

Logiqc Terms of Use

1 Parties and acceptance

- (a) The Agreement is between Logiqc Pty Ltd (ABN 79 120 710 769)(**Logiqc**) and the individual or entity (**You** or **Your**) that has executed the Order. The Agreement sets out the terms and conditions under which Logiqc shall provide the Services to You.
- (b) If you are an individual entering into the Agreement on behalf of your employer or another legal entity, you represent and warrant that: (i) you have full legal authority to bind your employer or such other legal entity to the Agreement; (ii) you have read and understood the Agreement; and (iii) you agree to the Agreement on behalf of the employer or legal entity that you represent. If the foregoing sentence is applicable, any references to "You" in the Agreement shall refer to the employer or legal entity that you act on behalf of.
- (c) Capitalised terms used in this Terms of Use are defined the first time that they are used or otherwise have the meanings given at clause 22.

2 Scope

The terms of the Order and this Terms of Use together form the Agreement between the Parties.

3 Term and renewal

- (a) The Agreement commences on the Commencement Date and shall continue for the period specified in the Order (**Initial Term**) unless terminated earlier in accordance with the terms of the Agreement.
- (b) Unless otherwise set out in the Order, the Initial Term will automatically renew for additional and consecutive periods equal to the Initial Term (each, a **Renewal Term**) unless a Party notifies the other Party in writing of its intent to cancel the renewal at least 30 days prior to expiry of the Current Term.

4 Software

4.1 Usage right

- (a) Subject to Your compliance with all of Your obligations under the Agreement, Logiqc grants You a non-exclusive, non-transferable, non-sublicensable right to access and use the Software during the Term solely for Your internal business operations and subject to any restrictions specified in the Order with respect to available application features, User limits, usage restrictions or functionality limitations (**Licence**).
- (b) You may permit Users to access and use the Software subject to the terms of the Licence.

4.2 Modification to software

At any time during the Term Logiqc may, at its absolute discretion, update, upgrade, change or modify the functions or features of the Software (**Update**). Any Update to the Software will not materially reduce the level of performance, security or availability of the Software during the Term. The terms of the Agreement shall continue to apply to any Update made to the Software.

4.3 Third party applications

- (a) The Software may enable You to link to, integrate with, transfer Customer Data to, or otherwise access, Third Party Applications.
- (b) Your access to, and use of, any Third Party Applications is subject to a separate agreement between You and the provider of those Third Party Applications.
- (c) You acknowledge that Logiqc does not provide nor control Third Party Applications and is not responsible nor liable for any aspect of Third Party Applications that You may procure, access, use or connect to through the Software.
- (d) Logiqc may, at its absolute discretion, change, or remove access to, any Third Party Applications. Any such change, or removal of access to, Third Party Applications does not affect Your obligations under the Agreement.

4.4 Logiqc material

- (a) Subject to Your compliance with all of Your obligations under the Agreement, Logiqc grants You a non-exclusive, non-transferable and non-sublicensable right to access and use the Material during the Term solely for Your internal business operations and only in connection with Your authorised use of the Software pursuant to the terms of the Agreement.
- (b) Subject to the licence granted at clause 4.4(a), You may permit Users to access and use the Material.

5 Professional Services

- (a) Logiqc shall perform the Professional Service.
- (b) If Logiqc's Personnel are providing any of the Professional Service at Your premises, You must provide a safe and healthy work environment in accordance with applicable WH&S Laws in the state or territory in which the Professional Service are being performed.
- (c) Unless Logiqc provides its written consent, You must not record, stream or otherwise capture any performance or aspect of the Professional Service.

6 Your Obligations

6.1 General responsibilities

- (a) You must:
 - (i) co-operate with Logiqc in relation to the provision of the Services; and
 - (ii) provide Logiqc in a timely manner with all information reasonably requested by Logiqc to enable it to provide the Services. You must take all reasonable steps to ensure that any information provided in accordance with the foregoing sentence is accurate.
- (b) Logiqc will not be responsible for any delay or deficiency in providing the Services if such delay or deficiency results from Your failure to comply with clause 6.1(a).

6.2 Acceptable use policy

- (a) You must comply, and must procure that all Users comply, with Logiqc's Acceptable Use Policy.
- (b) Logiqc may investigate any suspected violation of the Acceptable Use Policy. You must co-operate with any such investigation including by provide Logiqc in a timely manner with all information reasonably requested by Logiqc to enable it conduct the investigation.
- (c) In addition to any other rights that Logiqc has under the Agreement or at law, Logiqc has the right to take remedial action if the Acceptable Use Policy is violated, and such remedial action may include removing, disabling access to, or modify any material that violates the Acceptable Use Policy. Logiqc may report any activity that it suspects violates any Law to appropriate law enforcement officials and regulatory bodies.

6.3 Users

- (a) You must procure that all Users comply with the terms of the Agreement. Any breach of the terms of the Agreement by a User (whether or not authorised by You) is deemed to be a breach of the Agreement by You.
- (b) You are responsible for:
 - (i) identifying all Users and any subset of Users to be designated as administrators, who may create, approve and revoke access for other Users;
 - (ii) controlling against unauthorised access to the Software by all Users;
 - (iii) maintaining the confidentiality of all Users' names, passwords and account information that are created using the Software (**Credentials**); and
 - (iv) all activities that occur using Your or Users' usernames, passwords or accounts and otherwise as a result of Your or Users' access to the Software, whether or not authorised by You.

- (c) You must immediately notify Logiqc of:
 - (i) any unauthorised access to, or use of, the Software using Credentials; and
 - (ii) any loss, theft or unauthorised use of any Credentials.

7 Fees

7.1 Billing and payment

- (a) You must pay the Fees to Logiqc:
 - (i) for the Software in advance in accordance with the recurring billing period (monthly or annually) specified in the Order; and
 - (ii) for the Professional Service in advance.
- (b) The Company must issue You with a tax invoice for the payment of all Fees that are payable pursuant to the Agreement.
- (c) Except for Fees paid in accordance with clause 7.1(d), You must pay each tax invoice issued in accordance with clause 7.1(b) by electronic funds transfer to the bank account specified in the tax invoice within 30 days of the date of the tax invoice.
- (d) Where specified, the Fees can be paid by way of credit or debit card (**Card**) which will be debited from the Card immediately at the beginning of each recurring billing period specified in the Order.
- (e) For the purposes of clause 7.1(d), You:
 - (i) authorise Logiqc to arrange for the Fees to be debited from the Card using a third-party provider (**Processor**) which stores Your Card information and processes payment. You must provide all Card information required; and
 - (ii) must ensure that there are sufficient clear funds available on the Card to allow for the Fees to be debited in accordance with this clause 7 and the Order.

7.2 Order change

- (a) Subject to clause 7.2(b), during the Term You may change certain available Software features or User limits applicable to the Order provided that:
 - (i) any change that results in a decrease of the Fees will only become effective at the beginning of the next Renewal Term; and
 - (ii) any change to the Order that results in an increase to the Fees (**Upgraded Order**) shall become effective immediately and You must immediately pay to Logiqc the difference between the Fees payable for the existing Order and the fees payable for the Upgraded Order on a pro-rata basis for the remainder of the Current Term. Thereafter, You must pay the fees applicable to the Upgraded Order in accordance with clause 7.1.
- (b) Any changes to the Order pursuant to clause 7.2(a) must be made by You via the Software or as otherwise directed by Logiqc.
- (c) Legacy plan holders only: To ensure continued access to equivalent functionality, any subscription change that leads to the deactivation of features (excluding user licenses) from your legacy plan will necessitate an automatic update of the client's subscription to the current plan. This update will reflect the current feature set and maintain the client's access to comparable services.

7.3 Changes to fees

- (a) Logiqc may, from time to time, change the Fees (**Fee Change**) as follows:
 - (i) if the Order includes a recurring monthly billing period, upon the provision of at least 180 days' notice to You; or
 - (ii) if the Order include a recurring annual billing period, upon the provision of at least 180 days' notice to You prior to the expiry of the Current Term.

- (b) The Fee Change will become effective at the beginning of the next Renewal Term immediately following expiration of the applicable 180-day notice period specified at clause 7.3(a).
- (c) If You do not accept the Fee Change, you may immediately terminate the Agreement at any time during the 180-day notice period specified at clause 7.3(a).

7.4 GST

Unless otherwise stated, all Fees are exclusive of GST. A Party must pay GST on a Taxable Supply made to it under the Agreement, in addition to any consideration (excluding GST) that is payable for that Taxable Supply. It must do so at the same time and in the same way as it is required to pay the consideration for the Taxable Supply. A Party making a Taxable Supply to another Party under the Agreement must issue a Tax Invoice to the other Party, setting out the amount of the GST payable by that other party. For the purposes of the Agreement, “GST”, “Taxable Supply” and “Tax Invoice” shall have the meaning attributed to those terms in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

8 Warranties

8.1 Mutual warranties

Each Party represents and warrants to the other that:

- (a) it has full authority to enter into the Agreement; and
- (b) it has, and will maintain throughout the Term, all necessary powers, authority and consents to fully perform its obligations and duties under the Agreement.

8.2 Software warranty

- (a) Logiqc warrants that during the Term the Software shall conform in all material respects with the Specifications. If the Software does not meet the foregoing warranty, You must promptly provide Logiqc with a written notice that describes the deficiency in the Software.
- (b) For any breach of the warranty specified at clause 8.2(a), Your exclusive remedy and Logiqc entire liability shall be the correction of the deficient Software that caused the breach of warranty, or, if Logiqc cannot substantially correct the deficiency in a commercially reasonable manner, You may terminate the Agreement.

8.3 Exclusion of warranty

Except as provided under clauses 8.2 and 8.4, to the maximum extent permitted by law, Logiqc does not make any warranties for the Services. For the avoidance of doubt, Logiqc:

- (a) disclaims all implied warranties, including any implied warranty of merchantability, satisfactory quality or fitness for a particular purpose;
- (b) provides the Services on an "as is" and "as available" basis; and
- (c) does not warrant that:
 - (i) the Services will be performed error-free or uninterrupted;
 - (ii) the Services will be compatible with any hardware or software;
 - (iii) Logiqc will correct all or any errors; or
 - (iv) the Services will meet Your requirements or expectations.

8.4 Australian consumer law

- (a) Nothing in the Agreement is intended to have the effect of excluding, restricting or modifying the application of all or any of the provisions of Part 5-4 of the Australian Consumer Law, or the exercise of a right conferred by such a provision, or any liability of Logiqc in relation to a failure to comply with a guarantee that applies under Division 1 of Part 3-2 of the Australian Consumer Law to a supply of goods or services. For the purposes of this clause 8.4, “goods” and “services” have the meanings given under the Australian Consumer Law.

- (b) If Logiqc is liable to You in relation to a failure to comply with a guarantee that applies under Division 1 of Part 3-2 the Australian Consumer Law that cannot be excluded, Logiqc's total liability to You for that failure is limited to, at Logiqc's option:
 - (i) in the case of services, the resupply of the services or the payment of the cost of resupply; and
 - (ii) in the case of goods, the replacement of the goods or the supply of equivalent goods, or the repair of the goods, or the payment of the cost of replacing the goods or of acquiring equivalent goods, or the payment of the cost of having the goods repaired.

9 Confidential Information

- (a) Subject to clause 9(b), a Party receiving Confidential Information (**Recipient**) from the other Party (**Discloser**):
 - (i) must keep the Confidential Information of the Discloser secret, and not disclose or permit its disclosure to any person, except to:
 - (A) its employees, officers and agents who require access to it for the purposes of the Agreement; or
 - (B) to its professional advisers,
provided they are informed of, and comply with, the same obligations of confidentiality regarding that Confidential Information as specified under this clause 9(a);
 - (ii) must only use the Confidential Information of the Discloser for the purposes of the Agreement; and
 - (iii) is responsible for any misuse by its employees, officers, agents or professional advisers of the Discloser's Confidential Information.
- (b) Notwithstanding clause 9(a), a Recipient may disclose Confidential Information of the Discloser:
 - (i) if a disclosure is required by Law, but the Recipient intending to make the disclosure must first notify the Discloser and the Discloser may take action to object to that disclosure; or
 - (ii) to the extent such disclosure is authorised by the Agreement or is necessary for each Party to exercise and perform its respective rights and obligations under the Agreement.
- (c) All Confidential Information disclosed by a Discloser remains the property of the Discloser.

10 Privacy

- (a) Each Party must comply with its respective obligations under the Privacy Law in connection with the Agreement.
- (b) Logiqc handles Personal Information in accordance with its Privacy Policy. The Privacy Policy is subject to change at Logiqc's discretion and any such change will become effective on the date that it is posted on Logiqc's website.
- (c) If Logiqc collects, holds, uses or discloses Personal Information in the course of, or relating to, the Agreement, Logiqc must:
 - (i) not use or disclose (unless required by Law) any such Personal Information other than for the purpose of Logiqc performing its obligations or exercising its rights under the Agreement; and
 - (ii) take reasonable steps to protect all such Personal Information in its possession or control against:
 - (A) misuse, interference and loss; and
 - (B) unauthorised access, modification or disclosure.
- (d) You must provide Sensitive Information to Logiqc only to extent that is necessary for Logiqc to perform its obligations under the Agreement.
- (e) You warrant that You have:
 - (i) made all necessary notifications required by APP 5, on Your behalf and on behalf of Logiqc to; and
 - (ii) obtained all necessary consents required by APP 6 from,

the individuals whose Personal Information You shall disclose to Logiqc in the course of the Agreement to enable to Logiqc to lawfully use the Personal Information and perform its obligations in accordance with the Agreement.

11 Customer Data

11.1 Your grant of rights

- (a) You grant to Logiqc (and its third-party service providers) a non-exclusive right to access, use, modify, develop, process, publish, disclose and transmit Customer Data as is necessary for Logiqc to provide the Services in accordance with the Agreement.
- (b) You acknowledge that the Software relies on systems, networks and facilities supplied by third-parties, and that Logiqc may supply Customer Data to its third-party service providers to the extent necessary to enable Logiqc to provide the Services.

11.2 Security and storage

- (a) Logiqc digitally stores at rest all Customer Data it collects in third-party data storage centres located in Australia.
- (b) Logiqc must maintain commercially reasonable administrative, physical and technical safeguards designed for the protection, confidentiality and integrity of the Customer Data while it resides in the Software.

11.3 Third party applications and customer data

You acknowledge that when You enable or use Third Party Applications in conjunction with the Software, Logiqc may allow the providers of those Third Party Applications to access Customer Data as required for the interoperation of such Third Party Applications with the Software. Logiqc will not be responsible for any use, disclosure, modification or deletion of Customer Data resulting from any such access by providers of Third Party Application.

11.4 Third party payment providers

Logiqc may make available Third Party Applications that provide payment gateway or payment processing services to You (**Payment Providers**). You and Users must only input, transmit or upload credit or payment card information via the Third Party Applications provided by Payment Providers. You and Users must not input, transmit or upload any credit or payment card information directly into the Software.

11.5 Backups and deletion

- (a) During the Term Logiqc shall replicate Customer Data for disaster recovery and back-up purposes.
- (b) Prior to the expiry or termination of the Agreement, and conditional upon You having paid all Fees that are due and payable to Logiqc in accordance with the Agreement, You may request a copy of the Customer Data. Logiqc will make the Customer Data available for retrieval by You in a machine readable format within 14 days from the date of Your request and such Customer Data will remain available for retrieval for a period of 14 days.
- (c) Except as may be required by law, Logiqc shall delete or otherwise render unrecoverable all Customer Data that remains in the Service within 30 days of the expiry or termination of the Agreement.

11.6 Customer data warranty

You represent and warrant that:

- (a) the Customer Data does not, and will not, infringe upon the Intellectual Property Rights of any third party;
- (b) You have secured all the necessary rights and consents in the Customer Data as may be necessary to grant the rights pursuant to the Agreement; and
- (c) the Customer Data complies with all applicable Laws.

12 Intellectual Property

- (a) Logiqc and its licensors retain all ownership of, and all Intellectual Property Rights in, the Software.
- (b) As between You and Logiqc, You and your licensors retain all ownership of, and all Intellectual Property Rights in, the Customer Data.

13 Analyses & monitoring

- (a) Notwithstanding anything to the contrary in the Agreement, Logiqc may do any of the following:
 - (i) compile and use statistical information related to the performance, operation and use of the Software by You and Users; or
 - (ii) collect, store and use Customer Data in aggregated and anonymised form: for security and operations management; to create statistical analyses; for product improvement; and for research and development purposes,
(collectively, **Analyses**).
- (b) Logiqc retains all ownership of, and all Intellectual Property Rights in, the Analyses.
- (c) Notwithstanding anything to the contrary in the Agreement, Logiqc may use monitoring tools that may collect, store and use Customer Data for any of the following purposes:
 - (i) to help facilitate Logiqc's operation of the Software;
 - (ii) to help resolve Your requests related to the Software;
 - (iii) to help detect and address threats to the functionality, security, integrity, and availability of the Software and any content, data, or applications in the Software; or
 - (iv) to help detect and address illegal acts or violations of the Acceptable Use Policy.

14 Feedback

You grant to Logiqc a royalty free, worldwide, perpetual, irrevocable, sublicensable and transferable right to use, modify, distribute and incorporate into the Software (without attribution of any kind) any suggestions, enhancement request, recommendations, proposals, correction or other feedback provided to Logiqc by You or any User.

15 Indemnity

15.1 Claims

Subject to the remainder of this clause 15, if a third party makes a Claim against Logiqc in connection with, or as a result of, Your breach of clause 11.6, then You must defend Logiqc against the Claim and must indemnify and hold harmless Logiqc against any Loss suffered by Logiqc arising as a result of the Claim (**Third Party Claim**).

15.2 Process

If Logiqc receives a Third Party Claim for which it seeks indemnification under clause 15.1, then:

- (a) it must notify You as soon as reasonably practicable;
- (b) You must defend or settle the Third Party Claim at Your own cost;
- (c) You must obtain Logiqc's prior written approval to any proposed settlement or compromise (which must not be unreasonably refused); and
- (d) Logiqc must provide reasonable assistance requested by You in defending or settling the Third Party Claim.

15.3 Exclusions

You shall have no obligation to indemnify Logiqc for a Third Party Claim pursuant to clause 15.1 to the extent that the Third Party Claim arises from Logiqc's use of the relevant Customer Data in a manner that is not permitted under the Agreement.

16 Liability

- (a) To the maximum extent permitted by law, neither Party shall be liable to the other Party for any special, indirect or consequential loss arising under, or in connection with, the Agreement including any:
 - (i) loss of business, profits or sales (excluding the Fees);
 - (ii) loss of production;
 - (iii) loss of agreements or contracts;
 - (iv) loss of business opportunity;
 - (v) loss of anticipated savings;
 - (vi) loss of or damage to goodwill;
 - (vii) loss of reputation;
 - (viii) loss of data; or
 - (ix) loss of use, or corruption of, software, data or information.
- (b) Except for:
 - (i) Your indemnification obligations pursuant to clause 15;
 - (ii) Your obligation to pay the Fees pursuant to clause 7;
 - (iii) a Party's infringement of the other Party's Intellectual Property Rights,to the maximum extent permitted by law, a Party's aggregate liability to the other Party arising under, or in connection with, the Agreement whether in contract, tort or otherwise shall not exceed the total Fees actually paid by You to Logiqc under the Agreement during the twelve (12) month period immediately preceding the event giving rise to such liability.

17 Suspension

- (a) Logiqc may suspend (**Suspension**) Your and any User's access to, or use of, the Software if Logiqc reasonably believes that:
 - (i) there is a significant threat to the functionality, security, integrity, or availability of the Software or any content, data, or applications within the Software; or
 - (ii) there is a breach of the Acceptable Use Policy.
- (b) When reasonably practicable and lawfully permitted, Logiqc will provide You with advance notice of any Suspension. Logiqc will use reasonable efforts to re-establish access to, and use of, the Software but only after Logiqc determines that the issue causing the Suspension has been resolved.

18 Termination

18.1 Termination for cause

- (a) Either Party may immediately terminate the Agreement by written notice to the other Party if:
 - (i) termination is permitted pursuant to the terms of the Agreement;
 - (ii) the other Party commits a material breach of the Agreement that is not rectifiable;
 - (iii) the other Party commits a material breach of the Agreement that is not rectified within 20 days of the breaching Party receiving notice from the non-breaching Party requiring it to rectify the breach; or
 - (iv) an insolvency event occurs to the other Party.
- (b) Logiqc may immediately terminate the Agreement by written notice if:
 - (i) any payment (including any Fees) due from You under the Agreement is not paid;
 - (ii) You breach clause 11.6 (Customer data warrant) or clause 10 (Privacy);
 - (iii) You breach the Acceptable Use Policy; or

- (iv) You infringe the Intellectual Property Rights of Logiqc or its licensors.

18.2 Consequences of termination

- (a) Subject to the remainder of this clause 18.2, following termination of the Agreement by either Party pursuant to clause 18.1:
 - (i) Logiqc immediately ceases to have any further obligations to provide the Services and You (and all Users) must immediately cease all access to, and use of, the Software; and
 - (ii) You must immediately return all Material in Your possession or control (whether in digital or physical form) to Logiqc.
- (b) In addition to clause 18.2(a), if Logiqc terminates the Agreement pursuant to clause 18.1 then you shall forfeit any Fees that You prepaid for the period following the date of termination.
- (c) In addition to clause 18.2(a), if You terminate the Agreement pursuant to clause 18.1 then Logiqc shall, within 30 days, refund any Fees that You prepaid for the period following the date of termination.
- (d) Any termination of the Agreement shall not affect:
 - (i) any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination; and
 - (ii) the provisions specified in clause 21.1 which survive termination.

19 Force Majeure

- (a) If a Force Majeure Event occurs and a Party is not able to partially or wholly perform its obligations (**Affected Party**) under the Agreement, then, the Affected Party's obligations under the Agreement shall be suspended to the extent that the Affected Party is prevented from performing its obligations by the Force Majeure Event, provided that a Force Majeure Event does not relieve or suspend Your obligation to pay Fees pursuant to the Agreement.
- (b) The Affected Party must notify the other party as soon as practicable after the Force Majeure Event arises of the occurrence of the Force Majeure Event. The Affected Party must use its reasonable efforts to take steps to overcome the effects of the Force Majeure Event and to resume its obligations under the Agreement as soon as practicable.
- (c) If the Force Majeure Event continues for more than 60 days, either Party may immediately terminate the Agreement by written notice to the other Party.

20 Dispute Resolution

- (a) A Party claiming that a dispute has arisen in connection with the Agreement (**Dispute**) must notify the other Party in writing by giving details of the Dispute (**Dispute Notice**).
- (b) The Parties must, prior to commencing legal proceedings, attempt to resolve the Dispute by convening a meeting (**Meeting**) within 21 days of the date of receipt of Dispute Notice between director-level representatives appointed by each Party to discuss the possible means and terms of a resolution. If a Party fails to convene or attend the Meeting, the other Party may commence legal proceedings.
- (c) Nothing in this clause 20 will limit a Party's rights to seek interim injunctive relief in a court of law.

21 Other Terms

21.1 Survival

The following clauses of the Agreement survive termination or expiry of the Agreement; clause 9 (Confidential Information), clause 11.5(b) (Backups and deletion), clause 13 (Feedback), clause 15 (Indemnity), clause 16 (Liability), clause 18.2 (Consequences of Termination), clause 20 (Dispute resolution), clause 21 (Other Terms) and clause 22 (Definitions).

21.2 Interpretation

- (a) Headings are for convenience only and do not affect interpretation.

- (b) Mentioning anything after includes, including, or similar expressions, does not limit what else might be included.
- (c) A reference to legislation or to a provision of legislation includes any modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (d) The singular includes the plural, and the converse also applies.
- (e) Nothing in the Agreement is to be interpreted against a Party solely on the ground that the Party prepared the Agreement or a relevant part of it.

21.3 Subcontractors

Logiqc may at its discretion appoint or engage any subcontractor in connection with the performance of its obligations under the Agreement (including the provision of the Services).

21.4 Assignment

Neither Party may novate, assign or transfer any of its rights and/or obligations under Agreement without the prior written consent of the other Party except that Logiqc may assign or novate its rights and/or obligations under the Agreement without Your consent to: (a) a Related Body Corporate; or (b) a third party that acquires Logiqc or that participates in a merger with Logiqc. You must execute and deliver any further documents and do all acts and things as may be required by Logiqc to give effect to an assignment or novation pursuant to this clause 21.4.

21.5 Relationship

The relationship between the Parties under the Agreement is that of independent contractors. The Agreement does not create any joint venture, partnership, agency or employment relationship between the Parties.

21.6 Notices

- (a) Unless specified otherwise, a notice, consent, waiver or other communication (**notice**) in connection with the Agreement must be in writing and must be given by email to the receiving Party's current address for service for notices as follows:

Logiqc: info@logiqc.com.au

You: The email address that You provided in the Order
- (b) A notice is regarded as given and received the next business day after the time it is sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered.

21.7 Amendment

- (a) Logiqc may, from time to time, amend the terms of the Agreement (**Amendment**) by providing you with at least 180 days' notice (**Period**).
- (b) Except as specified at clause 21.7(c), Amendments will take effect at the beginning of Your next Renewal Term immediately following the expiry of the Period unless You elect not to renew the Agreement in accordance with clause 3(b).
- (c) Notwithstanding clause 21.7(a) and 21.7(b), Logiqc may make Amendments that shall become effective at any time during a Current Term by providing notice to You if such Amendments are:
 - (i) required to address compliance with any Law; or
 - (ii) required to reflect changes to Logiqc's business, Software functionality or the introduction of new Services features or offerings.
- (d) If You object to an Amendment under clause 21.7(c), You may immediately terminate the remainder of the Current Term as Your exclusive remedy. To exercise this right, You must notify Logiqc of termination under this subclause within 30 days of Logiqc's Amendment notice.

21.8 Referral arrangements

Logiqc may engage third parties (each, a **Referrer**) from time to time to refer prospective new customers to Logiqc. You acknowledges that if the You were referred to Logiqc by a Referrer in accordance with the preceding sentence, such Referrer may receive a fee for referring You to Logiqc.

21.9 No waiver

A failure to exercise or a delay in exercising any right, power or remedy under the Agreement does not operate as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the Party granting that waiver unless made in writing.

21.10 No reliance

No Party has relied on any statement, representation, assurance or warranty made or given by any other Party, except as expressly set out in the Agreement.

21.11 Entire agreement

The Agreement embodies the entire agreement between the Parties with respect to the subject matter of the Agreement and supersedes any prior negotiation, arrangement, understanding or agreement with respect to the subject matter or any term of the Agreement.

21.12 Governing law

The Agreement is governed by the substantive and procedural laws of the State of Queensland, Australia and the Parties agree to submit to the exclusive jurisdiction of, and venue in, the courts in Queensland, Australia in any dispute relating to the Agreement.

21.13 Electronic signature

Each Party consents to the use of electronic signatures in order to execute the Order which will be considered to be an original binding signature. Neither Party may object to the legal effect or enforceability of such electronic signatures.

21.14 Severability

If anything in the Agreement is unenforceable, illegal or void, then it is severed and the rest of the Agreement remains in force.

22 Definitions

The following definitions apply:

Acceptable Use Policy means the acceptable use policy at Schedule 1 of this Terms of Use.

Agreement means, collectively, this Terms of Use (including the Acceptable Use Policy) and the Order.

APP means an Australian Privacy Principle under the Privacy Law.

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

Claim means any claim, action, proceeding or investigation of any nature or kind and includes the allegation of a claim.

Commencement Date means the date that Logiqc first grants You access to the Software.

Confidential Information means any information disclosed in the course of the Agreement which is confidential or proprietary in nature to a Party including: (a) Customer Data (in Your case); or (b) information relating to a Party's operations, processes, pricing, plans, know-how, designs, trade secrets, market opportunities and customer lists. Confidential Information does not include information that: (a) is in the public domain (unless it entered the public domain through breach of confidentiality by a Party); (b) is already known by the other Party at the time of disclosure and has not been obtained by the other Party either directly or indirectly from the disclosing party; or (c) is obtained lawfully from a third party without any restriction on the disclosure.

Current Term means the current term of the Agreement being the Initial Term or a subsequent Renewal Term (as applicable).

Customer Data means all data (including Personal Information), text, information, images, audio, video, photographs, and other content and material, in any format, provided by You or Users that is uploaded, stored in, or run through, the Software. Customer Data does not include any of Logiqc's Confidential Information.

Fees means the fees payable by You to Logiqc for the Services as specified in the Order.

Force Majeure Event means any act, event or cause, other than lack of funds, affecting a Party that is outside that Party's reasonable control, including, but not limited to: war, acts of God, natural disasters, epidemics, pandemics, boycotts, labour strikes, industrial disturbances, internet outages or telecommunications outage.

Intellectual Property Rights means all present and future intellectual property or other proprietary rights including copyright, registered and unregistered trademarks, designs, patents and any rights in respect of inventions, circuit layouts, computer programs, business or domain names, know how, trade secrets, arising anywhere in the world and whether registered or unregistered and includes any moral rights.

Law means any statute, regulation or other statutory provision.

Loss means any loss, damages, liability, costs and expense (including legal fees).

Materials means any documents, guidebooks, instruction manuals, onboarding material, training documentation, knowledge articles or other material that Logiqc provides (or grants access) to You in connection with the Services.

Order means the document titled 'order' or 'quote' (or similar) that is executed by the Parties which incorporates the terms of this Terms of Use.

Party means a party to the Agreement and "**Parties**" means both of them.

Personnel means any employee, officer, agent, contractor or subcontractor of a Party.

Personal Information has the same meaning as under the Privacy Law.

Privacy Law means the *Privacy Act 1988* (Cth) including the Australian Privacy Principles.

Privacy Policy means Logiqc's privacy policy located at www.logiqc.com.au/privacy-policy.

Professional Service means any general consulting, training, onboarding and configuration services related to the Software that are specified in the Order (if any).

Related Body Corporate has the same meaning as under the *Corporations Act 2001* (Cth). "**Related Bodies Corporate**" is to be interpreted accordingly.

Sensitive Information has the same meaning as under the Privacy Law.

Services means, collectively, the Software and Professional Service (if any).

Software means Logiqc's mobile application and online web based software-as-a-service application suite (and any optional modules) further described at the Website that allows its customers to (among other things) manage safety, quality and risk within their businesses. The Software excludes Third Party Applications.

Specifications means the specifications for the Software located at <https://logiqc.com.au/product/cloud-hosting>

Term means, collectively, the Initial Term and subsequent Renewal Term(s) (if any).

Terms of Use means this Terms of Use (including the Acceptable Use Policy).

Third Party Applications means applications, software, websites, integrations or services provided by a person or entity other than Logiqc that interoperate with the Software or may be accessed through, within, or in conjunction with Your use of the Software.

Users means Your employees, consultants, contractors and agents who are authorised by You to use the Software pursuant to the Agreement.

Website means www.logiqc.com.au

WH&S Laws means any Laws relating to the health, safety or welfare of employees and other persons at a workplace.

Schedule 1 – Acceptable Use Policy

You must not, and must not permit any User or any other person to, do any of the following:

- (a) modify, make derivative works of, disassemble, decompile, reverse engineer, reproduce, republish or copy any part of the Software (including data structures or similar materials produced by programs);
- (b) use any spider, robot or search/retrieval application or any screen scraping, data mining or similar data gathering device, process, program or means to access, retrieve or index any portion of the Software;
- (c) engage in any action that requires, or may require, an unreasonable or excessively large load on Logiqc's software or hardware infrastructure;
- (d) access or use the Software to build or support, directly or indirectly, products or services that are competitive to the Software;
- (e) license, sublicense, sell, transfer, assign, distribute, outsource, permit timesharing or service bureau use of, commercially exploit, or make available the Software to any third party except as permitted by an agreement between You and Logiqc;
- (f) use the Software to store or transmit any computer code, file or script designed to damage (or detrimentally interfere with) software or data including any virus, worm, time bomb or trojan horse;
- (g) interfere with, or disrupt the integrity or performance of, the Software or third-party data contained within it;
- (h) use the Software to violate any applicable Laws;
- (i) access or use the Software to commit a fraudulent act;
- (j) attempt to gain unauthorised access to the Software or its related systems or networks;
- (k) with respect to the Software, perform or disclose any: performance or vulnerability testing; network discovery; port and service identification; vulnerability scanning; password cracking; or penetration testing;
- (l) use the Software to:
 - (i) harass any person;
 - (ii) cause damage or injury to any person or property;
 - (iii) publish any material that is false, defamatory, harassing or obscene;
 - (iv) violate privacy rights;
 - (v) promote bigotry, racism, hatred or harm;
 - (vi) send unsolicited bulk e-mail or junk mail;
 - (vii) infringe the intellectual property rights of any person;
 - (viii) impersonate any person or entity or falsely state or otherwise misrepresent the Your affiliation with a person or entity; or
- (m) perform or disclose any benchmarking, availability or performance testing of the Software.