization, and all rights to enforce any of the foregoing rights.

Licence means as set out in clause 2.1 (or under clause 16.1 where applicable).

Licensee Data means as set out in clause 18.1.

Licensee's Premises means as set out in the invoice.

Member Services means the hosting of, and provision of access to the Member Data and the Software by JCS to the Licensee in accordance with the provisions of Annexure A.

Non-Excludable Guarantee means a non-excludable guarantee implied under the Australian Consumer Law.

Part B means this document.

Payment Terms means as set out in the invoice.

Personal Property Securities Register means the Personal Property Securities Register established under the *Personal Property Securities Act 2009* (Cth).

Software means as set out in the invoice.

Third Party Data User means as set out in the invoice.

1.2. Interpretation

In this Agreement:

- (a) Headings and underlinings are for convenience only and do not affect the construction of this Agreement.
- (b) A provision of this Agreement will not be interpreted against a party because the party prepared or was responsible for the preparation of the provision, or because the party's legal representative prepared the provision.

- (c) Currency refers to Australian Dollars.
- (d) A reference to a statute or regulation includes amendments thereto.
- (e) A reference to a clause, subclause or paragraph is a reference to a clause, subclause or paragraph of this Agreement.
- (f) A reference to a subclause or paragraph is a reference to the subclause or paragraph in the clause in which the reference is made.
- (g) The recitals are correct and form part of this Agreement.
- (h) A reference to time is to time in Sydney.
- (i) A reference to a person includes a reference to an individual, a partnership, a company, a joint venture, government body, government department, and any other legal entity.
- (j) The words "includes", "including" and similar expressions are not words of limitation.

2. Licence to be granted

- 2.1. JCS hereby grants to the Licensee a non-exclusive, non-assignable, non-sublicensable licence to operate 1 copy of the Software on 1 computer at the Licensee's Premises in accordance with the Documentation solely for the Licensee's internal business purposes (the "Licence").

3. Term of Licence

- 3.1. The Licence commences on the Commencement Date and shall continue until and unless terminated by either party providing at least 30 days written notice or otherwise in accordance with this Agreement.

4. Licence Restrictions

- 4.1. The Licensee may not make any use of the Software except as permitted by the Licence and may not do or authorise the commission of any act that would or might invalidate or be inconsistent with JCS's Intellectual Property Rights in the Software. Without limiting the foregoing provisions, the Licensee agrees and acknowledges that it must not and shall not, and will not permit any person to,:
 - (a) license, sublicense, resell, assign, transfer, distribute, or provide others with access to, the Software;
 - (b) "frame", "mirror" or serve any of the Software on any web server or other computer server over the Internet or any other network; or
 - (c) copy, alter, modify, create derivative works from, reproduce, resell, transfer to a third party, reverse assemble, reverse engineer, reverse compile or enhance the Software (except as expressly permitted by the *Copyright Act 1968 (Cth)*); or
 - (d) alter, remove or tamper with any trademarks, any patent or copyright notices, or any confidentiality legend or notice, or any numbers, or other means of identification used on or in relation to the Software.
- 4.2. The Licensee must not use the Software in any way which is in breach of any statute, regulation, law or legal right of any person.

5. Cloud Computing Option

- 5.1. The Licensee agrees and acknowledges that if the Licensee accesses the Software on a software-as-a-service basis (through which the Software and/or any data entered into the Software by the Licensee is hosted by JCS or any third party appointed by JCS), the provisions of Annexure A of this document shall apply to and form part of this Agreement, and to the extent of any inconsistency between the provisions of clauses 1 to 15, and the provisions of Annexure A, the provisions of Annexure A shall take precedence.

6. Fees

- 6.1. The Licensee must pay the Fees to JCS in accordance with the Payment Terms.
- 6.2. The Fees are exclusive of all taxes, duties and customs including GST and the Licensee agrees to pay JCS all taxes, duties and customs, including GST, in respect of any Supply (as that term is defined in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*) made by JCS under this Agreement. The Licensee must pay all such taxes, duties and customs, including GST, at the same time as the Fees.

- 6.3. Whilst periodic support payments continue to be paid, telephone support will be provided by JCS. The amount of the periodic support payments referred to in the invoice may be adjusted upwards by JCS to reflect changes in the consumer price index or support cost increases from time to time.

7. Ownership of Intellectual Property

- 7.1. The Licensee agrees and acknowledges that this Agreement does not transfer or assign any Intellectual Property Rights to it.
- 7.2. As between JCS and the Licensee, JCS owns all Intellectual Property Rights in the Software and the Documentation.
- 7.3. The Licensee has no rights in the Software or in any modification or enhancement thereof, other than the rights granted to it pursuant to the Licence.
- 7.4. The Licensee must not take any step to invalidate or prejudice JCS's (or JCS's licensors') Intellectual Property Rights in the Software or the Documentation or otherwise. Without limiting the foregoing provisions, the Licensee must not register any security interest or purchase money security interest on the Personal Property Securities Register, or otherwise encumber or charge its rights in respect of the Software or under any licence granted by JCS under this Agreement.

8. Liability

- 8.1. Neither party is liable to the other party for any indirect, special or consequential loss or damage incurred by the other party, including liability for loss of profits, loss of business opportunity, loss of savings, or loss of data.
- 8.2. JCS is only liable for direct loss incurred by the Licensee as a direct result of one or more breaches by JCS of its obligations under this Agreement. However, JCS's liability for all such direct loss is capped, in the aggregate, at an amount equivalent to the Fees paid by the Licensee under this Agreement, and which cap is reduced to the extent the Licensee or a Force Majeure Event caused or was responsible for such loss.
- 8.3. The goods and services supplied under this Agreement may come with implied non-excludable guarantees which are regulated by the Australian Consumer Law. The extent of the implied guarantees depend on whether the Licensee is a 'consumer' of goods or services within the meaning of that term pursuant to the Australian Consumer Law as amended. Where the Licensee is a 'consumer' for the purposes of the Australian Consumer Law, JCS is required to provide and shall be hereby deemed to have provided the following mandatory statement to the Licensee: "JCS's goods come with guarantees that cannot be excluded under the Australian Consumer Law. The Licensee is entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. The Licensee is also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure."
- 8.4. If the goods or services supplied by JCS to the Licensee are supplied to the Licensee as a 'consumer' of goods or services within the meaning of that term in the Australian Consumer Law as amended the Licensee will have the benefit of certain non-excludable rights and remedies in respect of the goods or services and nothing in these terms and conditions excludes or restricts or modifies any condition, warranty, guarantee, right or remedy which pursuant to the *Competition and Consumer Act 2010* (Cth) is so conferred. However, if the goods or services are subject to a non-excludable condition, warranty, guarantee, right or remedy implied by the Australian Consumer Law and the goods or services are not ordinarily acquired for personal, domestic or household use or consumption, then pursuant to s 64A of the Australian Consumer Law, JCS limits its liability for breach of any such non-excludable warranty, guarantee, right or remedy implied by the Australian Consumer Law (except in respect of a guarantee implied by sections 51, 52 or 53 of the Australian Consumer Law) or expressly given by JCS to the Licensee, in respect of each of the goods and services, where it is fair and reasonable to do so, at the option of JCS, to one or more of the following:
 - (a) if the breach relates to goods:
 - (i) the replacement of the goods or the supply of equivalent goods;
 - (ii) the repair of such goods;
 - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or

- (iv) the payment of the cost of having the goods repaired; and
- (b) if the breach relates to services:
 - (i) the supplying of the services again; or
 - (ii) the payment of the cost of having the services supplied again.
- 8.5. In order for the Licensee to claim against JCS under a non-excludable warranty, guarantee, right or remedy provided by the Australian Consumer Law, or under an express warranty given in respect of the goods or services provided under this Agreement, the Licensee must provide written notice to JCS with documentary evidence substantiating the claim, for JCS's review, and, in respect of the Software, must continue to use it only in accordance with the provisions of this Agreement.
- 8.6. Upon receipt of a valid claim from the Licensee under an implied warranty, guarantee, right or remedy provided by the Australian Consumer Law, JCS will contact the Licensee to arrange a suitable remedy. The Licensee may claim reasonable expenses incurred in making a valid claim under such a warranty, guarantee, right or remedy by providing documentary evidence of the expenses to JCS. The Licensee will be responsible for any expenses incurred in relation to an invalid claim.
- 8.7. Where JCS elects to repair goods, the Licensee agrees that the goods may be replaced by refurbished goods of the same type rather than being repaired and refurbished parts may be used to repair goods. The Licensee acknowledges that where the goods are repaired and are capable of retaining user-generated data, it is possible that the repair of the goods may result in loss of data.
- 8.8. Any warranty against defects provided by JCS to the Licensee as a 'consumer' under the Australian Consumer Law is in addition to other rights and remedies of the Licensee under a law in relation to the goods or services to which the warranty relates.
- 8.9. Where the Licensee is not a 'consumer' for the purposes of the Australian Consumer Law, all conditions, warranties and guarantees implied in this Agreement are excluded, to the extent possible by law.
- 8.10. The Licensee acknowledges that JCS does not claim to have accounting, financial, legal or similar qualifications and any related statements made by JCS, whether in writing or oral, are not to be relied upon. The Licensee is responsible for making its own enquiries in this regard. JCS makes no representations regarding, and accepts no responsibility for, the suitability, accuracy or legality of any forms produced by the Software. Further, JCS assumes no obligation to notify the Licensee of any changes in such suitability, accuracy or legality. If the Licensee requires any change to the Software in order to improve suitability, accuracy or legality, it is the responsibility of the Licensee to notify JCS of that requirement, and JCS will consider the matter.

9. Indemnity from Licensee

- 9.1. The Licensee indemnifies JCS in respect of all and any loss and damage incurred by JCS as a result of any breach by the Licensee of its obligations under this Agreement or as a result of any use of any software, data and other materials and information supplied by the Licensee to JCS in connection with this Agreement. The Licensee warrants that all software, data, materials and information supplied by or on behalf of the Licensee to JCS, and all use thereof by JCS for the purposes of this Agreement, will not infringe the rights of any person or breach any law or regulation.

10. Confidentiality

- 10.1. Each party agrees and acknowledges that it may receive confidential information of the other party during the term of this Agreement ("**Confidential Information**").
- 10.2. The Licensee agrees and acknowledges that the Documentation and the Software constitutes and contains confidential and proprietary information of JCS.
- 10.3. Each party (the first party) agrees and acknowledges that the Confidential Information of the other party will be received and held by the first party in strict confidence and will not be disclosed by the first party, except:
 - (a) with the prior written consent of the other party;
 - (b) where disclosed to the employees or professional advisors of the first party on a confidential basis;
 - (c) as required by the rules of any stock exchange; or

- (d) as required by a court of competent jurisdiction, and then, only to the extent required, and provided that the first party must promptly notify the other party of such requirement of disclosure and provide full particulars to the other party of the disclosure.
- 10.4.** Confidential Information does not include any information:
- (a) that is independently developed, obtained or known by a party, without any obligation of confidence to the other party; or
 - (b) that is in the public domain, except where due to a breach of this Agreement or any breach of any obligation of confidence.

11. Third Party Data Users

- 11.1.** The Licensee grants JCS an irrevocable, fully paid up, royalty-free, non-exclusive licence to electronically access all data entered by the Licensee into the Software and authorised JCS to:
- (a) use reasonable endeavours to provide a copy of all such data to the Third Party Data Users, for the purposes described in the Documentation, on any terms and conditions deemed appropriate between JCS and the Third Party Data Users;
 - (b) use the data in a way that does not identify the Licensee personally by name, for statistical purposes.
 - (c) use all such data in any other way agreed between the parties.

12. Termination

- 12.1.** Either party may terminate this Agreement if the other party (the "**Defaulting Party**") is in material breach of this Agreement and the breach is not capable of remedy, or where the breach is capable of remedy and the Defaulting Party fails to remedy the breach within thirty (30) days of notice.
- 12.2.** If the invoice specifies that support is required, the Licensee may not cancel or terminate the supply of support services provided by JCS in respect of the Software during the term of this Agreement. If the Licensee cancels or terminates support services in breach of this clause, JCS may terminate this Agreement.
- 12.3.** Either party may terminate this Agreement by notice to the other party if the other party suffers an Insolvency Event.
- 12.4.** If this Agreement is terminated:
- (a) JCS must, at the option of the Licensee, destroy or return all Confidential Information of the Licensee to the Licensee;
 - (b) the Licence granted by JCS under this Agreement will immediately and automatically terminate and the Licensee must, at the option of JCS, promptly destroy or return all Confidential Information of JCS to JCS, and must immediately cease using the Software.
- 12.5.** Termination does not affect any accrued rights of either party.

13. Notices

- 13.1.** A notice under this Agreement shall be sent by hand delivery, post or email, using the address specified at the top of the first page of this Agreement or the email address for the recipient's representative specified in the invoice.
- 13.2.** Any notice issued by hand shall be deemed delivered upon delivery.
- 13.3.** Any notice issued by post shall be deemed delivered 3 Business Days after posting if posted domestically, or 10 Business Days after posting if posted internationally.
- 13.4.** Any notice issued via email shall be deemed to be delivered upon the email being sent, provided that if an email is sent out of Business Hours, it shall be deemed to be delivered at gam on the next Business Day.

14. Dispute Resolution

- 14.1.** If a dispute arises out of, or in any way in connection with, or otherwise relates to this Agreement, or the breach, termination, validity or subject matter hereof, or as to any related claim at law, in equity or pursuant to any statute, the parties agree to refer their dispute to Mediation administered by the Australian Commercial Disputes Centre (ACDC) before having recourse to arbitration or litigation.

- 14.2. The Mediation shall be conducted in Sydney and shall be conducted in accordance with the ACDC Guidelines for Commercial Mediation which are operating at the time the dispute is referred to ACDC and which terms are hereby deemed incorporated into this Deed.
- 14.3. The costs of the mediator shall be shared equally between the parties.
- 14.4. Nothing in this clause shall limit either party's right to seek urgent interlocutory relief from any court of competent jurisdiction at any time.

15. General

- 15.1. Amendment: This Agreement may only be amended by a written document signed by the parties.
- 15.2. Assignment: The Licensee may not assign, transfer, licence or novate its rights or obligations under this Agreement, or allow the sale of any of its shares or any other change to the control or beneficial ownership of itself, without the prior written consent of JCS. Any action taken by the Licensee in breach of this clause shall entitle JCS to terminate this Agreement by notice to the Licensee.
- 15.3. Severability: If any provision of this Agreement is deemed invalid by a court of competent jurisdiction, the remainder of this Agreement shall remain enforceable.
- 15.4. Relationship: The parties are independent contractors and this Agreement does not create any relationship of partnership, joint venture, or employer and employee or otherwise.
- 15.5. Australian Consumer Law: The exclusions and limitations of liability set out in this Agreement shall apply to the fullest extent permissible at law, but the parties do not exclude or limit liability which may not be excluded or limited by law. Without limiting the foregoing provisions, JCS does not exclude liability under the Australian Consumer Law which is prohibited from being excluded. The parties acknowledge and agree that the limitations and exclusions of liability contained in this Agreement constitute an allocation of risks that form part of the negotiated commercial terms of this Agreement.
- 15.6. Counterparts: This Agreement may be executed in counterparts provided that no binding agreement shall be reached until the executed counterparts are exchanged. A counterpart of a document exchanged by email shall constitute evidence of the execution of the original.
- 15.7. Entire Agreement: This Agreement constitutes the entire agreement between the parties and to the extent possible by law, supersedes all prior understandings, representations, arrangements and agreements between the parties regarding its subject matter.
- 15.8. Jurisdiction: This Agreement will be interpreted in accordance with the laws in force in New South Wales. The parties irrevocably submit to the non-exclusive jurisdiction of the courts situated in New South Wales.
- 15.9. Terms and conditions may change without notice to you.

Annexure A - Cloud Computing Terms (see clause 5)

16. Licence to be granted to access and browse the Software

- 16.1. JCS hereby grants to the Licensee a non-exclusive, non-assignable, non-sublicensable, revocable licence to access and browse the Software in accordance with the Documentation (the "Licence") and the provisions of clause 2 shall not apply to this Agreement.

17. Member services

- 17.1. The Licensee agree and acknowledge that by entering into this Agreement the Licensee is becoming a Member of JCS's Software and acknowledge that in doing so:
 - (a) the Licensee is subscribing to the Member Services; and
 - (b) the Licence granted to the Licensee pursuant to clause 16.1 shall also include a non-exclusive, non-assignable, non-sublicensable, revocable right granted to the Licensee to access the Member Services for the purposes expressly described in the Documentation.
- 17.2. The Licensee may only access the Member Services remotely from a web browser operated by the Licensee, solely for the purpose(s) specified in the Documentation and subject to the provisions set out in the Documentation and in this Agreement.

- 17.3. The Licensee must pay all costs associated with accessing the Software and the Member Services, including internet access costs, web browser and computer and smartphone equipment costs, telecommunications costs, data costs, roaming charges and Fees.
- 17.4. Without limiting JCS's rights and any other provision of this Agreement, if the Licensee fails to pay the Fees in accordance with the requirements of this Agreement, JCS may suspend and/or terminate the Licensee's access to the Member Services and the Licensee Data hosted in the Member Services without notice.

18. Responsibility for and ownership of Licensee Data

- 18.1. As between JCS and the Licensee, the Licensee owns all data that the Licensee upload into the Member Services ("Licensee Data").
- 18.2. The Licensee agree and acknowledge that:
 - (a) the Member Services and/or Licensee Data may be hosted by JCS or JCS's suppliers on hardware or infrastructure located in or outside Australia; and
 - (b) JCS may not own or operate the infrastructure upon which the Member Services and/or the Licensee Data is hosted.
- 18.3. Each time the Licensee uses the Member Services the Licensee warrants, agrees and represents that:
 - (a) the Licensee will only upload, input and transfer Licensee Data into and/or via the Member Services and/or disclose Licensee Data to JCS, which the Licensee is fully entitled and authorised to so upload, input, transfer and disclose; and
 - (b) the Licensee Data and/or JCS's collection, use, storage and/or disclosure thereof in the course of performing the Member Services, does not and will not breach any applicable law or right of any person.
- 18.4. The Licensee is solely responsible for the accuracy, legality, quality and for obtaining any permissions, licenses, rights and authorisations necessary for JCS to use, host, transmit, store and disclose the Licensee Data for the purposes of providing the Member Services.
- 18.5. Except in respect of any Non-Excludable Guarantee, the Licensee agree that the Licensee, not JCS, is solely responsible for backing up and archiving all Licensee Data.
- 18.6. Except in respect of any Non-Excludable Guarantee, the Licensee agree that JCS is not responsible for any loss, corruption or hacking of any Licensee Data.
- 18.7. The Licensee indemnifies JCS and its suppliers in respect of any loss and damage JCS and/or any of JCS's suppliers incurs in respect of any claim that any of the Licensee Data is lost, unavailable or corrupted or the transmission, storage, disclosure, hacking or access of any Licensee Data infringes the Intellectual Property Rights or other rights of any person or breaches any law, regulation, code or standard.

19. Availability of Member Services & Licensee Data

- 19.1. JCS agree to use JCS's best endeavours to procure hosting of the Member Services and the Licensee Data and to ensure that the Software is available 99.9% of the time.
- 19.2. The availability of the Member Services to the Licensee will be subject, in addition to any other provisions set out in this Agreement, to any bandwidth limitations, database size limitations, throughput limitations and other technical and non-technical limitations or restrictions set out in the Documentation.
- 19.3. The Licensee agree and acknowledge that the accessibility of the Member Services and the Licensee Data hosted by the Member Services is highly dependent on the proper function of the Internet and any other computer and telecommunications networks and infrastructure upon which the Software and/or Member Services and/or Licensee Data operate, interface with or connect to.
- 19.4. Except in respect of any Non-Excludable Guarantee, JCS does not guarantee that the Member Services or Licensee Data hosted in the Member Services or access thereto will be uninterrupted or error-free and the Licensee releases and indemnifies JCS in respect of any loss and damage JCS may incur and/or claims and/or complaints the Licensee or the Licensee's customers or Third Party Data Users may have against JCS in respect of any interruption, error or unavailability of the Member Services or any Licensee Data hosted by the Member Services.

- 19.5. JCS will use JCS's best endeavours to notify the Licensee in advance of any scheduled outage of the Member Services.

20. Acceptable Use Policy

20.1. The Licensee agree that:

- (a) using the Software to violate all or any legal rights of any person or company or other entity in any jurisdiction is strictly prohibited;
- (b) using the Software in relation to crimes such as theft and fraud is strictly prohibited;
- (c) using the Software in breach of laws relating to the protection of copyright, trade secrets, patents or other intellectual property and laws relating to spam or privacy and whether such violation is by way of the installation or distribution of "pirated" software or otherwise, is strictly prohibited;
- (d) unauthorised copying of copyrighted material is strictly prohibited;
- (e) introduction of malicious programs into JCS's network or servers (e.g., viruses, worms, Trojan horses, e-mail bombs) is strictly prohibited;
- (f) revealing the Licensee's account password to others or allowing use of the Licensee's account on the Software by others is strictly prohibited;
- (g) using another person's name, username or password or otherwise attempting to gain access to the Software of any other person is strictly prohibited;
- (h) using the Software to make fraudulent offers of goods or services is strictly prohibited;
- (i) using the Software to carry out security breaches or disruptions of network communication is strictly prohibited. Security breaches include, but are not limited to, accessing data of which the Licensee are not an intended recipient or logging into a server or account that the Licensee are not expressly authorized to access or corrupting any data. For the purposes of this paragraph, "security breaches" includes, but is not limited to, network sniffing, pinged floods, packet spoofing, denial of service, and forged routing information for malicious purposes;
- (j) using the Software to execute any form of network monitoring which will intercept data not intended for the Licensee is strictly prohibited;
- (k) using the Software to circumvent user authentication or security of any of JCS's hosts, networks or accounts or those of JCS's customers or suppliers is strictly prohibited;
- (l) using the Software to interfere with or denying service to anyone is strictly prohibited;
- (m) using any program/script/command, or sending messages of any kind, with the intent to interfere with, or disable, any persons' use of the Software is strictly prohibited;
- (n) sending unsolicited email messages through or to users of the Software in breach of the *Spam Act 2003* is strictly prohibited;
- (o) using the Software to send any form of harassment via email, or any other form of messaging, whether through language, frequency, or size of messages is strictly prohibited; and
- (p) use of the Software in breach of any person's privacy (such as by way of identity theft or "phishing") is strictly prohibited.

21. Intellectual Property Rights

- 21.1. The Licensee agree and acknowledge that this Agreement does not transfer or assign any Intellectual Property Rights to the Licensee.
- 21.2. As between the Licensee and JCS, except in respect of the Licensee Data, JCS owns all Intellectual Property Rights in the Software.
- 21.3. The Licensee have no rights in the Software or in any part of it or in any modification or enhancement thereof, other than the rights temporarily granted to the Licensee pursuant to the Licence.
- 21.4. Other than in respect of the Licensee Data, the Licensee agree that any Intellectual Property Rights in any content which the Licensee uploads or posts to the Software (such as any comments, ideas and/or suggestions for enhancements and/or new features for the Software) ("User Content") becomes JCS's sole and exclusive property immediately upon the Licensee uploading or posting that content, and the Licensee hereby agrees to assign all Intellectual Property Rights in all and any such content to JCS effective immediately as the Licensee uploads or posts the content to the Software, pursuant to section 197 of the *Copyright Act 1968* (Cth) and in equity. The Licensee waives all Moral

Rights that the Licensee may have to any User Content and consents to JCS and any third party JCS authorises to infringing all and any such Moral Rights in JCS's absolute discretion.

- 21.5.** The Licensee must not take any step to invalidate or prejudice JCS's (or JCS's licensors') Intellectual Property Rights in the Software or otherwise. Without limiting the foregoing provisions, the Licensee must not register any security interest or purchase money security interest on the Personal Property Securities Register, or otherwise encumber or charge the Licensee's rights in respect of the Licensee Data or under the Licence.

22. Responsibility for other users

- 22.1.** The Licensee agrees and acknowledges that the Software is hosted on computer servers shared with other clients of JCS.
- 22.2.** JCS does not accept responsibility for the conduct of any users of JCS's Software.
- 22.3.** If the Licensee believe that another user of JCS's Software has breached their obligations the Licensee shall report the breach to JCS.
- 22.4.** Any dispute the Licensee has with another user of JCS's Software is between the Licensee and the other user. The Licensee releases JCS from any claims that the Licensee may otherwise have against JCS in relation to any conduct of any user of JCS's Software.

23. Responsibility for third party claims

- 23.1.** The Licensee agrees and acknowledges that the Licensee is solely responsible for and the Licensee indemnifies JCS in respect of any loss and damage JCS may incur in connection with any claims and/or complaints made by any of the Licensee's customers where the claim is caused directly or indirectly by:
- (a) the Licensee's use of the Member Services; and/or
 - (b) the Licensee's goods and/or services and/or advertising and/or sales and/or marketing practices.

24. Hyperlinks

- 24.1.** JCS does not represent, recommend or endorse any websites to which JCS has linked from the Software via hyperlink or otherwise.
- 24.2.** The Licensee must not link to the Software or any part of it without JCS's prior written consent.