

# Sauced It - Terms of Use

This document describes the terms of use, obligations and legal rights in relation to your use of the any website, application, software, platform, service, content, data or plugin owned, operated or offered by SAUCEDIT PTY LTD its related entities or body corporates (**we, us, and our**), and any other goods or services we provide to you (**Service**).

## 1 Acceptance of Terms

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- 1.1** By using the Service and/or choosing your Subscription Plan, you agree to these terms of use as may be supplemented by the Subscription Plan (this **Agreement**). This Agreement constitutes a binding legal agreement between you and us, and your continued use of the Service constitutes your acceptance and acknowledgment of this Agreement, our Privacy Policy, and any other policy displayed on our Service, all of which constitute a part of this Agreement. If you do not agree to all of the terms of this Agreement, you must not use the Service.
- 1.2** We may amend or modify this Agreement from time to time by providing you with 14 days' notice. If you do not agree to the amendments, then you must notify us within that time frame, otherwise you will be deemed accept the amended version of the Agreement.
- 1.3** This Agreement will prevail over any other terms or agreement between you and us.
- 1.4** In this Agreement, capitalised words and phrases have the meaning given to them when first used and followed by bolded brackets, or as set out in clause 22 (Definitions) at the end of the Agreement.

## 2 Subscription Plan and Auto-Renewal

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- 2.1** Certain features of the Service may require you to enter into a subscription in accordance with a Subscription Plan. A Subscription Plan starts on the day you buy the Subscription Plan, will continue for the Subscription Period stated in the Subscription Plan.
- 2.2** At the end of each Subscription Period, a **Subscription Plan will automatically renew for another Subscription Period unless you notify in accordance with clause 11.1**. Please ensure you contact us if you want to cancel your Subscription Plan.

## 3 Licence

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- 3.1** In exchange for you complying with all terms of this Agreement, we grant you a non-exclusive, non-transferable, non-sublicensable, personal, and revocable licence to access and use the Service. To the extent that a feature of the Service requires a Subscription Plan, your licence is subject to having a valid Subscription Plan, and the Subscription Plan and will be valid only for the Subscription Period.
- 3.2** You must not:
- use the Service for any purpose other than the Permitted Use;
  - use the Service in any way which is in breach of any applicable laws or which infringes any person's rights, including Intellectual Property Rights;
  - do anything which may compromise or interfere with the supply of the Service or our systems, including without limitation introducing malicious

programs such as viruses, worms, trojan horses, and email bombs;

- circumvent any applicable Fees or access or use the Service in a manner intended to avoid incurring Fees;
- export, extract, or otherwise scrape any of the content or data on the Service for use outside the Service, including (but not limited to) pre-fetching, indexing, storing, resharing, or rehosting any of our content outside the Service;
- cache the Service (except as expressly permitted under the Subscription Plan, if applicable);
- create content based on the Service except as specifically contemplated by the Service; or
- use the Service to create a product or service with features that are substantially similar to or that re-create the features of any other product or service owned by us.

## 4 Your Warranties

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**4.1** You warrant and agree that:

- there are no legal restrictions preventing you from agreeing to this Agreement;
- you are not Insolvent;
- you will always act in a courteous and polite manner whenever dealing with us, and never in an antisocial, discriminatory, abusive, hostile or obscene way;
- you will cooperate with us and provide us with all assistance, resources, data, people, information, facilities, access, and documentation that is reasonably necessary to enable us to perform the Service and as otherwise requested by us, from time to time, and in a timely manner;
- you are responsible (at your cost) for obtaining and maintaining any consents, licences, authorities, and permissions required for you to make use of the Services (and you will provide evidence of this to us upon request);
- all information and documentation (including User Data) that you provide to us or upload into the Service in connection with this Agreement is true, correct, and complete, and that we will rely on such information and documentation in order to provide the Service;
- you are solely responsible for establishing and maintaining any Operating Environment necessary to use and obtain the benefit of the Service.

## 5 Our Warranties

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**5.1** We warrant and agree that:

- (a) the Service will perform materially in accordance with the Specifications;
- (b) the Service will not infringe on the Intellectual Property Rights of any person;
- (c) we will maintain sufficient and appropriately qualified and experienced personnel to operate and provide the Service in accordance with the Agreement.

- (b) your Operating Environment meets the minimum requirements set out in the Specifications; and
- (c) you have provided all information requested by us in relation to Support Services.

## 6 Accounts and Users

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**6.1** Features of the Service that require a Subscription Plan may have a designated Subscription Holder who can authorise or add Authorised Users under the Subscription Plan. In such a case, the following terms apply:

- (a) we grant the Subscription Holder the right to add or remove Authorised Users to use the Service in accordance with the Subscription Plan (which may place limitations on the number of Authorised Users). This right is non-exclusive, non-transferable, and limited by and subject to this Agreement;
- (b) the Subscription Holder is liable for all Authorised Users' use of the Service and compliance with this Agreement;
- (c) this Agreement still applies and binds all Authorised Users, except that terms relating to Fees and Termination will apply only to the Subscription Holder.
- (d) the Subscription Holder determines who is an Authorised User, controls each Authorised User's level of access to the Service at all times, and can revoke or change an Authorised User's access, or level of access, at any time and for any reason, in which case that person or entity will cease to be an Authorised User or must have that different level of access, as the case may be;
- (e) any Authorised User's licence to access the Service will terminate upon the termination of the Subscription Holder's Subscription Plan.

**6.2** You are solely responsible for your account credentials, and for all use and activity carried out under your account. You must not share your account credentials with any third party. We do not authorise anyone to use the Service on your behalf on your own individual account, and we will not be liable for any loss or damage arising from any kind of unauthorised activity that takes place under your account.

**6.3** You must not impersonate some other individual, business, or company.

**6.4** You agree not to create an account or use the Service if you have been previously removed or suspended by us from the use of the Service.

## 7 Support Services

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**7.1** Subject to the below conditions being met, we will provide you the Support Services during the Subscription Period:

- (a) you are not in breach of any term of the Agreement and you are using the Service as intended under this Agreement;

**7.2** Our liability for any failure to provide the Support Services is limited to resupplying the Service support to the extent required to remedy the failure. This is your sole remedy for any failure to provide the Support Services.

**7.3** For clarity, any Intellectual Property Rights arising in connection with the Support Services (including any enhancements or customisations) vest exclusively in us immediately upon creation.

## 8 Fees

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**8.1** You must pay the Fees to us in advance without counterclaim or deduction in accordance with the Subscription Plan.

**8.2** Unless expressly stated otherwise, all amounts stated in or in relation to this Agreement are expressed exclusive of any applicable Tax, which will be added to those amounts and payable by you to us.

**8.3** We may offer one or more payment processors as a way to facilitate payment of the Fees. You must make payment by way of one of the payment processors offered (which we may modify from time to time at our sole discretion). You agree that:

- (a) any cost, fee, or other charges charged by such processor must be paid by you in addition to the Fees;
- (b) you must comply with the terms and conditions of the relevant processor.

**8.4** We are entitled to modify our Fees at any time by prior written notice to you provided that:

- (a) an increase is effective only 30 days after such notice is given; and
- (b) a Fee is not increased more than once in a 12-month period; and
- (c) the Fees are not increased during the initial Subscription Period of your Subscription Plan.

**8.5** To the extent permitted by law, any Fees paid to us are non-refundable, and we do not provide refunds or credits should you cancel the Service during its current Subscription Period.

**8.6** If you dispute a portion of any invoice, you must still pay all undisputed portions of the invoice.

**8.7** In addition to any other right we have, if you fail to fully pay any amount owed to us for a period of 7 days or more, we may do any of the following at our sole discretion:

- (a) suspend access to the Service until all amounts are fully paid (and without providing any refund or extension of the Subscription Period afterwards); and
- (b) charge you interest at the rate equivalent to 1% per month on any amounts owing to us.

## 9 Other Services

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**9.1** We may make document templates available to you from time to time, including standard employment agreements,

workplace policies, safety and compliance documents, performance and coaching reviews and surveys (**Templates**). You may use the Templates for your internal business purposes only (including copying, distributing or modifying) and we accept no liability or responsibility for the accuracy or legal effect of the Templates. The Templates do not represent any advice or recommendation from us and you are to obtain your own independent legal advice with respect to them.

**9.2** Additional services related to the Service including advisory services, data cleansing services, development of template documents, implementation services, or employee services (**Additional Services**) may be offered by us. Any such Additional Services will be detailed in an order form, statement of work or on the Website. Our Additional Services may be subject to additional fees and terms further to this Agreement. We will reasonably endeavour to meet any time schedules which have been mutually agreed in writing by the parties for any Additional Services.

**9.3** From time to time we may offer services at no charge such as free basic accounts, free trials or access to beta versions (**Complimentary Services**). Your use of our Complimentary Services may only be available for a limited time and may be subject to additional terms. We may modify, defer or terminate your right to use our Complimentary Services at any time at our sole discretion.

**9.4** From time to time we may make available to you, pre-release or beta versions of products or services. You acknowledge that these products and services may still require further development and may be inoperable or incomplete and/or contain more inaccuracies, faults or bugs than our other commonly available services or products. Due to the nature of these products and services, you agree that your use of them is at your own risk.

## 10 Updates

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**10.1** We may implement (at our absolute discretion) Updates to the Service from time to time. We will endeavour to provide you with reasonable prior written notice of any scheduled Update that is likely to affect the availability of the Service or is likely to have a material negative impact on you.

## 11 Termination

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**11.1** Either party may terminate the Subscription Plan at any time, with such termination only taking effect at the end of the current Subscription Period.

**11.2** Either party may terminate this Agreement with immediate effect by giving written notice to the other party at any time if:

- (a) the other party is Insolvent; or
- (b) the other party breaches any material provision of this Agreement which cannot be remedied, or where the breach is capable of being remedied, fails to remedy the breach within 7 days after receiving written notice from the terminating party requiring it to do so.

**11.3** We may suspend your access to the Service if any amount due to us is not paid on time.

## 12 Effects of termination

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**12.1** On termination a Subscription Plan for any reason:

- (a) you must immediately stop using the Service, and we may take any action necessary to disable or terminate your access to the Service;
- (b) each party must promptly return (where possible) or delete or destroy (where not possible to return), the other party's Confidential Information and intellectual property, and/or documents containing or relating to the other party's Confidential Information unless required by law or regulatory requirements to retain such information;
- (c) you must, within 5 Business Days of termination, pay to us all Fees incurred and/or owing under this Agreement up to and including the date of termination or expiry. To the extent permitted by law, and except where expressly stated in this Agreement, you will not be entitled to a refund of Fees that have already been billed or paid; and
- (d) all of the provisions of this Agreement will cease to have effect, save that the following provisions of this Agreement will survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 12 (Effects of termination), 13 (Intellectual Property), 14 (User Data), 15 (Data Storage and Security), 16 (Privacy), 17 (Confidentiality), 18 (Limitation of liability) and 19 (Release and indemnity).

## 13 Intellectual Property

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**13.1** We own all Intellectual Property Rights in the Service, the Support Services, any other services or products provided by us, any associated documentation, and all Updates, improvements, modifications, customisations and derivative works, whether made by us or by you, and nothing in this Agreement transfers any of those Intellectual Property Rights to you in any way.

**13.2** If you provide us with comments or suggestions relating to the Service, then all Intellectual Property Rights in that feedback, and anything created as a result of that feedback (including new material, enhancements, modification, or derivative works), is assigned to us, and we may use the feedback for any purpose.

**13.3** You must not, without our prior written consent:

- (a) copy or use, in whole or in part, any of our Intellectual Property Rights;
- (b) reproduce, retransmit, distribute, disseminate, sell, publish, broadcast, or circulate any of our Intellectual Property Rights to any third party;
- (c) reverse assemble, reverse engineer, reverse compile or enhance the Service;
- (d) breach any Intellectual Property Rights connected with us or the Service, including altering or modifying any of our Intellectual Property Rights;
- (e) cause any of our Intellectual Property Rights to be framed or embedded in another digital asset,
- (f) create derivative works or reproductions of any of our Intellectual Property Rights or the Service;
- (g) resell, assign, transfer, distribute or make available the Service to third parties;

- (h) “frame”, “mirror” or serve any of the Service on any web server or other computer server over the Internet or any other network;
- (i) alter, remove or tamper with any trademarks, any patent or copyright notices, any confidentiality legend or notice, any numbers, or any other means of identification used on or in relation to the Service;

**13.4** You acknowledge that we will suffer real and substantial damage due to a breach of this clause 13 and may seek injunctive relief for any actual or perceived breach, and damages alone are not an adequate remedy.

## **14 User Data**

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**14.1** Except as otherwise stated in this Agreement, as between you and us, you own all Intellectual Property Rights all User Data.

**14.2** Despite anything to the contrary in this Agreement or elsewhere, we may monitor, analyse and compile statistical and performance information based on and/or related to your use of the Service in an aggregated and anonymised format (**Analytics**). We and our licensors own all Intellectual Property Rights in and to the Analytics and all related software, technology, documentation and content provided in connection with the Analytics. You agree that we may make such Analytics publicly available, provided that it:

- (a) does not contain identifying information; and
- (b) is not compiled using a sample size small enough to make the underlying User Data identifiable.

**14.3** You grant us an irrevocable, perpetual licence (and consent) to use, process, copy, transmit, store and backup or otherwise access the User Data during the Agreement Subscription Period solely to:

- (a) supply the Service to you (including to enable you and your personnel to access and use the Service);
- (b) diagnose problems with the Service;
- (c) Update or otherwise modify or maintain the Service;
- (d) train our staff; and
- (e) develop other services,

provided we de-identify the User Data.

**14.4** In relation to any User Data which you provide to us or upload into the Service, you represent and warrant that:

- (a) you are solely responsible for the User Data and the consequences of using, disclosing, storing or transmitting it;
- (b) you have obtained all necessary rights, releases and permissions to provide all your User Data to us and to grant the rights granted to us in this Agreement;
- (c) the User Data (and its transfer to and use by us) as authorised by you, under this Agreement does not violate any laws (including those relating to export control and electronic communications) or rights of any third party, including any Intellectual Property Rights, rights of privacy, or rights of publicity; and

- (d) any use, collection and disclosure authorised in this Agreement are not inconsistent with the terms of any applicable privacy policies.

## **15 Data Storage and Security**

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**15.1** We will use our best efforts to ensure that User Data is stored securely. However, we do not accept responsibility or liability for any unauthorised use, destruction, loss, damage or alteration to the User Data, including due to hacking, malware, ransomware, viruses, malicious computer code or other forms of interference.

## **16 Privacy**

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**16.1** You are responsible for the collection, use, storage, and otherwise dealing with Personal Information related to your business.

**16.2** You must comply and must ensure that all of your personnel comply, with the requirements of the Privacy Laws in respect of all Personal Information collected, used, stored, or otherwise dealt with under or in connection with this Agreement.

**16.3** You must:

- (a) notify natural persons from whom Personal Information is collected about any matter prescribed by the Privacy Laws in relation to the collection, use, and storage of their Personal Information;
- (b) notify us immediately upon becoming aware of any breach of the Privacy Laws that may be related to the use of Personal Information under this Agreement.

## **17 Confidentiality and publicity**

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**17.1** Each party (**Recipient**) must keep confidential, and not disclose, any Confidential Information of the other party (**Discloser**) except:

- (a) where permitted by this Agreement;
- (b) with the prior written consent of the Discloser;
- (c) where the Confidential Information is received from a third party, except where there has been a breach of confidence;
- (d) on a confidential, “needs to know” basis to the Recipient’s personnel, auditors, insurers, agents, and professional advisors; or
- (e) where the Recipient is compelled to do so by applicable law, provided that it gives the other party written notice prior to disclosure.

**17.2** The Recipient must only use the Confidential Information of the Discloser for the disclosed purpose and in connection with this Agreement.

**17.3** You acknowledge we may refer to you as a customer, and display your details on our Website, marketing portfolios, case studies, or in our promotional materials. You may ask that we stop doing this by emailing us. It may take up to 30 days to process your request.

## **18 Limitation of liability**

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**18.1** To the maximum extent permitted by law, we exclude all liability and all Warranties of any kind, whether express or

implied, statutory or otherwise, other than those set out in this Agreement.

**18.2** You acknowledge that complex software is never wholly free from defects, errors and bugs, and subject to the other provisions of this Agreement, we give no Warranty or representation that the Service will be wholly free from defects, errors and bugs.

**18.3** The Service is provided to you on an “as is” and on an “as available” basis without any Warranties arising out of any course of dealing or usage of trade. We disclaim all Warranties that the Service will be error-free, available continuously, uninterrupted, or be free of harmful components, or that this Service and any User Data will be secure or not otherwise lost or altered. You acknowledge that we may suspend access to the Service temporarily if we have reason to do so (including but not limited to maintenance, updates, or upgrades).

**18.4** Some parts of the Service may include general summaries of the law, contract templates or tools to assist with compliance which may not deal with or be applicable to your particular circumstances. We use reasonable efforts to create content and services that comply with applicable laws in a general way, but content and services provided through the Service does not constitute legal, financial, accounting or taxation advice, and nor should it be relied upon as such by you. You are responsible for compliance with the workplace, tax and other laws that apply to you or your business and you should obtain independent legal and tax advice if required. Except for liability that cannot be excluded or limited by law, we exclude liability for losses, costs, third-party claims, regulatory penalties, expenses or liability arising from or relating to legal, tax, accounting, WHS or compliance issues associated with your use of the Service.

**18.5** You acknowledge that the Service is dependent on other Third Party Services and agree that to the extent permitted by law, we will not be responsible or in any way liable for any defect or interruptions to the availability of the Service resulting from Third Party Services.

**18.6** To the maximum extent permitted by law, our liability and the liability of our employees or agents for a breach of any Warranty or liability which by law cannot be excluded, restricted or modified, or under any express Warranty, is limited, at our option, to:

- (a) for goods, the repair or replacement of the goods;
- (b) the supplying of the goods or services again; or
- (c) the payment of the cost of having the goods or services supplied again.

**18.7** Our liability arising in connection with the Service is limited as follows:

- (a) we exclude all liability for any Consequential Loss resulting from your access to or use of or inability to use the Service, even if we have been advised of the possibility of damages in advance;
- (b) our maximum total liability arising in connection with this Agreement is capped to the total amount of any Fees paid to us by you in the 12 months preceding the first event giving rise to the liability;
- (c) our liability is excluded to the extent that you contributed to the liability;

- (d) our liability is subject to your duty to mitigate your loss.

## **19 Release and indemnity**

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**19.1** We agree to indemnify you from any Claim to the extent that the Claim arises because the Service infringes the Intellectual Property Rights of a third party (**IP Claim**), provided that you:

- (a) provide prompt written notice of the IP Claim to us;
- (b) give us the opportunity to join the defence and settlement of the IP Claim; and
- (c) provide to us, at our expense, all available information, assistance, and authority to defend the IP Claim; and
- (d) have not admitted any fact or compromised or settled such IP Claim other than on reasonable terms which a party not protected by an indemnity would.

Clause 19.3 does not apply to this indemnity.

**19.2** If an allegation concerning a possible IP Claim is made, you must permit us to do one of the following (at our sole discretion):

- (a) modify, alter or substitute the Service to ensure that the Service no longer infringes the Intellectual Property Rights alleged in the relevant IP Claim. Such modification will be at our cost and must ensure that the end product materially complies with the Specifications; or
- (b) terminate this Agreement.

**19.3** To the maximum extent permitted by law, you agree to indemnify, hold harmless and release the Released Parties from all Loss or Claims arising out of or in any way connected with any Relevant Matter.

**19.4** To the extent that it may be necessary in order to enforce the benefit of this Agreement by or on behalf of a Released Party, you agree that we hold the benefit of, and may enforce, the provisions of this Agreement that operate for the benefit of a Released Party, for and on behalf of that Released Party.

**19.5** In this clause:

- (a) **Claim** means a claim, action, proceeding, or demand made against a person concerned, however, it arises and whether it is present or future, fixed or unascertained, actual or contingent.
- (b) **Loss** means damage, loss, cost, expense, or liability incurred by the person concerned, however arising, including without limitation penalties, fines, and interest and including those which are prospective or contingent and those the amount of which for the time being is not ascertained or ascertainable.
- (c) **Released Party** and **Released Parties** mean us and our officers, directors, shareholders, agents, employees, consultants, associates, affiliates, subsidiaries, related parties, related body corporates, sponsors, and other third party partners.

- (d) **Relevant Matter** means anything in connection with:
- (i) any damage to person, property, personal injury, or death;
  - (ii) your breach of this Agreement;
  - (iii) anything to do with User Data;
  - (iv) any matter which we have excluded or disclaimed liability for under this Agreement;
  - (v) your misuse or abuse of the Service (including not using the Service in accordance with its Specifications, instructions or intended use); and
  - (vi) your breach or failure to observe any applicable law.

## 20 Unexpected Event

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- 20.1** Subject to the requirement to give notice under this clause, if the performance by any party (**Affected Party**) of all or any of its obligations under this Agreement is prevented or delayed in whole or in part due to any Unexpected Event, this Agreement will continue and remain in effect, but the Affected Party will not be in breach of this Agreement for that reason only for so long as the Unexpected Event persists.
- 20.2** The Affected Party must promptly after becoming aware of an Unexpected Event, give written notice to the other party of the nature of the Unexpected Event and the way and the extent to which its obligations are prevented or delayed and notify the other party of any material change in these matters and use its reasonable endeavours to limit the effects of the Unexpected Event, and promptly carry out its obligations as soon as, and to the extent that, it is able to do so.

## 21 General

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- 21.1** All notices must be in writing and must be made by email. Notices are taken to be read on the day they are received, unless they are received after 5 PM or not on a Business Day, in which case they are deemed to be received on the next Business Day.
- 21.2 This Agreement will override any other terms or agreement between you and us.
- 21.3** Where there is a contradiction or conflict between different parts of this Agreement, the parts override one another (to the extent of the contradiction or conflict) in the following order:
- (a) the Subscription Plan; and
  - (b) these terms of use.
- 21.4** You must not assign, sublicense or otherwise deal in any other way with any of your rights under this Agreement except as expressly permitted under this Agreement. We may assign, novate or otherwise transfer our rights and obligations under this Agreement at our sole discretion.
- 21.5** No breach of any provision of this Agreement can be waived except with the express written consent of the party not in breach.
- 21.6** Any provision of this Agreement which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this Agreement enforceable

unless this would materially change the intended effect of this Agreement.

- 21.7** With the exception of clause 19, this Agreement is made for the benefit of the parties and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree to any amendment, waiver, variation, or settlement under or relating to this Agreement are not subject to the consent of any third party.
- 21.8** This Agreement constitutes the entire agreement between the parties in relation to the subject matter of this Agreement, and supersedes all previous agreements, arrangements, and understandings between the parties in respect of that subject matter.
- 21.9 This Agreement is governed by and construed in accordance with the law of the State. The courts of the State have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this Agreement. This Agreement will prevail over any other terms or agreement between you and us.

## 22 Definitions

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- 22.1 In this Agreement, the following capitalised terms have the following meanings:
- 22.2 Agreement** these Terms of Use and also includes the relevant Subscription Plan (if any) and all policies displayed on our Website.
- 22.3 Authorised Users** means the employees and staff members of the Subscription Holder whom the Subscription Holder authorises to use the Service in accordance with clause 6.1.
- 22.4 Business Day** means a day on which banks are open for business in the State other than on a Saturday or Sunday or a public holiday.
- 22.5 **Confidential Information** means all information of a confidential or proprietary nature, in any form whether tangible or not, disclosed or communicated by a party to the other, or learnt or accessed by, or to which the other party is exposed as a result of entering into this Agreement, but excluding information which:
- (a) is or becomes a matter of public knowledge through no fault, action, or omission of the Recipient or its personnel;
  - (b) is rightfully received by the Recipient from a third party without a duty of confidentiality;
  - (c) was already known to the Recipient at the time the disclosing party first made it available to the Recipient, except as a result of disclosure known by the Recipient to be made in violation of an obligation of confidence; or
  - (d) was independently developed by the Recipient without reference to the information of the disclosing party.

Without limitation, our Confidential Information includes all know-how, trade secrets, technical information, specifications, data, Intellectual Property Rights, marketing procedures, enablement procedures, documentation, pricing information, client and client records, as well as business, corporate, or trade information.

- 22.6 Consequential Loss** includes any indirect loss, incidental loss, consequential loss, loss of profits, loss of revenue,

loss of production, loss of opportunity, loss of access to markets, loss of goodwill, loss of reputation, loss of use, any remote loss, abnormal loss, unforeseeable loss, loss of use and/or loss or corruption of data, any loss or damage relating to business interruption, or otherwise, suffered or incurred by a person, arising out of or in connection with this Agreement (whether involving a third party or a party to this Agreement or otherwise);

**22.7 Fees** means the fees set out in your Subscription Plan.

**22.8 Insolvent**, in relation to a party, means when:

- (a) a party ceases, suspends, or threatens to cease or suspend the conduct of all or a substantial part of its business or disposes of or threatens to dispose of a substantial part of its assets;
- (b) a party becomes unable to pay its debts when they fall due, or stops or suspends or threatens to stop or suspend the payment of all or a class of its debts;
- (c) a party becomes or is (including under legislation) deemed or presumed to be insolvent;
- (d) a party has a receiver, manager, administrator, administrative receiver, or similar officer appointed in respect of it or the whole or any part of its assets or business;
- (e) any composition or arrangement is made with any one or more classes of a party's creditors;
- (f) except for the purpose of solvent amalgamation or reconstruction, an order, application, or resolution is made, proposed, or passed for a party's winding up, dissolution, administration, or liquidation;
- (g) a party enters into liquidation whether compulsorily or voluntarily; or
- (h) any analogous or comparable event takes place in any jurisdiction in relation to a party.

**22.9 Intellectual Property Rights** mean all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights (and these intellectual property rights include copyright and related rights, database rights, Confidential Information, trade secrets, know-how, business names, trade names, trademarks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semiconductor topography rights and rights in designs).

**22.10 Operating Environment** means your operating environment, facilities, systems, networks, devices, equipment, hardware, software, telecommunications, and connections.

**22.11 Permitted Use** means for your ordinary business use or as otherwise set out in your Subscription Plan.

**22.12 Personal Information** has the same meaning as in the Privacy Laws.

**22.13 Privacy Laws** mean the Privacy Act 1988 (Cth).

**22.14 Privacy Policy** means our Privacy Policy available at [Saucedit.com](https://www.saucedit.com)

**22.15 Service** means website, application, software, platform, service, content, data or plugin owned, operated or offered us, and any other goods or services we provide to you.

**22.16 Specifications** mean the specifications of the Service as set out in the Subscription Plan.

**22.17 State** means New South Wales.

**22.18 Subscription Holder** means a person or entity signing up for a Subscription Plan.

**22.19 Subscription Period** means the period of time chosen by you on registration, and any renewal term in accordance with clause 2.2 (as the context requires).

**22.20 Subscription Plan** mean the subscription, package or plan for the Service you select, which may be set out in the relevant information page or pages on our Website, the Service itself, a separate order form, or otherwise provided to you or chosen by you on registration with our consent.

**22.21 Support Services** means the Support Services listed in your Subscription Plan, and if none are listed, then Support Services will mean access to a general helpdesk during Business Days and hours via a ticket system to assist you in resolving technical issues or answering questions related to the Service during the Subscription Period. Any additional support services required by you may be provided at our sole discretion and may be subject to additional fees.

**22.22 Tax** includes a tax, levy, duty, or charge (and associated penalty or interest) imposed by a public authority. It includes income, withholding, stamp, and transaction taxes (including any goods and services tax or value-added tax, however named) and duties.

**22.23 Third Party Service** means a software, hardware, plugin, API, gateway, payment processor, network platform, solution, database, product or another service that is used for the provision of the Service or integrates with the Service, and which is provided, operated or controlled by a third party.

**22.24 Unexpected Event** means and includes such events, beyond the reasonable control of a party, that hinder, prevent or delay performance, in whole or in part, of any obligation under this Agreement including without limitation, fire, flood, casualty, earthquake, war, lockout, strike, epidemic, pandemics, riot, destruction of facilities, insurrection, material unavailability, telecommunications or internet failures, regulations or restrictions imposed by law, acts of the government or governmental requirements.

**22.25 Update** means any updates, modifications, changes or enhancements to the Service, including the adding or removing of any features or functionality, improvements, bug fixes and patches.

**22.26 User Data** any content or materials whatsoever (including but not limited to any Personal Information, information, data, text, graphics, photos, designs, trademarks, or any other artwork) which you upload or input into the Service, or that is generated by you using the Service.

**22.27 Warranty or Warranties** mean any warranties, conditions, terms, representations, statements, and promises of whatever nature, whether express or implied.

**22.28 Website** means <https://www.saucedit.com/>.

**22.29 You** means any person who uses the Service, including, without limitation, the Subscription Holder and all Authorised Users.