

# **TORQUE BRAND PORTAL**

GREASE MONKEY GAMES PTY. LTD. ABN 32 164 124 976

**TERMS OF SERVICE**

## INTRODUCTION

The Company provides the TORQUE BRAND PORTAL online platform for monitoring and managing digital advertising within the Company's games and applications. Use of TORQUE BRAND PORTAL is subject to these Terms of Service.

## DEFINITIONS

The following terms are used regularly throughout these Terms of Service and have a particular meaning:

- (a) **ABN** means Australian Business Number.
- (b) **Agreement** means the agreement formed between the Users and the Company under, and on the terms of, these Terms of Service.
- (c) **Approval** means approval of a Deliverable by the Customer for publishing within a Driving Game.
- (d) **Artwork** means any 2D or 3D imagery that the Customer holds Intellectual Property Rights in, for use in a Deliverable.
- (e) **Affiliates** means:
  - (i) an entity that controls or is controlled by the Company;
  - (ii) a "related body corporate" of the Company (as that term is defined in s 50 of the Corporations Act 2001 Cth), or a company in which the Company beneficially owns at least 50% of the shares in that company; or
  - (iii) a subsidiary of an entity described in i or ii above.
- (f) **Billboard** means an image displayed within the Driving Game on the perimeter fence of the various tracks, garages and in other common areas within the game, intended to promote the Customer's business or product as part of a Deliverable.
- (g) **Billboard Impression** has the meaning given to that term in clause 3.3.
- (h) **Business Day** means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Melbourne, Australia.
- (i) **Company** means Grease Monkey Games Pty. Ltd. trading as Grease Monkey Games ABN 32 164 124 976 and its Affiliates.
- (j) **Corporations Act** means the *Corporations Act 2001* (Cth).
- (k) **Customer** means a registered user of the Platform that uses the features associated with a Customer account.
- (l) **Customer Branding** means any trade marks, brand logos and part logos for use in a Deliverable.
- (m) **Deliverable** means any deliverable supplied by The Company via the Platform subject to the Customer's Subscription, and generally means a:
  - i Virtual Part Listing;
  - ii Billboard
  - iii Sponsorship Listing.
  - iv Marketing Material.
- (n) **Driving Game** means a driving game developed by the Company, including (without limitation) Torque Drift, Torque Burnout and other unreleased games.
- (o) **Fee** means a fee charged by the Company for use of the Platform.

- (o) **Gamer** means a player or user of a Driving Game.
- (p) **GST** has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- (q) **Impression** has the meaning given to that term in clause 3.1.
- (r) **Intellectual Property** means all copyright, patents, inventions, trade secrets, know-how, product formulations, designs, circuit layouts, databases, registered or unregistered trademarks, brand names, business names, domain names and other forms of intellectual property.
- (s) **Platform** means the TORQUE BRAND PORTAL digital platform accessible from [adportal.greasemonkeygames.com](http://adportal.greasemonkeygames.com).
- (t) **Privacy Act** means the *Privacy Act 1988* (Cth).
- (u) **Privacy Policy** means the Company's privacy policy as updated from time-to-time, which can be found at [adportal.greasemonkeygames.com/privacy](http://adportal.greasemonkeygames.com/privacy).
- (v) **Product** means a physical good manufactured or sold by the Customer, and generally refers to (without limitation) a vehicle part or accessory.
- (w) **Product Description** means the description of a Product within a Virtual Part Listing.
- (x) **Site** means the Company's website accessible at [adportal.greasemonkeygames.com](http://adportal.greasemonkeygames.com), or such other URL used by the Company from time-to-time.
- (y) **Sponsorship Listing** means a listing on a Driving Game's in-game sponsorship tree, comprising of:
  - i The Customer's brand logo;
  - ii Information on the Customer (as supplied by the Customer);
  - iii Links to the Customer's website and social media accounts.
- (z) **Subscription** means the services, Deliverables and features to be provided by the Company to the Customer.
- (aa) **Subscription Fee** means a Fee charged by the Company for use of the Platform on a periodical basis.
- (bb) **Tax Invoice** has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- (cc) **Team Member** means a registered user of the Platform, that uses the features associated with a Team Member account.
- (dd) **Terms of Service** means the terms and conditions of using the Platform, as updated from time-to-time, which can be found at [adportal.greasemonkeygames.com/terms](http://adportal.greasemonkeygames.com/terms).
- (ee) **TPS** means an online third-party service provider with whom a User holds an account.
- (ff) **Sponsorship Listing** means
- (gg) **User** means any registered Customer or Team Member that uses the Platform.
- (hh) **User Content** means Customer Branding, images, information, documents or other data that is uploaded or input into the Platform by the User or that forms part of the User's Intellectual Property.

- (ii) **Virtual Part Listing** means a listing within a Driving Game's parts store for a Product, comprising of a Product Description, and a visual representation based on the Artwork and/or 3D Scan provided by the Customer.
- (jj) **Virtual Store Impression** has the meaning given to that term in clause 3.2.
- (kk) **Marketing Material** means images that are used to promote the Driving Game in connection with the User using User Content, including (without limitation):
  - Images for social media platforms;
  - Driving Game video trailers and other video media;
  - Company website

## 1 USING THE PLATFORM

### 1.1 General

- (a) To use the Platform, the User must log into the Platform and have set up their account.
- (b) The User agrees that all use of the Platform is subject to these Terms of Service.
- (c) The Platform is only available to Users over the age of 18.
- (d) The Customer shall be responsible for:
  - i Paying the Fees for using the Platform; and
  - ii Each Team Member's use of the Platform that the Customer authorises.
- (e) The Company may suspend the account or restrict the access of any User that breaches the terms of this Agreement.

### 1.2 Features

- (a) The Platform may allow a Customer to:
  - i Subscribe for and manage in-game advertising within a Driving Game, including Deliverables;
  - ii Monitor the number of total views of a Virtual Parts Listing;
  - iii Monitor the number of times unique Gamers access a Virtual Parts Listing;
  - iv Monitor the total number of impressions of Track Billboard Signage;
  - v Monitor the number of unique Gamers that are presented Track Billboard Signage; and
  - vi Access such other features and information the Company may make available from time-to-time.
- (b) The Platform may allow a Team Member to use such features of the Customer's account as enabled by the Customer from time to time.

- (c) The Platform will show Impression counts for both Billboard and Virtual Part Listings.
- (d) Within each category of advertising the Customer will also have further details such as click-throughs to web-addresses, tuning Products, buying Products etc.
- (e) The Customer will have access to separate Impression counter for each Virtual Part Listing and each Billboard design. The analytics information within the Platform is updated once daily at approximately 12:00am PST.

## **2 DELIVERABLES**

- 2.1 The Customer must provide such information and files as the Company requires in order to provide a Deliverable including any trademarks, brand logos and part logos for use in a Deliverable.
- 2.2 Any Artwork or Customer Branding provided by the Customer for use in the Deliverables must be provided in the following format:
  - (a) AI (illustrator);
  - (b) EPS (Vector Format);
  - (c) SVG (Vector Format);
  - (d) PNG (with transparency);
  - (e) PSD (Photoshop with layers);
  - (f) Any other format required by the Company for use in the Part Listing.
- 2.3 Artwork and Customer Branding must be provided to the company by such means as the Company directs the Customer from time-to-time, including (without limitation) via:
  - (a) The Platform;
  - (b) FTP; or
  - (c) Email.
- 2.4 The Customer licenses the User Content to the Company for use in the Deliverables on an ongoing basis during the term of the Agreement:
  - (a) Customer Branding (if applicable); and
  - (b) Artwork.
- 2.5 **Virtual Part Listings**
  - (a) The Virtual Part Listing shall:
    - i Enable Gamers that select or purchase the Product in a Virtual Part Listing to customize their in-game vehicle by integrating that Product for use within gameplay;
    - ii Enable Gamers to customize their vehicle with Cust; and

- iii Provide external link to the Customer's Facebook Page; and
- iv Provide external link to the Customer's Website.

## 2.6 Billboards

- (a) Billboards do not include any additional information or links.
- (b) The Company shall determine the placement of Billboards within the game at its sole discretion.
- (c) The efficacy of Billboards is measured by number of Impressions, which can be monitored in the Platform.
- (d) The Platform shall track the number of Billboard Impressions viewable by Gamers.

## 2.7 Sponsorship Listings

- (a) A Sponsorship Listing shall enable Gamer's to customize their vehicle using Customer Branding.
- (b) A Sponsorship Listing shall be provided free of charge.
- (c) A Sponsorship Listing shall remain in place until the Advertising Services Agreement is terminated.

## 2.8 Approval of Deliverables

- (a) The Company shall submit a proof of each Deliverable for Approval prior to publishing the relevant Deliverable within the Driving Game.
- (b) The Customer shall promptly provide Approval or feedback to the Company.
- (c) The Company shall not be responsible for any delay in publishing a Deliverable caused by the Customer.
- (d) Despite any feedback or approval provided by the Customer, the Company retains discretion whether to publish a deliverable within the Driving Game. The Customer shall not be charged for any Deliverable that does not appear in the game as a result of the Company exercising this discretion.
- (e) Once a Deliverable has been published the Customer may request no more than 2 rounds of changes within the first 90 days after the Deliverable was first published.
- (f) The Company may charge additional Fees in order to make any changes to a Deliverable after 90 Days.
- (g) The Company shall commence providing the Deliverables on the next update of the Driving game and continue until the Subscription for such Deliverables is terminated.
- (h) Deliverable proofs and approval may be provided outside the platform via email where the Company advises the Customer it is acceptable to do so, however in default the Approval process shall take place within the Platform. It is the

Customer's responsibility to log into the Platform in order to check the status of Deliverable.

## 2.9 Product Descriptions

- (a) As part of each Virtual Part Listing the Company will include a description of each Product up to 300 characters long, in English (**Product Description**).
- (b) The Company shall also include alternative language translation of the Product Description in the following languages, where such translations are provided by the Customer:
  - i Chinese Simplified
  - ii Chinese Traditional
  - iii French
  - iv German
  - v Italian
  - vi Japanese
  - vii Korean
  - viii Portuguese
  - ix Russian
  - x Spanish and
  - xi Turkish.
- (c) English shall be the default language where the Customer elects no alternative language translation.
- (d) The Customer acknowledges that it must provide alternate language translations for all Virtual Product Listings where it has elected to do so, and cannot provide a translation for selected Products only. Virtual Product Listings in alternate languages without a translation provided by the Customer will appear without text in order for the Driving Game to be indexed on the relevant search engines.

## 2.10 3D Scans

- (a) Each Virtual Part Listing requires a three-dimensional digital model of the Product.
- (b) The Customer shall supply the Company with at least one of the following:
  - i A physical sample of the Product for 3D scanning (parts will not be returned);
  - ii CAD files containing 3D models of the Product;

- iii Polygon models of the Product; or
- iv Clear photos of all angles of the Product and artwork.

### 3 IMPRESSIONS

3.1 An **Impression** is the base unit of calculation for advertising services subject to a Subscription, which may be either:

- (a) A Virtual Store Impression; or
- (b) A Billboard Impression.

#### 3.2 Virtual Store Impressions

- (a) Each time a Gamer views a virtual part in the store for at least 1 second, or interacts with it in any way will count as 1 Impression (i.e. enough time to ensure the Brand Logo has appeared and been seen by the user) (**Virtual Store Impression**).
- (b) Scrolling past a virtual part will not count as an Impression. Buying a part, equipping a part or tuning a part will count as 1 Impression.

#### 3.3 Billboard Impressions

- (a) A single advertising impression is counted when a Billboard advertisement is displayed on the Gamer's screen for no less than 1 second (**Billboard Impression**). As Driving Games take place on racetracks or circuits, the Billboards will be repeatedly displayed.
- (b) A single Billboard design will only count as 1 Impression once the cumulative time the Billboard has been displayed via multiple repetitions amounts to 1 second.
- (c) Billboards for each event or practice will only be counted as 1 impression regardless of the time spent by the Gamer in that event or practice.
- (d) Each event or practice will only include a maximum of 5 different Billboard designs. Therefore, the maximum impressions for each race or practice will be 5 impressions.

### 4 FEES, PAYMENTS & REFUNDS

#### 4.1 Fees

- (a) The primary Fee to use the Platform shall be the Subscription Fee, which is payable in advance.
- (b) Each Fee applies in accordance with such features, Deliverables and/or services subscribed for by the Customer in accordance with the pricing described on the Site, or as otherwise agreed with the Company.
- (c) Unless agreed otherwise the initial period of each Subscription shall be 3 months. The Customer shall not be entitled to cancel its subscription within that period.

- (d) The Customer agrees to make payment in advance for all Fees due at such frequency, or on such dates as the Customer has subscribed for.
- (e) All payments shall be made via the online payment gateway within the Platform, or in such other manner as the Company may direct from time-to-time. The Customer agrees that it has no right to the Deliverables if it fails to make payments when due.
- (f) The Company reserves the right to introduce or change any Fees from time-to-time by giving the User no less than 14 days' written notice. Any new or changed Fees will apply at the next billing period after the Customer has been given such notice.
- (g) If a Customer does not accept a change to any Fees, then it can simply terminate its Account.

#### 4.2 **Currency.**

All Fees are quoted in US dollars, however transactions may be processed in an equivalent foreign currency (such as Australian dollars or British pounds).

#### 4.3 **GST.**

For Customers in Australia, GST is applicable to any Fees charged by the Company to the User. Unless expressed otherwise, all Fees shall be deemed inclusive of GST. The Company will provide the Customer with a Tax Invoice for any payments.

#### 4.4 **Refunds.**

No refunds of Fees are offered other than as required by law.

#### 4.5 **Late Payment.**

- (a) If the Customer does not pay the full Fees as required, the Company may suspend all User access to the Platform for that Account, and cease providing Deliverables in the next update of the Driving Game.
- (b) If Fees are not brought out of arrears within 28 days of becoming overdue, the Company may terminate the Customer's Account in the Platform without notice and end this Agreement.
- (c) The User agrees that the Company shall not be responsible or liable in any way for:
  - i Interruptions to the availability of the Platform, Deliverables or User Content in the event of (a);
  - ii Loss of User Content in the event of (b).

### 5 **GENERAL CONDITIONS**

#### 5.1 **Licence**

- (a) By accepting the terms and conditions of this Agreement, the User is granted a limited, non-exclusive and revocable licence to access and use the Platform for

the duration of this Agreement, in accordance with the terms and conditions of this Agreement.

- (b) The Company may issue the licence to the User on the further terms or limitations (including the number of users or volume of use or transactions) as it sees fit.
- (c) The Company may revoke or suspend the User's licence(s) in its absolute discretion for any reason that it sees fit, including for breach of the terms and conditions in this Agreement by the User.

## 5.2 Modification of Terms

- (a) The terms of this Agreement may be updated by the Company from time-to-time.
- (b) Where the Company modifies the terms, it will provide the User with written notice, and the User will be required to accept the modified terms in order to continue using the Platform.

## 5.3 Software-as-a-Service

- (a) The User agrees and accepts that the Platform is:
  - i Hosted by the Company and shall only be installed, accessed and maintained by the Company, accessed using the internet or other connection to the Company servers and is not available 'locally' from the User's systems; and
  - ii Managed and supported exclusively by the Company from the Company servers and that no 'back-end' access to the Platform is available to the User unless expressly agreed in writing.
- (b) As a hosted and managed service, the Company reserves the right to upgrade, maintain, tune, backup, amend, add or remove features, redesign, improve or otherwise alter the Platform.

## 5.4 Support

- (a) The Company provides user support for the Platform via the email address [support@greasemonkeygames.com](mailto:support@greasemonkeygames.com)
- (b) The Company shall endeavour to respond to all support requests within 5 Business Days.
- (c) Please include the subject heading "Torque Brand Portal".

## Use & Availability

- 5.5 (a) The User agrees that it shall only use the Platform for legal purposes and shall not use it to engage in any conduct that is unlawful, immoral, threatening, abusive or in a way that is deemed unreasonable by the Company in its discretion.
- (b) The User is solely responsible for the security of its username and password for access to the Platform. The User shall notify the Company as soon as it becomes aware of any unauthorised access of its the Platform account.

(c) The User agrees that the Company shall provide access to the Platform to the best of its abilities, however:

- i Access to the Platform may be prevented by issues outside of its control; and
- ii It accepts no responsibility for ongoing access to the Platform.

#### 5.6 Privacy

- (a) The Company maintains the Privacy Policy in compliance with the provisions of the Privacy Act for data that it collects about the User and other customers.
- (b) The Privacy Policy does not apply to how the Customer handles personal information. If necessary under the Privacy Act, it is the Customer's responsibility to meet the obligations of the Privacy Act by implementing a privacy policy in accordance with law.
- (c) The Platform may use cookies (a small electronic tracking code) to improve a User's experience while browsing, while also sending browsing information back to the Company. The User may manage how it handles cookies in its own browser settings.

#### 5.7 Data

- (a) **Security.** The Company takes the security of the Platform and the privacy of its Users very seriously. The User agrees that the User shall not do anything to prejudice the security or privacy of the Company's systems or the information on them.
- (b) **Transmission.** The Company shall do all things reasonable to ensure that the transmission of data occurs according to accepted industry standards. It is up to the User to ensure that any transmission standards meet the User's operating and legal requirements.
- (c) **Storage.** The Company stores data on servers based in the USA according to accepted industry standards. If the User requires its User Data to be stored in a different location, the Company may charge the User a fee to do so.
- (d) **Backup.** The Company shall perform backups of its entire systems in as reasonable manner at such times and intervals as is reasonable for its business purposes. The Company does not warrant that it is able to backup or recover specific User Data from any period of time unless so stated in writing by the Company.

#### 5.8 Confidentiality

- (a) Confidential Information means any written or verbal information that:
  - i is connected with the Customer and is obtained from the Customer or one of the Customer's representatives;
  - ii The Customer informs The Company that the Customer considers it confidential and/or proprietary; or
  - iii is personal information within the meaning of the *Privacy Act 1988* (Cth).

- (b)** The Company will keep all Confidential Information in confidence on an ongoing basis in accordance with this Agreement.
- (c)** The Confidentiality obligations owed under this Agreement shall survive termination of the Agreement.
- (d)** The Company must not:
  - i Use any of the Confidential Information except to the extent necessary to exercise its rights and perform its obligations under this Agreement; or
  - ii Disclose any of the Confidential Information except in accordance with clauses 5.8(e) or 5.8(f).
- (e)** The Company may disclose Confidential Information to its personnel (including to third parties engaged by The Company to provide services in connection with the Advertising) if:
  - i The disclosure is required to enable The Company to perform its obligations or to exercise its rights under this document; and
  - ii Prior to disclosure, The Company informs the person of The Company's obligations in relation to the Confidential Information under this document;
- (f)** Subject to clause 5.8(g), The Company may disclose Confidential Information that The Company is required to disclose by law.
- (g)** If The Company is required to make a disclosure under clause 5.8(g), The Company must:
  - i To the extent possible, notify the Customer immediately after it anticipates that it may be required to disclose any of the Confidential Information; and
  - ii Only disclose Confidential Information to the extent necessary to comply.
- (h)** The Customer and The Company must each assist the other to comply with its obligations under the *Privacy Act 1988* (Cth) in relation to Confidential Information.

## 5.9 Intellectual Property

- (a) Company IP**
  - i For the purposes of this clause, Company IP means all Intellectual Property of Company incorporated in the Deliverables.
  - ii The Customer acknowledges that the Company retains ownership of all of Company IP.
  - iii The Company grants the Customer a non-exclusive, perpetual, non-transferable, royalty free and worldwide licence to use, for the purposes of its day to day business, the Company IP to the extent that it is contained within a Deliverable.

**(b) Customer IP**

- i For the purposes of this clause, Customer IP means all Intellectual Property of the Customer contained in any information, Artwork or Customer Branding provided to the Company in the course of providing the Advertising.
- ii The Company acknowledges that the Customer retains ownership of all of Customer IP.
- iii The Customer grants the Company a non-exclusive, perpetual, non-transferable, sub-licensable, royalty free and worldwide licence to use the Customer IP to the extent that it is contained within a Deliverable.

**(c) Third-Party IP**

- i For the purposes of this clause Third-Party IP means any rights which are owned by a third-party that are attached to any materials included in a Deliverable. Such Third-Party IP may be attached to (without limitation) software code, designs, wireframes or mock-ups.
- ii The Company shall grant to the Customer such rights as the owner of the Third-Party IP permits The Company to grant the Customer.

**(d) New IP**

- i Any Intellectual Property generated by the Company for the Customer in the process of providing a Deliverable (**New IP**) is owned absolutely by the Company and vests in the Company immediately.
- ii To the extent that the Customer may at any time acquire any right, title or interest in the New IP, the Customer, by this document, agrees to assign to the Company all such rights, title and interest in the New IP.
- iii Unless otherwise agreed in writing by the parties, and notwithstanding any provision of this Agreement to the Contrary, the Company grants the Customer a non-exclusive, perpetual, non-transferable, royalty free and worldwide licence to use, for the purposes of its day to day business, the New IP to the extent that it is contained within a Deliverable.

**(e)** **Trademarks.** The Company has moral & registered rights in its trade marks and the User shall not copy, alter, use or otherwise deal in the marks without the prior written consent of the Company.

**(f)** **Proprietary Information.** The Company may use software and other proprietary systems and Intellectual Property for which the Company has appropriate authority to use, and the User agrees that such is protected by copyright, trademarks, patents, proprietary rights and other laws, both domestically and internationally. The User warrants that it shall not infringe on any third-party rights through the use of the Platform.

**(g)** **The Platform Application.** The User agrees and accepts that the Platform is the Intellectual Property of the Company and the User further warrants that by using the Platform the User will not:

i Copy the Platform or the services that it provides for the User's own commercial purposes; and

ii Directly or indirectly copy, recreate, decompile, reverse engineer or otherwise obtain, modify or use any source or object code, architecture, algorithms contained in the Platform or any documentation associated with it.

**(h) Content.** Notwithstanding User Content, all other content submitted to the Company, whether via the Platform or directly by other means, becomes and remains the Intellectual Property of the Company, including (without limitation) any source code, analytics, insights, ideas, enhancements, feature requests, suggestions or other information provided by the User or any other party with respect to the Platform.

#### 5.10 Disclaimer of Third Party Services & Information

**(a)** The User acknowledges that the Platform is dependent on third-party services, including but not limited to:

i Banks, credit card providers and merchant gateway providers;

ii Telecommunications services;

iii Application distributors including (without limitation) the Apple App Store and Google Play;

iv Hosting services;

v Email services; and

vi Analytics services.

**(b)** The User agrees that the Company shall not be responsible or liable in any way for:

i Interruptions to the availability of the Platform due to third-party services; or

ii Information contained on any linked third party website.

#### 5.11 Liability & Indemnity

**(a)** The User agrees that it uses the Platform at its own risk.

**(b)** The User acknowledges that the Company is not responsible for the conduct or activities of any User and that the Company is not liable for such under any circumstances.

**(c)** The User agrees to indemnify the Company for any loss, damage, cost or expense that the Company may suffer or incur as a result of or in connection with the User's use of or conduct in connection with the Platform, including any breach by the User of these Terms of Service.

**(d)** In no circumstances will the Company be liable for any direct, incidental, consequential or indirect damages, damage to property, loss of property, loss

or corruption of data, loss of profits, goodwill, bargain or opportunity, loss of anticipated savings or any other similar or analogous loss resulting from the User's access to, or use of, or inability to use the Platform, whether based on warranty, contract, tort, negligence, in equity or any other legal theory, and whether or not the Company knew or should have known of the possibility of such damage, or business interruption of any type, whether in tort, contract or otherwise.

(e) Certain rights and remedies may be available under the *Competition and Consumer Act 2010* (Cth) or similar legislation of other States or Territories and may not be permitted to be excluded, restricted or modified. Apart from those that cannot be excluded, the Company and the Company's related entities exclude all conditions and warranties that may be implied by law. To the extent permitted by law, the Company's liability for breach of any implied warranty or condition that cannot be excluded is restricted, at the Company's option to:

- i The re-supply of services or payment of the cost of re-supply of services; or
- ii The replacement or repair of goods or payment of the cost of replacement or repair.

#### 5.12 Termination

- (a) Either party may terminate this Agreement by giving the other party 1 month's written notice.
- (b) Termination of this agreement is without prejudice to and does not affect the accrued rights or remedies of any of the parties arising in any way out of this agreement up to the date of expiry or termination.
- (c) Termination does not affect any of the rights accrued by a party prior to termination, and the rights and obligations under clauses 5.5, 5.6, 5.7, 5.8, 5.9, 5.10, 5.11, 5.13, 5.14 and 5.15 survive termination of this Agreement.

#### 5.13 Dispute Resolution

- (a) If any dispute arises between the parties in connection with this Agreement (**Dispute**), then either party may notify the other of the Dispute with a notice (**Dispute Notice**) which:
  - i Includes or is accompanied by full and detailed particulars of the Dispute; and
  - ii Is delivered within 10 Business Days of the circumstances giving rise to the Dispute first occurring.
- (b) Within 10 Business Days after a Dispute Notice is given, a representative of each party with the authority to resolve the dispute, must meet (virtually or otherwise) and seek to resolve the Dispute.
- (c) Subject to clause (d), a party must not bring court proceedings in respect of any Dispute unless it first complies with the requirements of the dispute resolution mechanism outlined in this clause.
- (d) Nothing in this clause prevents either party from instituting court proceedings to seek urgent injunctive, interlocutory or declaratory relief in respect of a Dispute.

(e) Despite the existence of a Dispute, the parties must continue to perform their respective obligations under this document and any related agreements.

#### 5.14 Electronic Communication, Amendment & Assignment

(a) The words in this clause that are defined in the *Electronic Transactions Act 1999 (Cth)* have the same meaning.

(b) The User can direct notices, enquiries, complaints and so forth to the Company as set out in this Agreement. The Company will notify the User of a change of details from time-to-time.

(c) The Company will send the User notices and other correspondence to the details that the User submits to the Company, or that the User notifies the Company of from time-to-time. It is the User's responsibility to update its contact details as they change.

(d) A consent, notice or communication under this Agreement is effective if it is sent as an electronic communication unless required to be physically delivered under law.

(e) Notices must be sent to the parties' most recent known contact details.

(f) The User may not assign or otherwise create an interest in this Agreement.

(g) The Company may assign or otherwise create an interest in its rights under this Agreement by giving written notice to the User.

#### 5.15 General

(a) **Special Conditions.** The parties may agree to any Special Conditions to this Agreement in writing.

(b) **Prevalence.** To the extent this Agreement is in conflict with, or inconsistent with any Special Conditions made under this Agreement, the terms of those Special Conditions shall prevail.

(c) **Disclaimer.** Each party acknowledges that it has not relied on any representation, warranty or statement made by any other party, other than as set out in this Agreement.

(d) **Relationship.** The relationship of the parties to this Agreement does not form a joint venture or partnership.

(e) **Waiver.** No clause of this Agreement will be deemed waived and no breach excused unless such waiver or consent is provided in writing.

(f) **Further Assurances.** Each party must do anything necessary (including executing agreements and documents) to give full effect to this Agreement and the transaction facilitated by it.

(g) **Governing Law.** This Agreement is governed by the laws of Victoria, Australia. Each of the parties hereby submits to the non-exclusive jurisdiction of courts with jurisdiction there.

(h) **Severability.** Any clause of this Agreement, which is invalid or unenforceable, is ineffective to the extent of the invalidity or unenforceability without affecting the remaining clauses of this Agreement.

(i) **Interpretation.** The following rules apply unless the context requires otherwise:

- i Headings are only for convenience and do not affect interpretation.
- ii The singular includes the plural and the opposite also applies.
- iii If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- iv A reference to a clause refers to clauses in this Agreement.
- v A reference to legislation is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it.
- vi Mentioning anything after *includes*, *including*, or similar expressions, does not limit anything else that might be included.
- vii A reference to a *party* to this Agreement or another agreement or document includes that party's successors and permitted substitutes and assigns (and, where applicable, the party's legal personal representatives).
- viii A reference to a *person*, *corporation*, *trust*, *partnership*, *unincorporated body* or other entity includes any of them.
- ix A reference to *information* is to information of any kind in any form or medium, whether formal or informal, written or unwritten, for example, computer software or programs, concepts, data, drawings, ideas, knowledge, procedures, source codes or object codes, technology or trade secrets.