

Terms & Conditions

1. Agreement

1.1 Background

- (a) This EULA governs the supply and use of the Platform Xplor may make available to You. The Platform may be accessed via the Website or via a device You own or use.
- (b) By installing and/or using the Platform by any means, You agree to the terms of this EULA and You enter into a binding legal Agreement with Xplor. It is therefore important that you carefully read this EULA.
- (c) By installing and/or registering to use the Platform You acknowledge that You have read and understood this EULA and that You have the authority to enter into a legal agreement with Xplor on Your own behalf and also on behalf of any person You may authorise to use the Platform.

1.2 Definitions

In this EULA, the following definitions apply:

Confidential Information means all information provided by one party to the other in connection with this EULA where such information is identified as confidential at the time of its disclosure or ought reasonably be considered confidential based on its content, nature or the manner of its disclosure, including Data, but excluding:

- (a) information that enters the public domain or is disclosed to a party by a third party, other than through a breach of this EULA, and
- (b) information developed independently by a party.

Data means:

- (a) any data concerning You or Your Invited Users which Xplor reasonably requires to provide the Services; and
- (b) any data that You, Your Invited User, a School or any person with Your authority inputs into the Platform via the Website or via any other means.

EFA means the equipment and fee agreement pursuant to which Xplor makes the Platform and associated goods and services available to the School.

EULA means the terms and conditions set out in this end-user licence agreement.

IPR means any patent, trade mark, service mark, copyright, moral right, right in a design, know-how and any other intellectual or industrial property rights, anywhere in the world whether or not registered.

Marks means any name, logo or trade mark owned by, or licensed to, Xplor.

Personal Information has the meaning prescribed by section 6 of the *Privacy Act 1998* (Cth).

Platform means the software platform made available to You by Xplor via the Website or such other means as Xplor may determine from time to time and which is known as 'Xplor for Schools' or by such other name as Xplor may determine from time to time.

Privacy Laws means the *Privacy Act 1988* (Cth), the *Spam Act 2003* (Cth), the *Do Not Call Register Act 2006* (Cth), and any other legislation, principles, industry codes and policies relating to the handling of Personal Information.

Privacy Policy means Xplor's privacy policy, as amended from time to time, and available on the Website.

Profile Panel means the section accessible by You within the Platform and which section contains details relating to You, and/or Your Invited Users and/or School.

School means the school in connection with which You are using the Platform and which school has a current EFA with Xplor.

Services means any, or all, of the Platform, Website or associated goods and services Xplor makes available from time to time pursuant to this EULA and includes reasonable set-up, training, and support relating to the Services.

Term means from the date of Your acceptance of this EULA until the first to occur of the following:

- (a) You cease to be provided with access to the Platform by the School for any reason;
- (b) the School ceases to pay, or enter into arrangements for the payment of, any fees owing to Xplor in respect of the Services provided to You; or
- (c) this EULA is terminated in accordance with clause 14.

Website means the website accessible at the domain www.myxplor.com or such other site as Xplor may determine from time to time.

Westpac means Westpac Banking Corporation ABN 33 007 457 141.

Westpac Solution means the payment solution that is eligible for use with the Platform and provided to You, Your Invited Users and/or the School by Westpac including any associated software/hardware provided by Westpac.

Xplor means MyXplor Pty Ltd ACN 604 322 910 or otherwise its advised related entities as You may be advised from time to time.

You or **Your** means the person who registers to install and/or use the Platform and who, by so doing, accepts this EULA.

1.3 Interpretation

In this EULA:

- (a) an obligation or liability assumed by, or a right conferred on, two or more parties binds or benefits them all jointly;
- (b) no provision of this EULA will be construed to the disadvantage of a party merely because that party was responsible for preparing this EULA or including the provision in this EULA;
- (c) all monetary amounts are expressed in Australian Dollars (\$AUD); and
- (d) parties must perform their obligations on the dates and times fixed by reference to Melbourne, Victoria.

1.4 Precedence

If there is any inconsistency between this EULA and the EFA, the terms and conditions of the EFA will prevail.

1.5 Interdependency

- (a) This EULA is subject to and conditional on the EFA.
- (b) If the School breaches any provision of the EFA, that will result in automatic termination of the EULA.

2. Acceptance of EULA

- (a) By downloading, installing or using the Services You shall be deemed to have accepted the terms and conditions of this EULA.
- (b) If You do not accept the terms and conditions of this EULA, as amended from time to time, You must not access and/or use the Services and must delete the Platform from any device You own or use.

3. Rights to use the Platform

- (a) Subject to Your compliance with the terms of this EULA and all laws, and the School's compliance with the terms of the EFA, You are granted a revocable, non-transferable, non-sublicensable (except as contemplated by clause 5), non-assignable, non-exclusive licence to use and access the Platform for the Term by and for Invited Users strictly for the purposes contemplated by this EULA and the EFA.
- (b) You may install and use the Platform on your personal computer and electronic devices. You are responsible for ensuring that any devices on which you install and/or use the Platform are in good, up to date working order and operating condition.
- (c) You agree that Xplor may, upon reasonable notice to You, audit Your use of the Platform for compliance this EULA. In the event that such audit reveals any use of the Platform by You otherwise than in compliance with this EULA, then, in addition to any other rights or remedies available to Xplor under this EULA or at law, You shall indemnify Xplor for:
 - (i) all reasonable expenses related to such audit; and
 - (ii) other liabilities or loss of revenue that Xplor incurs as a result of such non-compliance.

4. Limitations

- (a) You must not, in relation to the Platform or any part thereof:
 - (i) make or distribute copies of the Platform, or electronically transfer the Platform from one computer to another or over a network;
 - (ii) alter, digitise, merge, modify, adapt or translate the Platform, or decompile, reverse engineer, disassemble, or otherwise reduce the Platform to a human-perceivable form;
 - (iii) sell, transfer, rent, lease, license or sub-license the Platform;
 - (iv) attempt to undermine the security or integrity of Xplor's computing systems or networks or, where the Platform is hosted by a third party, that third party's computing systems and networks;
 - (v) use or misuse the Platform in any way which may impair the functionality of the Platform or Website, or other systems used to deliver the Platform or impair

the ability of any other user to use the Platform or Website;

- (vi) attempt to gain unauthorised access to any materials other than those to which You have been given express permission to access or to the computer system on which the Platform are hosted;
 - (vii) transmit, or input into the Website or Platform, any files that may damage any other person's computing devices or software, content that may be offensive, or material or data in violation of any law (including data or other material protected by copyright or trade secrets which You do not have the right to use);
 - (viii) broadcast, transmit or otherwise display in a public forum the Platform;
 - (ix) post the Platform on any website;
 - (x) assign and/or novate any rights or obligations created by this EULA;
 - (xi) modify the Platform or create derivative works based upon it;
 - (xii) use the Platform for commercial purposes other than the purpose for which it is supplied to You: or
 - (xiii) use the Platform to develop any product having the same primary function as the Platform.
- (b) You acknowledge and agree that:
- (i) the Platform and/or Website may include technical inaccuracies or errors; and
 - (ii) any person/entity permitted to make changes to the Platform and/or Website (including Xplor or a third party authorised by Xplor) may make improvements or other changes in and to the Platform and/or Website at any time without notice to You.
- (c) The provision of, access to, and use of, the Platform is on an "as is" basis and Your access and use of the Platform is at Your own risk.
- (d) Xplor does not warrant that the use of the Platform will be uninterrupted or error free. The operation and availability of the systems used for accessing the Platform, including public telephone services, computer networks and the internet, can be unpredictable and may from time to time interfere with or prevent access to the Platform. You agree that Xplor is not in any way responsible for any such interference or prevention of Your access or use of the Platform.
- (e) Xplor is not providing You with accounting or other professional services and the provision of the Platform to You does not in any way constitute such services, and You agree that You will retain such professional advice as You may require from time to time.
- (f) You are solely responsible for determining that the Platform meets Your needs and that it is suitable for the purposes for which it is used by You.
- (g) You are solely responsible for complying with all applicable accounting, tax and other laws as they pertain to You and use of the Platform by You. It is Your responsibility to check that storage of, and access to, Your Data via the Platform and the Website will comply with laws applicable to you (including any laws requiring you to retain records).
- (h) Xplor has no responsibility to any person other than You and nothing in this EULA confers, or purports to confer, a benefit on any person other than You. If You use the Platform or access the Website on behalf of or for the benefit of anyone other than You, You remain responsible for ensuring that You have the right to do so.

5. Invited Users

- (a) Subject to clause 5(b), You may grant sub-licences to Invited Users to access and use some or all of the Services for which You hold a licence from Xplor. You must ensure that:
- (i) all sub-licences you grant to Invited Users are for their non-commercial purposes; and
 - (ii) any Invited Users to whom You grant licences comply with the terms of this EULA and all laws.
- (b) For the avoidance of doubt, the use of any part of the Services by an Invited User under a licence granted by You in accordance with clause 5(a) will be deemed to be Your use and You shall be responsible for that Invited User's compliance with the terms of this EULA and all laws.
- (c) For the avoidance of doubt, You will be primarily responsible for the performance of all of Your obligations and responsibilities under this EULA, irrespective of the failure by

any Invited Users to undertake their obligations in relation to their sub-licence of the Services.

6. Usage limitations

Use of the Services may be subject to such limitations as Xplor may advise from time to time, including but not limited to monthly transaction volumes and the number of calls You are permitted to make using the Services.

7. Data

- (a) Your Data remains Your property.
- (b) In consideration of Xplor providing the Services to You, You hereby grant to Xplor a non-exclusive licence to use, copy, transmit, store, and back-up the Data to the extent necessary for the purposes of providing You the Services and performing its obligations under this EULA.
- (c) You agree and acknowledge Xplor does not edit or control the Data and Xplor will not be responsible in any way for the content of the Data.
- (d) Xplor may, but is not obliged to, make copies of the Data and You therefore must maintain copies of Your Data.
- (e) If Xplor directly causes or contributes to any loss, corruption or destruction of Your Data, Xplor must, at its own cost and expense, use its reasonable endeavours to restore such Data. This is Xplor's entire obligation and, to the fullest extent permitted by law, Your only remedy for Xplor's loss of Your Data.

8. Privacy

- (a) To the extent that Your Data comprises Personal Information, Xplor will collect Your Personal Information through Your use of the Platform and/or Website for the purpose of providing the Services.
- (b) Xplor will deal with Your Personal Information in accordance with its Privacy Policy. You can find out more about the Privacy Policy [here](#).
- (c) Except for the date and amount of any payment made through the Platform, Xplor does not collect or store any payment information You or Your Invited Users provide through the use of the Platform. Except for the date and amount of any payment made through the Platform, all payment information will be input directly onto the Westpac Solution and will be collected, stored and processed by Westpac.
- (d) Each party must:
 - (i) comply with all Privacy Laws; and
 - (ii) not do any act, engage in any practice, or omit to do any act or engage in any practice that would cause the other party to breach or be taken to breach any Privacy Law; and
- (e) Xplor may disclose Your Data to:
 - (i) Westpac, to the extent that disclosure is required to provide the Services;
 - (ii) any duly authorised law enforcement officer;
 - (iii) any other person authorised by law; and
 - (iv) any third party to whom You have authorised Xplor to disclose Your Data.
- (f) If Xplor is required to disclose Your Data under clause 8(e)(ii) or 8(e)(iii) to provide assistance in relation to any inquiry, complaint, hearing or other form of investigation or proceedings regarding You or any of Your End Users, You must reimburse Xplor for any costs it directly or indirectly incurs in providing such disclosures.
- (g) If Xplor discloses Your Data to third-party application providers under clause 8(e)(iii), You agree and acknowledge Xplor will not be responsible for any use, disclosure, modification or deletion of Your Data by any such third party.
- (h) Without limiting clause 8(e), if You enable third-party applications for use in connection with the Platform, You acknowledge that Xplor may, in accordance with clause 8(e), disclose Your Data to the providers of those third-party applications for the inter-operation of such third-party applications with the Platform.
- (i) During the Term, You may access the Data You input into the Platform, including, without limitation, any information or Data input into the Platform by any person you have authorised to use the Platform.
- (j) You are responsible for authorising any person who is given access to Data You input to the Platform, and You agree that Xplor has no obligation to provide any person access to such

Data without Your authorisation and may refer any such requests to You for Your determination.

- (k) You indemnify Xplor against any claims or loss relating to:
 - (i) Xplor's refusal to provide any person access to Your information or Data in accordance with this EULA; and
 - (ii) Xplor making available information or Data to any person with Your authorisation.

9. Payments

You acknowledge that:

- (a) the Platform facilitates payment transactions between You and a School;
- (b) these transactions are subject to the terms of the direct debit request service agreement between You and the School and the terms and conditions of the Westpac Solution; and
- (c) Xplor is not responsible for deducting any funds from Your nominated bank account or credit card.

10. Links to third-party sites

- (a) You may link to third-party sites through Your use of the Platform. The third-party sites are not under the control of Xplor and Xplor is not responsible for the content of any third-party sites, any links contained therefrom, or any changes or updates to third-party sites from time to time.
- (b) Xplor is not responsible for any form of transmission received from any third-party sites.
- (c) Any link to a third-party site from within the Platform is provided for convenience only and the inclusion of any such link does not imply an endorsement of the site, or its content, by Xplor.

11. Additional content, services and/or updates

The terms and conditions of this EULA apply to any updates, supplements, add-on components, or internet-based service components of the Platform that Xplor may provide to You or make available to You after the date You obtain/use your initial copy of the Platform, unless Xplor provides other terms along with the update, supplement, add-on component, or internet-based service component.

12. Intellectual property

- (a) Title to, and all IPR in, the Platform, the Website and any documentation relating to the Platform remains the property of Xplor (or its licensors) and nothing in this EULA operates to grant You any IPR in the Services or any part thereof.
- (b) You must not:
 - (i) remove or modify any copyright notice on the Platform nor register or attempt to register any IPR in the Platform, Website, and any aspect of the Services or any derivation thereof; and
 - (ii) use any Marks without the prior written consent of Xplor or register or attempt to register rights in relation to the Marks, any derivative of the Marks, or anything similar to them.

13. Security

- (a) Xplor will take reasonable steps to ensure access to the Platform is secure however, Xplor does not guarantee that access will be secure at all times.
- (b) You agree and acknowledge that You are solely responsible for:
 - (i) the security, confidentiality and integrity of all information or data uploaded, downloaded or otherwise communicated while accessing the Platform;
 - (ii) keeping all passwords and usernames required to access the Platform secure and confidential; and
 - (iii) protecting any device You use to access Platform from all security breaches and viruses (or any similar damaging components).
- (c) You must immediately notify Xplor of any unauthorised use of Your passwords or any other breach of security, whereupon Xplor may reset Your password and You must take all other actions that Xplor reasonably deems necessary to maintain or enhance the security of Xplor's computing systems and networks and Your access to the Platform.

14. Termination

- 14.1 You may terminate this EULA by notice in writing to Xplor or via the Profile Panel in which case the termination takes effect at the end of the month in which You terminate.
- 14.2 Xplor may exercise any of its rights under clause 14.3 if:
 - (a) in relation to a breach of this EULA that is capable of remedy, You or Your Invited User fail to remedy such breach within 14 days of notice of the breach;
 - (b) You or Your Invited User commit a breach of this EULA that is not capable of remedy; or
 - (c) the School ceases to be provided with access to Services (as provided by Xplor to the School) for any reason.
- 14.3 Upon the occurrence of any event in clause 14.2, Xplor may:
 - (a) immediately terminate this EULA and use of the Services by You and/or Your Invited Users;
 - (b) suspend for any definite or indefinite period of time use of the Services by You or Your Invited Users; and/or
 - (c) subject to law, including Privacy Laws, suspend or terminate access to the Data by You.
- 14.4 For the avoidance of doubt, if this EULA is terminated or expires for any reason, Your and/or Your Invited Users' right to use the Platform immediately ceases and the licences granted by Xplor under this EULA terminate.
- 14.5 On termination or expiry of this EULA it is your obligation and responsibility to ensure that:
 - (a) You and/or Your Invited Users must immediately cease to use the Services;
 - (b) You and Your Invited Users' right to use the Platform immediately ceases and the licences granted by Xplor under this EULA terminate; and
 - (c) You and Your Invited Users must delete all copies of the Platform installed from any device used to access the Platform.
- 14.6 Termination of this EULA is without prejudice to any rights and obligations of the parties accrued up to and including the date of termination. On termination of this EULA, You will remain liable for any accrued charges and amounts which become due for payment before or after termination.

15. Warranties and liability

- (a) Xplor hereby excludes all express and implied conditions and warranties in relation to the Services and this EULA except those conditions or warranties that cannot be excluded by law.
- (b) Nothing in this EULA is intended to have the effect of contracting out of any applicable provisions of Schedule 2 of the *Competition and Consumer Act 2010 (Cth)* (**Australian Consumer Law**) or any equivalent Act of any State or Territory of Australia except to the extent permitted by such Acts.
- (c) To the absolute extent permitted by law, Xplor will not be liable to You or Your Invited Users for any liability, claim, loss or damage of any kind (including but not limited to any loss of actual or anticipated profits, revenue, savings, business, opportunity, access to markets, goodwill, reputation, publicity, or use or loss of data) arising from or in connection with use of the Services by You or Your Invited Users, except to the extent that the liability, claim, loss or damage is directly attributable to the negligence or wrongful act or omission of Xplor.
- (d) To the fullest extent permitted by law, Xplor's total aggregate liability for all claims relating to this EULA is limited to the fees payable under the EFA.
- (e) Pursuant to s64A of the Australian Consumer Law, this clause applies in respect of any services that are not of a kind ordinarily acquired for personal, domestic or household use or consumption. Liability for breach of a guarantee conferred by the Australian Consumer Law (other than those conferred by ss51 to 53 of the Australian Consumer Law) is limited to any of the following as determined by Xplor:
 - (i) the re-supply of the services; or
 - (ii) the payment of the cost of re-supplying the services.
- (f) You hereby acknowledge and agree that Xplor shall not be liable to You or Your Invited Users or any other person for any liability, loss or damage of any kind (including but not limited to any loss of actual or anticipated profits, revenue, savings, business, opportunity, access to markets, goodwill, reputation, publicity, or use) arising directly or indirectly from

or in connection with the failure by any means of the Westpac Solution.

- (g) You warrant to Xplor that:
- (i) You have the authority to grant the licence pursuant to clause 7(b) of this EULA;
 - (ii) You have attended to all backups, and have maintained copies of, Your Data and You acknowledge that Xplor is not responsible for maintaining or storing the Data;
 - (iii) the use by Xplor of the Data will not result in any unauthorised use of the rights of any person; and
 - (iv) You have the authority to enter into, perform and observe Your obligations and rights under the terms and conditions of this EULA;
 - (v) You have the authority to agree to the terms of this EULA on behalf of Your Invited Users and You acknowledge and agree that, by registering to use the Platform, You bind Your Invited Users to the performance of any and all obligations that You become subject to by virtue of this EULA without limiting any obligations of You under this EULA.
- (h) Xplor provides no warranty:
- (i) that any result or objective can or will be achieved or attained at all by You or Your Invited Users by expiry or termination of this EULA (whichever is the earlier) or by any other date; and
 - (ii) that the Services will be fit for purpose, continuous, uninterrupted, accurate, fault-free, virus-free, secure or accessible at all times.

16. Indemnity

You are liable for and must indemnify Xplor, its directors, employees, contractors and agents (together, the **Indemnified Party**) from and against all damages, losses, claims and expenses incurred or suffered by the Indemnified Party arising as a directly result of:

- (a) breach by You or Your Invited Users of this EULA;
- (b) any unlawful or negligent act or omission by You or Your Invited User;
- (c) use of the Platform by You, including but not limited to, any modification of the Platform by You (whether done with Xplor's consent or otherwise) which causes the Platform to infringe the IPR of a third party.

17. Technical problems

- (a) In the case of technical problems with the Services You must make all reasonable efforts to investigate and diagnose problems before contacting Xplor. If, after taking steps to resolve the issue, You still require assistance, you may contact Xplor via one of the following means;
- (i) telephone 1300 014 428;
 - (ii) email to support@myxplor.com;
 - (iii) web support accessible at <http://myxplor.com/support>; and
 - (iv) such other support channels as Xplor may advise from time to time.
- (b) Xplor may require You to install such upgrades and supplements to the Platform as may be reasonably required from time to time.
- (c) Xplor shall have no obligation to provide support for any version of the Platform for which You have not complied with clause 17(b) or for which Xplor has issued an end-of-life notification at least 3 months prior.

18. Service availability

- (a) Whilst Xplor intends that the Services should be available 24 hours a day, seven days a week, it is possible that on occasions the Services or Website may be unavailable, including to permit maintenance or other development activity to take place.
- (b) Xplor will use its reasonable endeavours to publish in advance on the Website or by other means as Xplor may determine, details of any known significant outages or interruptions to the Services.

19. Updates and amendments

- (a) You acknowledge that from time to time and as Xplor determines it necessary or desirable to do so Xplor may update any aspect of the Services.

- (b) You acknowledge that, in the event of an update of any aspect of the Services or for such other reasons as Xplor may determine, Xplor amend this EULA in whole or part in its sole discretion without notice to You.
- (c) Any amendments to the EULA will be effective immediately upon the posting of the revised EULA on the Website, Platform and/or Equipment. Depending on the nature of the amendment, Xplor may announce the change on the Website home page or by email. However, in any event, by continuing to use the Services following any amendments, You will be deemed to have agreed to such amendments.

20. Communication

- (a) If You use any communication tools available through the Website (such as any forum, chat room or message centre), You agree only to use such communication tools for lawful and legitimate purposes. You must not use any such communication tool for posting or disseminating any material unrelated to the use of the Platform, including (but not limited to):
- (i) offers of goods or services for sale;
 - (ii) unsolicited commercial e-mail;
 - (iii) files that may damage any other person's computing devices or software;
 - (iv) content that may be offensive to any other users of the Platform or the Website; or
 - (v) material in violation of any law (including material that is protected by copyright or trade secrets which You do not have the right to use).
- (b) When You make any communication on or via the Website, You represent and warrant that You are permitted to make such communication. Xplor is under no obligation to ensure that the communications on the Website are legitimate or that they are related only to the use of the Platform. You hereby agree to exercise caution when using the communication tools available on the Website.
- (c) Xplor hereby reserves the right to remove from the Website any communication at any time in its sole discretion.

21. Confidentiality

- (a) A party must not, without the prior written consent of the other, use or disclose the other party's Confidential Information unless expressly permitted by this EULA or required to do so by law or any regulatory authority.
- (b) A party may:
- (i) use the Confidential Information of the other party solely for the purposes of complying with its obligations and exercising its rights under this EULA; and
 - (ii) disclose the Confidential Information to its personnel or advisers to the extent necessary for them to know the information for purposes related to this EULA, but only if reasonable steps are taken to ensure that the confidentiality of the information is retained.
- (c) Each party must return, or at the other party's option destroy, all Confidential Information of the disclosing party in the receiving party's possession or control, on the earlier of the Licensor's request or on termination of this EULA for any reason.

22. Dispute resolution

- (a) The parties must use their reasonable endeavours to resolve through negotiation all disputes, conflicts (including, without limitation, conflicts of interest) differences or questions between them arising out of or in connection with this EULA.
- (b) If, within 14 calendar days, the dispute cannot be resolved following negotiation between the parties, either party may refer the dispute for arbitration. The dispute will be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.
- (c) The arbitration will be administered by the Australian Centre for International Commercial Arbitration (**ACICA**).
- (d) The appointing authority will be ACICA.
- (e) The number of arbitrators will be one.
- (f) The place of arbitration will be Melbourne, Australia.
- (g) The language to be used in the arbitral proceedings will be English

23. General

- (a) This EULA (and, if you are a party to it, the EFA) constitutes the entire agreement between You and Xplor relating to the Services and it supersedes all prior agreements, representations (whether oral or written), and understandings between Xplor and You relating to the same.
- (b) The failure, delay, relaxation or indulgence on the part of a party in exercising, in part or whole, any power, right or remedy conferred upon that party by this EULA shall not operate as a waiver of that power, right or remedy.
- (c) You must not assign or otherwise deal with all or any part of Your rights or obligations under this EULA without Xplor's prior written consent. Xplor may assign its rights under, and for novate, this EULA at any time by notice in writing to You.
- (d) All rights not specifically granted in this EULA are reserved by Xplor for itself and for its suppliers.
- (e) Any notice given under or pursuant to this EULA by either party to the other must be in writing by email and will be deemed to have been given on transmission. Notices to Xplor must be sent to support@myxplor.com or to any other email address notified by email to You by Xplor. Notices to You will be sent to the email address You have provided to

Xplor as part of Your registering to use the Platform or as otherwise advised and confirmed by Xplor.

- (f) If any term of this EULA is invalid or not enforceable by a court of competent jurisdiction, it is to be read down and shall otherwise be capable of being severed to the extent of the invalidity or unenforceability without affecting the remaining provisions of this EULA.
- (g) Any clause of this EULA that is by its nature intended to survive termination does so, including clauses 3(c), 12, 14.5, 15, 16, 21, 23(f), 23(g) and 23(h).
- (h) This EULA is governed by and is to be construed in accordance with the laws in force in Victoria. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of Victoria and waives any right to object to proceedings being brought in those courts or courts of appeal therefrom.