

BLOCKBOXX

## General Terms and Conditions

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## TABLE OF CONTENTS

1. FRAMEWORK	1
2. TERM AND SERVICES	1
3. LOAN OF EQUIPMENT	1
4. PAYMENT	2
5. TITLE AND RISK	3
6. TERMINATION	3
7. YOUR DUTIES	4
8. RESTRAINT	4
9. PRIVACY AND CREDITWORTHINESS	5
10. WARRANTY	6
11. LIABILITY	6
12. INTELLECTUAL PROPERTY AND LICENCE	7
13. INDEMNITIES	8
14. INSURANCE FIRST CLAIM	8
15. DISPUTE AND MEDIATION	9
16. CONFIDENTIALITY	9
17. PUBLICITY	10
18. NOTIFIABLE DATA BREACHES SCHEME	10
19. GENERAL	11
20. DEFINITIONS	12

### Version Control

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## GENERAL TERMS AND CONDITIONS

This is a legally binding agreement between Blockboxx Pty Ltd ABN 24 624 515 117 (**us/we/our**) and the person described in the Application (**you, your**) setting out the terms and conditions upon which we will supply the Goods and/or Services to you.

## 1. FRAMEWORK

1.1 An agreement between us is formed when we receive a signed copy of the Application, and consists of the Application, any Special Terms and Conditions and these General Terms and Conditions (**Agreement**).

1.2 For the purpose of resolving any inconsistency specified in clause 1.1, the order of precedence is:

- a) the Application;
- b) the Special Terms and Conditions; and
- c) the General Terms and Conditions.

## 2. TERM AND SERVICES

2.1 This Agreement commences upon the later of:

- a) the date set out on the Application; or
- b) the date the Application is accepted by us.

Our acceptance is shown by our acceptance in writing or by issuing an invoice; or, by providing the Goods and or Services, and continues for the minimum term set out in the Application

(**Minimum Term**) unless terminated earlier in accordance with the terms of this Agreement (**Term**).

2.2 We will provide you with the Goods and/or Service(s) on the terms and conditions of this Agreement.

2.3 Unless otherwise agreed by us in writing, sale of additional Goods and/or Services to you are subject to our standard terms and conditions for that Good and/or Service, which is identified on the Application or our Website.

2.4 Following the expiration of the Term, this Agreement will continue until terminated by either party on 30 days written notice.

2.5 We will provide the Services to you professionally and with appropriate due care and skill and in compliance with applicable laws, applicable third party licenses (where such is provided by you to us you must notify us of such) and regulations.

2.6 Except for any payment by you of the fees, rates and charges for the Services, but notwithstanding any other clause under this Agreement, if a party is unable to perform any obligation under this Agreement because of a Force Majeure Event, that party will have any equipment available for loan.

## 3. LOAN OF EQUIPMENT

3.1 From time to time, at your request, we may loan you equipment provided you pay us the fees for rental of such equipment for the duration of the loan (as determined by mutual agreement between the parties).

3.2 We will hire our equipment to you if:

- a) this is included in the fee in your proposal; and
- b) in our reasonable opinion, we need to install our own equipment in order to quickly put your services back into operation; and

c) your Contact Person is not immediately available to approve such installation.

3.3 We make no representations or warranties as to the quality of the equipment loaned to you under this clause 3, or its suitability for your intended use.

3.4 Nothing in this clause 3 or in this Agreement obliges us to loan our equipment to you (whether available for loan or not). We shall not be liable in any circumstances if we do not have any equipment available for loan.

## 4. PAYMENT

4.1 Unless otherwise specified:

- a) you must pay the invoiced fees, rates and charges associated with the Goods and/or Services, invoice or order, within 14 days from invoice issue date;. and
- b) we will invoice you for ongoing Services monthly in advance.

4.2 We may vary the terms of this Agreement, including any fees, rates and charges:

- a) without notice to you if the variation arises due to a change in taxation law or other governmental action; and
- b) by providing notice to you of any other variation after completion of the Minimum Term.

4.3 If you fail to pay any payments under this Agreement by the due date, we may:

- a) charge interest at the rate of 18% per annum, calculated on a daily basis, on any overdue payments; and
- b) charge you for all costs incurred by any third parties involved in collecting the debt from you.

4.4 If your bill is paid by direct debit from:

- a) an account held by you at an approved financial institution; or
- b) a valid credit card nominated by you; and a direct debit is dishonoured or cancelled, you agree to pay our administration fee set out in our invoice plus any dishonour fees.

4.5 If you dispute an invoice you must:

- a) raise that dispute with us as soon as reasonably possible and in any event within 14 days of the date of invoice; and
- b) pay any undisputed amount included in the invoice in accordance with clause 4.1(a).

4.6 If you raise a dispute under clause 4.5, we will conduct prompt investigations and advise you of our findings.

4.7 If following an investigation by us under clause 4.6, the parties are unable to resolve the dispute, then either party may commence proceedings pursuant to clause 15.

4.8 All amounts payable under this Agreement is exclusive of GST. If GST is payable on any supply made by us under this Agreement, you must pay us an amount equivalent to the GST at the time that payment to us is due.

## 5. TITLE AND RISK

- 5.1 We retain title and ownership of the Goods until payment is made in full.
- 5.2 Until title has passed to you, you hold the Goods as bailee and must clearly identify such Goods as our property and you must have the relevant insurance in place for the Goods.
- 5.3 All risk in the Goods and our equipment and software located on your premises passes to you upon delivery to you, or the item being provided at your premises as applicable.

## 6. TERMINATION

- 6.1 Without prejudice to any right or remedy available, either party may at any time terminate this Agreement immediately by providing written notice to the other party if, the other party becomes insolvent, is subject of a bankruptcy order, or makes any arrangement or composition with or assignment for the benefit of its creditors or goes into voluntary (otherwise than for reconstruction or amalgamation) or compulsory liquidation, or a receiver or administrator is appointed over any of its assets, or in the case of partnership or a corporation, on dissolution or on the filing of an application to dissolve or in the case of a person that person dies.
- 6.2 Without prejudice to any right or remedy available to us we may terminate this Agreement immediately:
  - a) without notice if you use the Services unlawfully;
  - b) by written notice if:
    - (i) you commit a material breach of this Agreement, which is capable of remedy and you fail to remedy the breach within 7 days of a written notice to do so;
    - (ii) you commit a material breach of this Agreement which cannot be remedied; or
    - (iii) any agreement between us and a supplier terminates or expires for any reason, such that we are unable in our reasonable opinion to continue to provide you the Services. In such case, we will endeavour to provide you with as much written notice as is reasonably possible.
- 6.3 Excluding clause 6.1, if you terminate this Agreement prior to the end of the Minimum Term you must pay all the fees, rates and charges applicable for the Minimum Term and any other monies owing by you to us, within 7 days of the date of termination or within 7 days of receipt of an invoice for that amount, whichever is the earlier. You agree this payment is a genuine pre-estimate of our loss and damage due to your cancellation.
- 6.4 Upon the termination or expiry of this Agreement:
  - a) you must pay all outstanding invoice and amounts within 14 days of the date of termination;
  - b) no refund may be given for any payments made in advance;
  - c) you must return or destroy (at our option) all copies of our Confidential Information, IPR and other material, information or property of any kind in accordance with our instructions;
  - d) you agree we may enter your premises to remove any of our Confidential Information, IPR and other material, information, or property of ours, our Personnel or our Related Parties; and

- e) the accrued rights and obligations of each party are unaffected.

## 7. YOUR DUTIES

### 7.1 You must:

- a) use the Goods and/or Services, equipment, software or other item used in the Services lawfully and in accordance with our reasonable directions;
- b) allow us and our Personnel reasonable access to the site(s) and any relevant equipment for the purpose of performing the Services where required, and if site access is delayed then we may charge our standard rates for the additional time expended by us and our Personnel;
- c) promptly provide all decisions, materials, support staff and any information reasonably required by us to assist us in performing the Services, including providing detailed specifications of the requirements in writing, responding to questions without delay, performing intermediate tests and tests of work results;
- d) provide adequate power, water and other utilities; and
- e) ensure a safe working environment for our Personnel and inform us of any special safety and factory regulations and particular sources of danger that we may encounter at your site.

### 7.2 You must not:

- a) other than making 1 copy for backup purposes, translate, adapt, modify, alter, decompile, disassemble, or reverse engineer the software (including the software comprising Blockboxx IP and Delivery IP);
- b) alter or remove any copyright or other intellectual property notifications on the Goods, equipment, software or other items provided to you by us; or
- c) attempt to rent, sell, remove or otherwise interfere with, create an interest in or dispose of our equipment or software.

## 8. RESTRAINT

- 8.1 Unless otherwise provided in this Agreement, you must not, and must procure that each of your directors, officeholders and employees do not, during the Term and for a period of 12 months following termination of this Agreement, employ or solicit directly or indirectly or through any related or interposed body corporate, trust, principal, agent, shareholder, beneficiary, contractor, consultant or any other capacity) the employment or contract or consultancy or any other similar capacity any of our or our related parties staff or contractors or to enter into any other paid services for or with you.
- 8.2 If clause 8.1 is not complied with then you must pay to us liquidated damages, and which the parties agree is not a penalty, an amount equal to 50% of the total compensation, including but not limited to, salaries, wages, superannuation, bonuses, commissions, employee benefits, fees and other payments which the employee or subcontractor or consultant received during the prior 12 months of his or her employment, contract or consultancy with us.
- 8.3 This clause 8.3 does not limit any other remedies available to us for any other breach of this clause 8.3 or this Agreement, nor shall it preclude us from asserting any cause of action independent of this clause 8.3.

## 9. PRIVACY AND CREDITWORTHINESS

- 9.1 The parties agree to act in good faith in all dealings between them in relation to this Agreement.
- 9.2 You authorise us and our related parties to, in accordance with the Privacy Act 1988, use and exchange your information before, during and after the provision of Goods and Services to you with any of our service providers, Related Parties, and employees for the following purposes:
- a) to comply with our licenses;
  - b) to provide, administer and maintain Service delivery to you and your account; and
  - c) to assist us in assessing your creditworthiness and make new offers to you.
- 9.3 You agree, and, if you are a partnership each partner agrees, to authorise us to obtain a commercial or consumer credit report and to obtain personal or business information about you from your current service provider in order to provide the Services.
- 9.4 You agree that we may use your personal or business information for the following purposes:
- a) considering or applying our credit policy to your application for consumer or commercial credit and whether to continue to provide the Services to you;
  - b) ongoing credit management of your account, including collection of overdue payments;
  - c) ongoing maintenance of credit records about you;
  - d) notifying you of information in connection with the Services; and
  - e) development, research and direct and indirect promotion of our products and services.
- 9.5 You agree that we may disclose your personal or business information for the following purposes to:
- a) a credit reporting agency to assess your application for Services, or to notify of a default by you and to allow a credit reporting agency to create or maintain a credit information file about you;
  - b) credit providers to obtain information about the status of your account;
  - c) collection agents to recover overdue amounts;
  - d) carriers or service providers if required to enable them to provide the Services to you, or in the event we are no longer able to provide the Services to you;
  - e) assignees of all or part of our business assets, including trade receivables;
  - f) government or regulatory bodies and other organisations as authorised or required by law; and
  - g) our Personnel, Related Parties, employees, agents (such as outsourcing agencies) and contractors engaged by us.
- 9.6 The type of information referred to in clause 9 includes identifying details (such as name, address, drivers' licence), information in your Application, whether, in our opinion, you have committed a serious credit infringement, and information relating to the conduct of your account and your use of the Services.

- 9.7 You agree that we or our agents may utilise any information collected and recorded by us in relation to your account to assist us in the process of debt recovery.
- 9.8 If you are an individual, or the individual named as a Contact Person in the Application, you may seek access to and request the correction of any credit information or personal or business information held by us by notifying us in writing of the request.
- 9.9 You agree that we and our Related Parties may use any information, including your electronic contact details such as email, collected and recorded by us in relation to your account to send commercial electronic messages as defined under the Spam Act 2003 (Cth).

## 10. WARRANTY

- 10.1 We warrant to you that, during the Term, we will perform the Services in a professional and workmanlike manner (Limited Warranty).
- 10.2 For the avoidance of doubt, we make no warranties about any Goods/Third Party Products. Any warranties applicable to any Goods/Third Party Products are given solely by the original manufacturer or vendor, and we have no responsibility or liability for the failure or fault in, or to maintain or service, any Goods/Third Party Products.
- 10.3 Except for the Limited Warranty, all Goods, Services, software and other products provided to you under this Agreement are provided on an "as is" basis and without any express, implied, statutory or other warranties of any kind. Without limiting the generality of the foregoing, we disclaim any and all implied warranties (including, without limitation, any implied warranties of merchantability, fitness for a particular purpose or non-infringement of IPR) to the extent permitted by law.
- 10.4 Access to the Internet and your wide area network (WAN), if applicable, cannot be guaranteed where it is outside our direct control. Such access is dependent on additional services and products beyond those to be supplied by us under this Agreement. We shall have no responsibility for any inability of you to access the Internet and/or your WAN for any reason, and no such inability shall relieve you from any of your payment obligations under this Agreement.

## 11. LIABILITY

- 11.1 To the maximum extent permitted by applicable law and subject to clauses 11.2, 11.3, 11.4, and 11.5 but notwithstanding any other provision of this Agreement, our total aggregate liability to you or any person claiming through you for any costs, loss, liability, expense or damage, indirect, economic loss, or otherwise whatsoever, resulting from, arising under or in connection with this Agreement, whether based in contract, tort (including negligence), equity, statute, by way of indemnity or contribution, warranty or guarantee or any other type of damage or loss or otherwise, will not exceed an amount and scope equal to the greater of the aggregated amount for all events of:
- (i) the extent of the proceeds received from our insurance cover; or
  - (ii) the fees rates and charges received from you under this Agreement for the Services in the 12 months preceding the event giving rise to the cause of action; or
  - (iii) the amount charged to you for the Goods, whichever is the lesser.
- 11.2 To the extent we are unable to exclude liability under this clause 11, and in respect of the Limited Warranty where such is reported to us within 12 months of any such breach, you agree



that our total aggregate liability to you or a person claiming through you is limited to at our option to:

- a) resupplying the Services again, or paying for the cost of doing so; or
  - b) repairing or supplying equivalent Goods or paying the cost of repair or replacement, but in any event our liability will not exceed the cost of the relevant Goods or Services.
- 11.3 Notwithstanding any other clause in this Agreement, in no circumstances will we be liable in contract, tort (including negligence or breach of statutory duty) or otherwise for loss (whether direct or indirect) of profits, business, productivity, or anticipated savings, corruption, loss or destruction of data, failure of a backup to run correctly or for any indirect, special or consequential loss whatsoever.
- 11.4 A party's liability under this Agreement is reduced to the extent of any contribution (including contributory negligence or otherwise) by the affected party and its employees, agents, contractors or Personnel.
- 11.5 Nothing in this Agreement limits a party's liability for negligence by them under this Agreement, if that negligence causes personal injury or death.
- 11.6 If there is a programming error by us in relation to the Services, our liability and costs will be limited as follows:
- a) we will rectify the error if the error can be reversed in our reasonable opinion; or
  - b) we will use all reasonable endeavours to restore the most recent and appropriate backup.

## 12. INTELLECTUAL PROPERTY AND LICENCE

- 12.1 Unless otherwise agreed in writing, all equipment, software, documentation or other items used by us to provide the Services to you, whether situated on our or your premises, remain our property.
- 12.2 You acknowledge and agree that we remain the owner of all BlockBoxx IP, we acknowledge and agree that you remain the owner of all Background IP.
- 12.3 You grant to us and our Related Parties a non-exclusive, irrevocable, royalty free licence to use all Background IP for the sole purpose of providing the Services.
- 12.4 You acknowledge and agree that all Delivery IP vests in us and is our property as and when created, and you assign all right title and interest in and to the Delivery IP to us (including: (i) Moral Rights which are waived; and (ii) any Delivery IP created prior to or after the date of this Agreement).
- 12.5 During the Term, we may grant you from time to time, a non-exclusive, revocable, non-transferable right to use the Delivery IP for the sole purposes of you receiving the Services.
- 12.6 Where you use software and documentation supplied by us (whether it is software owned by us or by a third party), you shall ensure that the terms of the licence as notified to you by us covering such software and documentation shall be complied with by you, your Personnel and you shall, provided you have been notified of the terms indemnify us against any loss, damages, costs (including legal costs on a solicitor client basis), compensation or expenses whatsoever arising out of the failure by you, your Personnel to comply with the terms of such licence.

- 12.7 You warrant that any software, Background IP or services you use, propose to use, or have us use, or have in your possession that is relevant to this Agreement, other than software and documentation supplied by us, does not and will not infringe the IPR of any third party.

### 13. INDEMNITIES

- 13.1 You indemnify us, hold us harmless and defend us at your own expense, from and against any and all claims, damages, liabilities, losses, expenses, compensation and costs (including reasonable legal fees and expenses on a solicitor/client basis) arising out of liability for:
- a) the infringement or alleged infringement of any IPR owned by a person other than us, which subsist within or outside Australia in any information, Background IP, documents, equipment, software or articles which are:
    - (i) provided by you to us or our Personnel in connection with this Agreement; or
    - (ii) which you use or propose to use or have in your possession or control;
  - b) your breach of this Agreement;
  - c) your use of the Goods and/or Services, equipment, software or any other item provided to you by us;
  - d) any Demand against us or our Personnel (including negligence) by any person other than you, which arises in connection with this Agreement;
  - e) any damage which you or your Personnel cause to us or our service providers network, equipment, software, infrastructure or other property or to the property of our other customers; and
  - f) any losses associated with the breach of your privacy information or a party's Confidential Information as a result of theft or hacking of any Goods and/or Services, to the extent caused or contributed to by you, or by any criminal or negligent act or omission by you.
- 13.2 You must immediately notify us in writing of any Demand made, or threatened or brought, against you. Where the Demand arises from an infringement or alleged infringement referred to in clause 13.1(a). We may require you in such an event to cease use of the infringing or alleged infringing material in connection with this Agreement or may only permit you to continue such use upon such terms and conditions as notified to you by us in writing. For the purpose of this clause, "infringement" includes unauthorised acts which would, but for the operation of section 163 of the Patents Act 1990 (Cth), section 40A of the Designs Act 1906 (Cth) and section 183 of the Copyright Act 1968 (Cth) (or any sections that replace those sections from time to time), constitute an infringement.

### 14. INSURANCE FIRST CLAIM

- 14.1 Notwithstanding any other clause in the Agreement, you covenant and agree that if you make a claim or demand against us pursuant to clause 11 and 13 you will adhere and comply with the following procedure:
- a) you must first claim or make a demand against your own insurer; and
  - b) you must provide, if requested by us evidence of your claim or demand to your insurer; c) if:
    - (i) your insurer refuses to process the claim or demand; or

- (ii) the claim or demand is outside the scope of your insurance; or
- (iii) the insurance proceeds from your own insurance fails to adequately cover your loss or damage;

you must provide written notice to us setting out the facts and basis of the claim or demand.

## 15. DISPUTE AND MEDIATION

- 15.1 If a dispute arises out of or relates to this Agreement, neither party may commence any court proceeding relating to the dispute unless it has complied with this clause 15, except where that party seeks urgent interlocutory relief.
- 15.2 If the parties are unable to resolve a dispute either party may give notice to the other party specifying the nature of the dispute and requiring its resolution under this clause 15 (**Notice of Dispute**).
- 15.3 If the parties cannot resolve the dispute within 7 days of service of the Notice of Dispute, the dispute is to be submitted to mediation and the Institute of Arbitrators & Mediators Australia Rules for Mediation and Conciliation shall apply to the mediation to the extent that they are consistent with this clause 15.
- 15.4 If the parties have not agreed on the mediator and the mediator's remuneration within 7 days of service of the Notice, the mediator will be appointed by, and the mediator's remuneration will be determined by, the President for the time being of The Institute of Arbitrators and Mediators Australia, WA Branch at the request of either party and the parties will pay the mediator's remuneration in equal shares except that each party shall bear their own costs of and in relation to the mediation.

## 16. CONFIDENTIALITY

- 16.1 Except as required by law, each party must not, during the Term or at any time thereafter, disclose to any person any Confidential Information of the other party nor make use of any of the other party's Confidential Information whether directly or indirectly:
  - a) without the other party's prior written consent, unless such disclosure is made in the proper course of our duties under this Agreement, or, where the disclosures are:
    - (i) of information in the public domain;
    - (ii) in respect of your information, of information typically disclosed in information sharing meetings, including but not limited to IT managers meetings;
    - (iii) made by us to suppliers in the process of soliciting tenders, quotes or supplies;
    - (iv) made by us as reasonably expected to occur in the provision of the Services; or
    - (v) is required to be disclosed by law or by us to a governmental body or authority or by us under the rules of any stock exchange where our or our Related Party's shares are listed.
- 16.2 A party (first party) on the other party's request, must deliver up to the other party all materials comprising or containing any of the Confidential Information of the other party and all other property of the other party which may then be in the first party's possession, custody or control, except for, where required for the first party's corporate records, one copy of such.

- 16.3 You acknowledge and agree that our Personnel will from time to time make copies of your current data to facilitate offsite support and after hours maintenance or development.
- 16.4 Each party acknowledges that a breach of clause 16.1 would be harmful to the other party's business; and money damages will not be, by itself, an adequate remedy for breach of this Agreement, and that the other party is entitled to equitable relief which may include the grant of an injunction.
- 16.5 Notwithstanding clause 16, and except to the extent this Agreement is available on our Website, you agree that all the terms of this Agreement, including but not limited to, all fees, rates and charges, the manner by which fees, rates and charges are charged, payment terms and, all quotes, details of the method of operation of us, are strictly confidential. You must not under any circumstances provide to any other person a copy of this Agreement for any purpose whatsoever, including to obtain comparative rates.

## 17. PUBLICITY

Both parties may publicly disclose the fact that this Agreement is in effect and that you are a customer of ours and that we are a contractor to you. Excluding any announcements made by us to the ASX, press releases issued by a party to this Agreement will be subject to the other party's prior review and approval.

## 18. NOTIFIABLE DATA BREACHES SCHEME

- 18.1 You acknowledge that you may share obligations with us in relation to the Services under the Notifiable Data Breaches (NDB) Scheme under the Privacy Act 1988. For the purposes of this clause, an "eligible data breach" has the meaning given in section 26WE of the Privacy Act.
- 18.2 The parties mutually agree that all eligible data breaches related to the Services, whether or not you are an entity covered by the NDB scheme, will be notified to the Australian Information Commissioner and to affected individuals in the manner prescribed by the NDB Scheme.
- 18.3 If either of the parties becomes aware that a suspected or known data breach has, or may have, occurred in relation to the Services, it must:
- a) notify the other party by telephone as soon as it becomes aware of the known or suspected data breach; and
  - b) confirm the details by written notice to the other party as soon as reasonably practicable.
- 18.4 The parties will use best endeavours to cooperate and take all reasonable steps to contain the suspected or known data breach.
- 18.5 Each of the parties will use best endeavours and take all reasonable steps to complete an assessment of any suspected or known data breach in relation to the Services in a timely manner to determine the cause and extent of the breach, including the nature of the data involved in the breach to the extent that each is able to do so given the circumstances of the suspected or known data breach.
- 18.6 Each party will take steps to mitigate any adverse effects of the breach to the extent that they are able to do so depending on the circumstances of the data breach.
- 18.7 Where the parties are unsure as to whether the data breach may be an eligible data breach, the parties agree that:
- a) you shall be responsible for assessing whether the data breach is an eligible data breach;

- b) your assessment shall be completed expeditiously;
  - c) we agree to provide you with such assistance as you may reasonably require in relation to making this determination; and
  - d) you agree to promptly notify us of the outcome of your assessment by email.
- 18.8 Where you have assessed that the data breach is an eligible data breach, you must comply with the notification requirements set out in the NDB Scheme. You agree to provide to us copies of the following:
- a) your proposed statement to the Australian Information Commissioner; and
  - b) your proposed notification to the affected individuals,
  - c) for our written approval prior to the statement and notification being issued to the Australian Information Commissioner and affected individuals, respectively (with such approval not to be unreasonably withheld or delayed).
  - d) Should you not act promptly in issuing the statement and/or notification after receiving our written approval, we reserve the right to issue a statement and/or notification.
- 18.9 If at any time we have reasonable grounds to believe there has been an eligible data breach in relation to the Services (whether or not you are an entity covered by the NDB scheme), either in circumstances where we reasonably believe that your assessment under clause 1.7 is incorrect and will put us in breach of the NDB Scheme, or in circumstances where you have not performed any of its obligations under clauses 1.3-1.8 we will notify you by email setting out the reasonable grounds upon which we have formed our belief and, in those circumstances, we will comply with the notification requirements set out in the NDB Scheme.
- 18.10 The parties agree to bear their own costs in relation to clauses 1.3-1.8 above, except where we provide notification under clause 1.8.3 or clause 1.9 in which case you agree to reimburse our reasonable costs of providing notification.

## 19. GENERAL

- 19.1 You must not assign or transfer or in any other way dispose of to any third party the benefit or burden of this Agreement without our prior written consent.
- 19.2 We may, assign, transfer or novate this Agreement to a Related Party, and upon request you will do all things reasonably required by us to effect this.
- 19.3 This Agreement constitutes the entire Agreement between the parties relating to the subject matter and any other thing supplied under this Agreement and supersedes all prior agreements, arrangements and undertakings.
- 19.4 Terms expressed by their sense or context intended to survive the expiration or termination of this Agreement do so, including clause 16.
- 19.5 Each party shall bear their own costs of and incidental to the preparation, negotiation and execution of this Agreement and any variation or amendment of this Agreement.
- 19.6 Any notice or demand in connection with this Agreement must be in writing and may be signed by the relevant party or its solicitors and may be:

- a) addressed to the Contact Person or for us to our Chief Operating Officer as relevant and delivered or posted to the address of the addressee in this Agreement or any other address notified to the sender as an address for the giving of notices; or
  - b) sent by facsimile transmission to the facsimile number of the addressee in the Application or any other facsimile number notified to the sender as a facsimile number for the giving of notices.
- 19.7 Unless a later time is specified in it, a notice or demand takes effect from the time it is taken to be received, which is:
- a) if left at the address of the addressee, when left at that address unless the time of leaving the notice in the place in which it is left is not a Business Day or is after 5pm on a Business Day, when it will be deemed to be given or made on the next following Business Day in that place;
  - b) if posted, on the second Business Day after posting; and
  - c) if sent by facsimile transmission, at the time indicated on the transmission report produced by the sender's facsimile machine confirming that the facsimile was sent to the recipient's facsimile number, unless the time of transmission at the place of receipt of the facsimile is not a Business Day or is after 5pm on a Business Day, when it will be deemed to be given or made on the next following Business Day in that place.
- 19.8 A notice or demand sent or delivered in the manner provided under clause 18.7 is deemed to be received by the addressee notwithstanding that the addressee has been liquidated, deregistered or is absent from the place at which the notice or demand was delivered or sent, or notwithstanding that the notice is returned unclaimed.
- 19.9 This Agreement and all related matters are governed by and construed in accordance with the laws of Western Australia, Australia, and the parties irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of Western Australia, Australia.
- 19.10 If any part of this Agreement is, or becomes void or unenforceable, that part is or will be, severed from this Agreement to the extent that all parts that are not, or do not become, void or unenforceable these remain in full force and effect and are unaffected by that severance.
- 19.11 A power or right under this Agreement may not be waived except expressly stating the specific power or right to be waived in writing signed by the party granting the waiver.
- 19.12 18.12 The failure to exercise or delay in exercising any power or right by a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right.
- 19.13 Nothing in the Agreement constitutes a relationship of employer and employee, principal and agent, partnership or joint venture between us and neither party has any right to bind the other in contract or otherwise.
- 19.14 Except as otherwise set out in this Agreement where we may vary this Agreement, this Agreement may be varied only by Agreement signed by the parties.
- 19.15 Each party must at its own cost execute and do all acts and things necessary or desirable to implement and give full effect to the provisions and purposes of this Agreement.

## 20. DEFINITIONS

- 20.1 In this document, unless the context requires otherwise:

## Blockboxx General Terms and Conditions

**Agreement** means the documents specified in clause 1.1 together with any other attachment, schedule or appended document;

**Application** means the application or Quotation under which you request us to supply specified Goods and/or Services to you;

**Background IP** means your IPR which is in existence at the date of this Agreement, or, comes into existence after such other than in connection with this Agreement;

**Blockboxx IP** means our and our Related Parties IPR which is in existence at the date of this Agreement, or, comes into existence after such other than in connection with this Agreement;

**Business Day** means any day not being a Saturday, Sunday or State public holiday at your first address set out in the Application;

**Business Hours** means in respect of Service delivery the operating hours of the relevant Service as set out in the Application and being Monday to Friday other than a day that is not a Business Day;

**Confidential Information** means, in any form whatsoever:

- a) all trade and business secrets and other confidential information relating to the operations, dealings, pricing, transactions, financial arrangements, internal structures, clients, personnel, assets, liabilities, strategies, prices, businesses and affairs of a party or which come into a party's possession in the course of this Agreement or by reason of the provision of the Services; and
- b) any of Blockboxx IPR;
- c) and for the avoidance of doubt includes our information where disclosed by any existing or potential customer, supplier, contractor, agent, licensor or licensee;

**Contact Person** means your contact person identified on the Application;

**Demand** means any action, claim or demand made for loss, damage, compensation, costs or expenses or any other relief, whether arising under statute or common law;

**Delivery IP** means all IPR created, discovered or coming into existence as a result of or in connection with this Agreement or the provision of the Services including (without limitation) IPR developed by us and our Related Parties in providing the Services and or Goods;

**Force Majeure Event** means any act of God (including lightning, flood severe weather, explosion, fire), war, civil disorder, acts of Government or other authorities, embargo, strike or other labour dispute or (without limitation) any other event or occurrence that is beyond our reasonable control;

**Goods** means items of hardware, software, or other items that you have ordered from us as set out in the Application, or may order from us from time to time;

**GST** means the tax imposed by A New Tax System (Goods and Services Tax) Act 1999 and A New Tax System (Goods and Services Tax) Transition Act 1999 and related tax imposition Acts of the Commonwealth of Australia;

**IPR** means all present and future registered and unregistered rights in respect of copyright, designs, trademarks, circuit layouts, know how, trade secrets, patents, invention and discoveries

and all other intellectual property as defined in article 2 of the convention establishing the World Intellectual Property Organisation 1967 and all Moral Rights;

**Limited Warranty** is defined in clause 10.1;

**Minimum Term** means the minimum term for the Agreement as specified in the Application;

**Moral Rights** means any of the rights described in Article BIS of the Berne Convention for Protection of Literary and Artistic Works 1886 (as amended from time to time), being "droit moral" or other analogous rights arising under any statute, that exist or that may come to exist, anywhere in the world;

**Notice of Dispute** is defined in clause 15.2;

**Personnel** means any of the following persons in relation to a party:

- a) that party's officers, employees, agents, consultants, contractors and subcontractors;
- b) officers, employees, agents, consultants and contractors of the that party's subcontractors; or
- c) other persons engaged by that party, under their direction and control, or for whom that party is responsible;

**Quotation** means the quotation, proposal or other similar document under which you request us to supply specified Goods and/or Services to you;

**Related Party** means any person that is a related body corporate or an associated entity (within the meaning of the Corporations Act 2001 (Cth)) of ours, including but not limited to an entity in which we holds shares or units.

**Services** means the services to be provided by us to you set out in the Application, or may order from us from time to time;

**Special Terms and Conditions** mean the special terms and conditions applicable to a particular Good or Service provided by us;

**Term** is defined in clause 2.1;

**Third Party Product** means any product or equipment added to your equipment or any part of your network by any person other than us; and

**Website** means our website located at [www.blockboxx.io](http://www.blockboxx.io)

20.2 In this Agreement, unless the context requires otherwise:

- a) the singular includes the plural and vice versa;
- b) the word "person" includes a firm, body corporate, unincorporated association, authority or other entity and their executors, administrators substitutes and successors;
- c) headings are inserted for convenience and do not affect the interpretation of this Agreement;
- d) a reference to a clause, schedule , or Application, refers to a clause, schedule or Application of this Agreement;
- e) a reference to the word "includes" means, including but not limited to;



- f) a reference to an Agreement or other instrument includes any variation or replacement of them; and
- g) a reference to a statute includes all statutes amending, consolidating or replacing such statute.

hello@blockboxx.io  
**blockboxx.io**