



Digital Disruption Solutions Pty Ltd – ATO SmartDocs

Commencing 1 July 2024

Dear Ron SAL,

This letter is to confirm our understanding of the terms of our engagement and the nature and limitations of the services that we provide.

Purpose, Scope, and Output of the Engagement

Digital Disruption Solutions (DDS) will provide Services and Software Applications designed for the Accounting Market. The extent of our procedures and services will be limited exclusively for this purpose only.

h2. Proposal Summary

ATO Smart Docs 2.0 – Monthly Maintenance

ATO Smart Docs Monthly Subscription including:-

ATO Document Updates
ATO SmartDocs Vault
Support on ATO Smart Docs
New Updates
New features

Note that SMS Messages cost 8 cents each per 160 characters per SMS credit.

The initial Subscription/contract period is 12 months, commencing from the start of the 1st monthly payment.

(See terms and conditions for more details).

On Acceptance

\$4.40

Pro-rata ATO Smart Docs 2.0 – Monthly Maintenance

Monthly Recurring

\$1.10

ATO Smart Docs 2.0 – Monthly Maintenance

All prices are inclusive of GST

Period of Engagement

This engagement begins on the Proposal commencement date and is a 12-month contract that starts from that date. The contract will automatically renew for another 12 months on the anniversary of the commencement date unless the client provides notice prior to the anniversary.

Responsibilities

In conducting this engagement, information acquired by us in the course of the engagement is subject to strict confidentiality requirements. That information will not be disclosed by us to other parties except as required or allowed for by law, or with your express consent.

We wish to draw your attention to Digital Disruption Solutions' (DDS) system of quality control which has been established and maintained in accordance with the relevant industry standard.

Fees & Services

Services quoted on this Proposal are our best estimate based on information provided, however, (DDS) reserves the right to adjust these services if the circumstances change in consultation with you.

Ownership of Documents

All original documents obtained from the client arising from the engagement shall remain the property of the client. However, we reserve the right to make an electronic copy for our records.

SAAS Terms and Conditions

Welcome to Digital Disruption Solutions – ATO SmartDocs powered by iPracticeApps.

These terms and conditions (**Terms**) govern your membership with Digital Disruption Solutions – ATO SmartDocs powered by iPracticeApps, a product described on our [website](#) and set out in any agreement, quotation or order under which Digital Disruption Solutions – ATO SmartDocs powered by iPracticeApps is to provide services to you (each an **Order Form**). The details of your subscription are set out in the Order Form (**Subscription**), which will be for the tiered package as selected by you and agreed between us in the Order Form (**Subscription Tier**).

These Terms will apply to all the Customer's dealings with Digital Disruption Solutions – ATO SmartDocs powered by iPracticeApps, including being incorporated in all Order Forms, under which Digital Disruption Solutions – ATO SmartDocs powered by iPracticeApps is to provide services to the Customer, together with any additional terms included in such Order Form (provided such additional terms are recorded in writing). These Terms form a binding contractual agreement between you or the company you represent (the '**Client**', or '**you**') and Digital Disruption Solutions Pty Ltd ABN 85 606 251 932 ('**Digital Disruption Solutions – ATO SmartDocs powered by iPracticeApps**',* 'our', 'we' or 'us'*). You represent and warrant that you have valid authority to enter into these Terms on behalf of any entity you may represent.

Please note that your Subscription will continue to renew every 12 months from the commencement date indefinitely, and you will continue to incur Subscription Fees, unless you notify us that you want to cancel your Subscription in accordance with clause 12.2. Please ensure you contact us if you want to cancel your Subscription.

We may change these Terms at any time by notifying you, and your continued use of the Solution following such an update will represent an agreement by you to be bound by the Terms as amended. Here is a link to the latest terms and Conditions: <https://www.atosmartdocs.com.au/standard-terms-and-conditions> You can monitor this page for any updates to your terms and conditions.

In these Terms, capitalised words and phrases have the meanings given to them where they are followed by bolded brackets, or as set out in the Definitions table at the end of these Terms.

Please read these terms and conditions carefully before agreeing to proceed with your Subscription.

1. THE SOLUTION

1.1 YOUR SUBSCRIPTION AND THE SOLUTION

- (a) **(The Solution)** The Solution includes, to the extent described in your Subscription Tier, the Software, the Hosted Services and the Support Services.
- (b) **(Scope of Subscription)** Your Subscription includes the benefits and limitations set out for your Subscription Tier in the Order Form, or as otherwise communicated to you when you subscribe for your Subscription (as amended from time to time by notice to you).
- (c) **(Provide Information)** As part of registering for, and your continued use of, your Subscription, you may be required to provide personal information and details, such as your email address, first and last name, preferred username, a secure password, billing, postal and physical addresses, mobile phone number, photos and video, audio files, profile information, payment details, ratings and reviews, verified identifications, verified certifications and authentication, and other information as determined by us from time to time. You warrant that any information you give to us in the course of completing the Subscription registration process is accurate, honest, correct and up to date.

1.2 THE SOFTWARE

- (a) During the Subscription Period, we grant to you a non-exclusive, non-transferable licence to use the Software and Documentation for the Number of Tax Returns per Year.
- (b) We may from time to time in our absolute discretion release enhancements to the Software, where enhancements means any upgraded, improved, modified or new versions of the Software. Any enhancements to the Software will not limit or otherwise affect these Terms. Enhancements may cause downtime or delays from time to time, and credits will not be provided for such downtime.
- (c) We will provide the Software in accordance with all applicable laws and industry standards.
- (d) Unless otherwise agreed in writing, we may not provide access, or suspend access, to any part of the Solution until you have paid the relevant instalment of Subscription Fees.

1.3 HOSTED SERVICES

If the Solution includes services to host your website, application or other information or data (Hosted Services), the following terms apply unless otherwise specifically agreed in writing:

- (a) **(hosting location)** We will use storage servers to host the Software through cloud-based services, which will be located in Australia, unless otherwise specified in the Order Form.
- (b) **(service quality)** While we will use our best efforts to select an appropriate hosting provider, we do not guarantee that the hosting of the Software will be free from errors or defects or that the Software will be accessible or available at all times.

- (c) (**security**) We will use our best efforts to ensure that Client Data and User Data is stored securely. However, we do not accept responsibility or liability for any unauthorised use, destruction, loss, damage or alteration to Client Data or User Data, including due to hacking, malware, ransomware, viruses, malicious computer code or other forms of interference.
- (d) (**backups & disaster recovery**) In the event that User Data is lost due to a system failure (e.g. a database or webserver crash), we cannot guarantee that any backup will be available, or if available that such a backup will be free from errors or defects.

1.4 SUPPORT

If the Solution includes services to provide you with support where necessary to resolve technical issues with the Software (**Support Services**), the following terms apply unless otherwise specifically agreed in writing:

- (a) We will take reasonable steps to provide Support Services where necessary. You must first endeavour to resolve any issues with the Software internally and we will not assist with issues that are beyond our reasonable control.
- (b) You are responsible for all internal administration and managing access, including storing back-up passwords and assisting your Personnel to access and use the Software.
- (c) You will not have any claim for delay to your access to the Software due to any failure or delay in Support Services.

1.5 THIRD PARTY SOFTWARE, TERMS & CONDITIONS

- (a) You acknowledge and agree that third party terms & conditions (**Third Party Terms**) may apply to your use of the Solution, as updated from time to time.
- (b) You agree to any Third Party Terms applicable to any third party goods and services that are used in providing the Solution, and we will not be liable for any loss or damage suffered by you in connection with such Third Party Terms.
- (c) Without limiting clause 1.5(b), we will take reasonable steps to notify you of Third Party Terms.
- (d) You acknowledge and agree that issues can arise with transferring data to software and between software, and when integrating software with other software. We cannot guarantee the integration processes to other software will be free from errors, defects or delay. You agree that we will not be liable for the functionality of any third party goods or services, including any software.

2. SERVICES

2.1 SERVICES

We will perform Services in accordance with an Order Form.

2.2 CHANGES TO SCOPE

- (a) You must pay a 'change in scope fee', in an amount reasonably determined by us (**Change Fee**), for changes to Services you request which alter the scope set out in the relevant Order Form and require us to perform additional work or incur additional costs (**Changes**).
- (b) Unless otherwise agreed in writing, we may in our discretion extend or modify any delivery schedule or deadlines for Services as may be reasonably required by such Changes.
- (c) We will only be required to perform Changes, if:
 - (i) we agree in writing to perform the Changes;
 - (ii) you confirm in writing that you wish for us to proceed with the Changes and the relevant Change Fee; and
 - (iii) you pay the Change Fee, in accordance with clause 4 as if it was a Subscription Fee.

2.3 KEY DATES AND TIMES

- (a) Key Dates and / or Times set out in an Order Form in relation to the Services are indicative only and are included as a guide for when the Services are expected to be performed, unless otherwise agreed in writing.

- (b) We may, due to various reasons beyond our control, need to make reasonable adjustments to Key Dates and / or Times. We will notify you if more than a 24 hour variation is required.

2.4 PERSONNEL

We will endeavour to ensure that Services are performed by personnel who are suitably qualified, with appropriate skills and experience to perform the Services to an acceptable standard.

2.5 THIRD PARTY TERMS AND CONDITIONS

- (a) You acknowledge and agree that the terms & conditions of third party suppliers of goods or services (**Third Party Terms**) may apply to the Services and/or the Solution, including the terms & conditions of Microsoft Azure, including those set out here: <https://azure.microsoft.com/en-au/support/legal/>
- (b) We will endeavour to notify you of Third Party Terms that apply to the Solution or the Services, in which case:
 - (i) you must immediately notify us if you do not agree to such Third Party Terms; and
 - (ii) if we do not receive a notice in accordance with clause 2.5(b)(i), you will be taken to have accepted those Third Party Terms, and we will not be liable for any loss or damage suffered by you in connection with such Third Party Terms.
- (c) You acknowledge and agree that if you do not agree to any Third Party Terms, this may affect our ability to meet Key Dates and / or Times.

2.6 DISCLAIMER

You acknowledge and agree that:

- (a) any information provided to you as part of or in connection with the Solution or the Services is general in nature and may not be suitable for your circumstances; and
- (b) it is your responsibility to comply with applicable Laws relevant to your business, including industrial relations laws and privacy laws.

3. APP DEVELOPMENT SERVICES

3.1 APP DEVELOPMENT SERVICES

In relation to any Services involving app development services, including building or customising mobile applications (**Mobile Apps**) the following conditions will apply unless otherwise agreed between the parties in writing:

- (a) we reserve the right to determine the choice of programming language(s) used in the Mobile Apps;
- (b) we will not be responsible for inputting text, images or other content, or creating all pages in the content management system of Mobile Apps;
- (c) we will not provide any graphics for the Mobile Apps, and if we require you to provide graphics, you must provide us with graphic files in an editable, high resolution, vector digital format; and
- (d) we only test Mobile Apps on iOS Safari and Google Chrome on Android phones.

3.2 ENHANCEMENTS

- (a) If you have paid all instalments of the relevant Fees when due, we may from time to time in our absolute discretion offer Enhancements to any Mobile Apps.
- (b) All Enhancements made by us may be taken up or rejected by you, provided that:
 - (i) if such Enhancements are rejected by you, you will cease to be entitled to ongoing Services in respect of the Mobile Apps or other benefits under these Terms; and
 - (ii) if such Enhancements are accepted by you, all Enhancements:
 - A. must be installed by you as instructed by us, unless we agree to provide installation support;

- B. are licensed by us to you under these Terms; and
- C. will be taken to be part of the original licensed copy of the Mobile App and subject to these Terms.

3.3 REVIEW OF APP DEVELOPMENT SERVICES AND REVISIONS

To the extent that the Services include app development services (**App Development Services**), the following clauses will apply:

- (a) You are entitled to two (2) minor app revisions of App Development Services per year, or as otherwise set out in the Order Form or agreed in writing. For any additional revisions or changes requested by the Client, the Client must pay additional service fees as if that revision request was a Change.
- (b) We will determine (in our absolute discretion) what constitutes a 'minor' revision, and we will base this determination on the amount of cost and time we expect to be involved with making the revision.
- (c) If we provide App Development Services to you for your review, you must provide this review within the time specified by us or in a timely manner.
- (d) You are ultimately responsible for approving all App Development Services, including proofs and ensuring accuracy and suitability of the UX design and the visual elements of the deliverable. Whilst every effort has been made for accuracy, your approval to proceed constitutes acceptance of full responsibility for any errors and omissions within the App Development Services. We will not accept liability for errors overlooked at the stage of final proofing.

3.4 APP DEVELOPMENT – INTELLECTUAL PROPERTY

In this clause 3, the following terms have the following meanings in relation to Intellectual Property Rights:

- (a) **Existing Material** means Material of either party, other than New Material;
- (b) **Material** means tangible and intangible information, documents, reports, software (including source and object code), inventions, data and other materials in any media whatsoever; and
- (c) **New Material** means Material that is created, written, developed or otherwise brought into existence during the App Development Services for the purposes of the provision of those Services.

3.5 EXISTING MATERIAL

- (a) Except to the extent otherwise stated in an Order Form or in this clause 3:
 - (i) each party retains ownership of the Intellectual Property Rights in its Existing Material; and
 - (ii) nothing in these Terms transfers ownership of, or assigns any Intellectual Property Rights in, either party's Existing Material to the other party.
- (b) You grant to us (and our Personnel) a non-exclusive, royalty free, non-transferable, worldwide and irrevocable licence to use your Existing Material to the extent reasonably required to perform any Services.
- (c) You warrants that our use of your Existing Material will not infringe the Intellectual Property Rights of any third party and will indemnify us from and against all losses, claims, expenses, damages and liabilities (including any taxes, fees or costs) which arise out of such infringement.
- (d) We grant to you a non-exclusive, royalty free, non-transferable and revocable licence to use our Existing Material, to the extent:
 - (i) such Existing Material is incorporated into the New Material; and
 - (ii) such use is reasonably required for you to enjoy the benefit of the Services.

3.6 NEW MATERIAL

- (a) Unless otherwise stated in an Order Form, Intellectual Property Rights in New Material immediately vest in us as those rights are created.

- (b) We grant to you a non-exclusive, royalty free, non-transferable and revocable licence to use the New Material to the extent such use is reasonably required for you to enjoy the benefit of the App Development Services.

3.7 THIRD PARTY INTELLECTUAL PROPERTY

We warrant that:

- (a) the provision of the App Development Services to you; and
- (b) your receipt and use of the App Development Services for their intended purpose, will not infringe the Intellectual Property Rights of any third party.

4. SUBSCRIPTION FEES AND PAYMENT

- (a) (**Fees**) You must pay the Fees in the amounts, and on or before the Due Date(s), set out in the Order Form.
- (b) (**Subscription Fee**) You must pay regular fees to us in the amounts and at the times specified in the Order Form, or as otherwise agreed in writing (**Subscription Fees**). If an Order Form doesn't specify when monthly Subscription Fees are payable, then they must be paid on or before the due dates specified in the relevant invoice. We will generally issue invoices for a previous month's Subscription Fee on the 15th of each month during the Subscription Period.
- (c) Fees are non-refundable for change of mind.
- (d) Unless otherwise agreed in writing, the Subscription Fees are due and payable on a monthly basis in arrears for the duration of the Subscription Period, with the first payment being due after the first month of your Subscription.
- (e) (**Automatic Recurring Billing**) Your subscription renews every 12 months based on your commencement anniversary date for a further 12-month contract indefinitely; you must pay subscription fees for each month of the contract. This contract can only be canceled with written notice and only when the contracted period has ended. Otherwise, we will continue to debit the Subscription Fees from your account each month. We will not pay any charge back amount if you fail to cancel your Subscription in accordance with this clause. By choosing a recurring payment plan, you acknowledge that your Subscription has an initial and recurring payment feature and you accept responsibility for all recurring charges prior to your cancellation of your Subscription. We may submit periodic charges for the Subscription Fees without further authorisation from you, until you provide prior written notice (receipt of which is confirmed by us) that you have terminated this authorisation and the contract period has ended or wish to change your payment method. Such notice will not affect charges submitted before we could reasonably act on such notice. To terminate your authorisation or change your payment method, please contact us via our Website.
- (f) (**Online payment partner**) We may use third-party payment providers (**Payment Providers**) to collect payment, including Practice Ignition. The processing of payments by the Payment Provider will be, in addition to these terms, subject to the terms, conditions and privacy policies of the Payment Provider and we are not liable for the security or performance of the Payment Provider. Practice Ignition's terms of use are available here: <https://www.practiceignition.com/terms>. We reserve the right to correct, or to instruct our Payment Provider to correct, any errors or mistakes in collecting your payment.
- (g) Unless otherwise indicated, the Fees do not include GST. In relation to any GST payable for a taxable supply by us, you must pay the GST subject to us providing a tax invoice.
- (h) We reserve the right to charge credit card surcharges in the event payments are made using a credit, debit or charge card (including Visa, MasterCard or American Express).
- (i) We reserve the right, from time to time, to change the Subscription Fees. We will notify you in advance if we do this.

5. YOUR OBLIGATIONS

5.1 COMPLY WITH THESE TERMS

You must, and must ensure that all Users, comply with these Terms at all times. You acknowledge and agree that we will have no liability in respect of any damage, loss or expense which arises in connection with your, your Personnel's, or any User's, breach of these Terms, and you indemnify us in respect of any such damage, loss or expense.

5.2 INFORMATION AND ASSISTANCE

You must provide us with:

- (a) all documentation, information and assistance reasonably required by us to provide the Services and the Solution; and
- (b) any accounts used by the Client (including login details and passwords, and any third party accounts) as reasonably required by us to provide the Services and the Solution.

5.3 COMPLIANCE WITH LAWS

You agree that you will not, by receiving or requesting the Solution or any Services:

- (a) breach any applicable Laws (including any applicable privacy laws); or
- (b) infringe the Intellectual Property Rights or other rights of any third party or breach any duty of confidentiality.

5.4 GENERAL OBLIGATIONS

- (a) You must not, and must not encourage or permit any User, Personnel or any third party to, without our prior written approval:
 - (i) upload sensitive information or commercial secrets using the Software;
 - (ii) upload any inappropriate, offensive, illicit, illegal, pornographic, sexist, homophobic or racist material using the Software;
 - (iii) upload any material that is owned or copyrighted by a third party;
 - (iv) make copies of the Documentation or the Software;
 - (v) adapt, modify or tamper in any way with the Software;
 - (vi) remove or alter any copyright, trade mark or other notice on or forming part of the Software or Documentation;
 - (vii) create derivative works from or translate the Software or Documentation;
 - (viii) publish or otherwise communicate the Software or Documentation to the public, including by making it available online or sharing it with third parties;
 - (ix) sell, loan, transfer, sub-licence, hire or otherwise dispose of the Software or Documentation to any third party;
 - (x) decompile or reverse engineer the Software or any part of it, or otherwise attempt to derive its source code;
 - (xi) attempt to circumvent any technological protection mechanism or other security feature of the Software; or
 - (xii) permit any use of the Solution in addition to the Number of Tax Returns per Year.
- (b) If you become aware of misuse of your Subscription by any person, any errors in the material on your Subscription or any difficulty in accessing or using your Subscription, please contact us immediately using the contact details or form provided on our Website.

6. USER OBLIGATIONS

You agree, and you must ensure that all Users agree:

- (a) to comply with each of your obligations in these Terms;
- (b) not to intimidate, harass, impersonate, stalk, threaten, bully or endanger any other User or distribute unsolicited commercial content, junk mail, spam, bulk content or harassment in connection with the Solution;
- (c) to not share your Solution account information with any other person and that any use of your account by any other person is strictly prohibited. You must immediately notify us of any unauthorised use of your account, password or email, or any other breach or potential breach of the Solution's security;
- (d) to not use the Solution for any purpose other than for the purpose for which it was designed, including you must not use the Solution in a manner that is illegal or fraudulent or facilitates illegal or fraudulent activity (including requesting or accepting a job which includes illegal activities or purposes);

- (e) not to act in any way that may harm our reputation or that of associated or interested parties or do anything at all contrary to the interests of us or the Solution;
- (f) you must not make any automated use of the Solution and you must not copy, reproduce, translate, adapt, vary or modify the Solution without our express written consent;
- (g) that we may change any features of the Solution at any time on notice to you;
- (h) that information given to you through the Software, by us or another User, is general in nature and we take no responsibility for anything caused by any actions you take in reliance on that information; and
- (i) that we may cancel your account at any time if we consider, in our absolute discretion, that you are in breach or are likely to breach this clause 6.

7. SUBCONTRACTING

We may subcontract any aspect of providing the Solution or the Services and you hereby consent to such subcontracting.

8. POSTED MATERIALS

8.1 WARRANTIES

By providing or posting any information, materials or other content in connection with the Software (**Posted Material**), you represent and warrant that, and must ensure that all Users make equivalent representations and warranties:

- (a) you are authorised to provide the Posted Material (including by being authorised to provide any services that you represent you provide);
- (b) the Posted Material is accurate and true at the time it is provided;
- (c) any Posted Material which is in the form of a review or feedback is honest, accurate and presents a fair view of the relevant person and/or your experience;
- (d) the Posted Material is free from any harmful, discriminatory, defamatory or maliciously false implications and does not contain any offensive or explicit material;
- (e) the Posted Material is not "passing off" of any product or service and does not constitute unfair competition;
- (f) the Posted Material does not infringe any Intellectual Property Rights, including copyright, trademarks, business names, patents, confidential information or any other similar proprietary rights, whether registered or unregistered, anywhere in the world;
- (g) the Posted Material does not contain any viruses or other harmful code, or otherwise compromise the security or integrity of the Solution or any network or system; and
- (h) the Posted Material does not breach or infringe any applicable laws.

8.2 LICENCE

- (a) You grant to us, and must ensure that all Users grant to us, a perpetual, irrevocable, transferable, worldwide and royalty-free licence (including the right to sublicense) to use, copy, modify, reproduce and adapt any Intellectual Property Rights in any Posted Material in order for us to use, exploit or otherwise enjoy the benefit of such Posted Material.
- (b) If it is determined that you retain moral rights (including rights of attribution or integrity) in any Posted Material, you forever release us from any and all claims that you could assert against us by virtue of any such moral rights, and you must ensure that all Users grant an equivalent release.
- (c) You indemnify us against all damages, losses, costs and expenses incurred by us arising in connection with any third party claim that Posted Material infringes any third party's Intellectual Property Rights.

8.3 REMOVAL

- (a) The Software acts as a passive conduit for the online distribution of Posted Material and has no obligation to screen Posted Material. However, we may, in our absolute discretion, review and remove any Posted Material at any time without giving any explanation or justification for removing the Posted Material.
- (b) You agree that you are responsible for keeping and maintaining records of Posted Material.

9. INTELLECTUAL PROPERTY AND DATA

9.1 SOFTWARE CONTENT INTELLECTUAL PROPERTY

- (a) (**Our ownership**) We retain ownership of all materials provided to you throughout the course of your Subscription (including text, graphics, logos, design, icons, images, sound and video recordings, pricing, downloads and software) (**Software Content**) and reserve all rights in any Intellectual Property Rights owned or licensed by us not expressly granted to you.
- (b) (**Licence to you**) You are granted a licence to the Software Content, for the uses set out in your Subscription Tier, and you may make a temporary electronic copy of all or part of any materials provided to you for the sole purpose of viewing them and using them for the purposes of the Software. You must not otherwise reproduce, transmit, adapt, distribute, sell, modify or publish those materials or any Software Content without prior written consent from us or as otherwise permitted by law.

9.2 CLIENT DATA

Our Rights and Obligations

- (a) You grant to us (and our Personnel) a non-exclusive, royalty free, non-transferable, worldwide and irrevocable licence to use Client Data to the extent reasonably required to provide the Solution.
- (b) We will:
 - (i) establish, maintain, enforce and continuously improve safety and security procedures and safeguards against the unauthorised use, destruction, loss or alteration of Client Data;
 - (ii) not make any undocumented, unreported or authorised configuration changes to our systems or to the information security controls that secure Client Data, if those changes would materially decrease the protections afforded to Client Data; and
 - (iii) notify and keep you notified at all times of our current safety and security procedures and safeguards that are made from time to time.
- (c) We reserve the right to remove any Client Data, including where we deem Client Data to be inappropriate, offensive, illicit, illegal, pornographic, sexist, homophobic or racist.

Your Obligations and Grant of Licence to us

- (d) You are responsible for ensuring that:
 - (i) you share Client Data only with intended recipients; and
 - (ii) all Client Data is appropriate and not offensive.
- (e) You:
 - (i) warrant that our use of Client Data will not infringe any third-party Intellectual Property Rights; and
 - (ii) indemnify us from and against all losses, claims, expenses, damages and liabilities (including any taxes, fees or costs) which arise out of such infringement.

10. CONFIDENTIALITY AND PRIVACY

- (a) Except as contemplated by these Terms, a party must not and must not permit any of its officers, employees, agents, contractors or related companies to use or to disclose to any person any Confidential Information disclosed to it by the other party without the disclosing party's prior written consent.
- (b) You agree to our Privacy Policy, located on our Website, which is incorporated into these Terms by reference. Please read the Privacy Policy carefully as it governs our collection, use, and disclosure of personal information.
- (c) Each party must promptly notify the other party if it learns of any potential, actual or suspected loss, misappropriation or unauthorised access to, or disclosure or use of Confidential Information or other compromise of the security, confidentiality, or integrity of Confidential Information (Security Breaches).
- (d) The notifying party will investigate each potential, actual or suspected Security Breach and assist the other party in connection with any related investigation.

11. LIABILITY

11.1 WARRANTIES AND LIMITATIONS

- (a) (**Warranties**) We warrant that:
 - (i) during the Subscription Period, the Software will perform substantially in accordance with the Documentation
 - (ii) during the Subscription Period, the Solution will be provided as described to you in, and subject to, these Terms; and
 - (iii) to our knowledge, the use of the Software in accordance with these Terms will not infringe the Intellectual Property Rights of any third party.
- (b) (**Errors**) We will correct any errors, bugs or defects in the Software which arise during the Subscription Period and which are notified to us by you unless the errors, bugs or defects:
 - (i) result from the interaction of the Software with any other solution or any computer hardware, software or services not approved in writing by us;
 - (ii) result from any misuse of the Software; or
 - (iii) result from the use of the Software by you other than in accordance with these Terms or the Documentation.
- (c) (= **Service Limitations**) The Solution is made available to you strictly on an 'as is' basis. Without limitation, you acknowledge and agree that we cannot guarantee that:
 - (i) the Solution will be free from errors or defects;
 - (ii) the Solution will be accessible at all times;
 - (iii) messages sent through the Solution will be delivered promptly, or delivered at all;
 - (iv) information you receive or supply through the Solution will be secure or confidential; or
 - (v) any information provided through the Solution is accurate or true.
- (d) (**Exclusion**) To the maximum extent permitted by applicable law, all express or implied representations and warranties (whether relating to fitness for purpose or performance, or otherwise) not expressly stated in these Terms are excluded.
- (e) (**Consumer law**) Nothing in these Terms is intended to limit the operation of the Australian Consumer Law contained in the Competition and Consumer Act 2010 (Cth) (**ACL**). Under the ACL, you may be entitled to certain remedies (like a refund, replacement or repair) if there is a failure with the goods or services we provide.

11.2 LIMITATION OF LIABILITY

To the maximum extent permitted by law, our liability for all claims in aggregate (whether those claims be for breach of contract, negligence or otherwise, and whether those claims be only for economic loss, or for personal injury or other damage) arising under or in connection with these Terms, the Solution or a Subscription:

- (a) is totally excluded, to the extent it concerns liability for indirect, special and consequential damages, and damages (whether direct or indirect) reflecting loss of revenue, loss of profits and loss of goodwill (except to the extent this liability cannot be excluded under the Competition and Consumer Act 2010 (Cth)); and
- (b) is limited, insofar as concerns other liability, to the total money paid to us under these Terms as at the date the event giving rise to the relevant liability occurs (or, where there are multiple events, the date of the first such event).

11.3 INDEMNITY

You indemnify us from and against all losses, claims, expenses, damages and liabilities (including any taxes, fees or costs) which arise in connection with:

- (a) any breach of these Terms by you, your Personnel or a User; or
- (b) any act or omission of you, a User or your Personnel.

12. UPGRADES, DOWNGRADES AND CANCELLATION OF YOUR SUBSCRIPTION

12.1 UPGRADE AND DOWNGRADES

- (a) You may notify us that you would like to upgrade or downgrade your Subscription Tier at any time. If you do, we will:
 - (i) take reasonable steps to promptly provide you with access to the new Subscription Tier; and
 - (ii) upon providing such access, apply the new, relevant Subscription Fees, in the monthly billing cycle immediately following the month in which your access to the new Subscription Tier was provided, and you will be charged at the new Subscription Fee in that subsequent month (subject to clause 12.1(b)).
- (b) If you choose to upgrade or downgrade your Subscription, we may notify you that the new Subscription Fees will kick in on the date we receive written notice from you. If you receive such a notice, the old Subscription Fee rate will be charged for the proportion of the month that fell before the date we received your notice of intention to upgrade or downgrade.
- (c) These Terms will be taken to be amended in accordance with any changes agreed in accordance with clause 12.1(a).
- (d) If you choose to downgrade your Subscription, you acknowledge and agree that we are not liable for, and you release us for all claims arising in connection with, any loss of content, features, or capacity, including any Client Data in relation to a downgrade in your Subscription.

12.2 CANCELLATIONS

- (a) This engagement begins on the Proposal commencement date and is a 12-month contract that starts from that date. The contract will automatically renew for another 12 months on the anniversary of the commencement date unless the client provides notice prior to the anniversary. You may cancel your subscription only once the contracted period has ended using the email address specified on our website. Your Subscription will end after we receive a cancellation notice from you and the contracted period has ended, and if that cancellation date falls within a billing cycle, then you will be charged a pro-rated amount for that billing cycle, based on the proportion of that billing cycle during which you had access to your Subscription.
- (b) Once your Subscription ends, we will have no responsibility to store or otherwise retain any data (including Client Data and User Data), and you release us in respect of any loss or damage which may arise out of us not retaining any data beyond that point.
- (c) Your access to the Solution will be revoked immediately on the last paid date.

12.3 CANCELLATION AND YOUR DATA

Upon cancellation, termination or expiry of your Subscription and access to our Solution, we will delete any data and material associated with your Software, including Client Data, User Data and Posted Material, on the last day of the paid subscription period. You won't be able to recover any of this after the last day of the paid subscription period, termination or expiry of your Subscription, so we recommend you back up anything important to you. We won't be responsible to you, or any User, for, and expressly disclaim any liability in relation to, any cost, loss, damages or expenses arising out the cancellation, termination or expiry of your Subscription and any loss of data.

13. DISPUTES AND TERMINATION

13.1 DISPUTE RESOLUTION

- (a) The parties must, without delay and in good faith, attempt to resolve any dispute which arises out of or in connection with this agreement prior to commencing any proceedings.
- (b) If a party requires resolution of a dispute it must immediately submit full details of the dispute to the chief executive officer of the other party or, if the party is an individual, that individual.
- (c) The parties acknowledge that compliance with this clause is a condition precedent to any entitlement to claim relief or remedy, whether by way of proceedings in a court of law or otherwise in respect of such disputes, except:

- (i) in the case of applications for urgent interlocutory relief; or
- (ii) a breach by another party of this clause.

13.2 TERMINATION BY US

- (a) We may terminate these Terms or any Subscription in whole or in part immediately by written notice to you if:
 - (i) you are in breach of any term of these Terms or any part of a Subscription; or
 - (ii) you become subject to any form of insolvency or bankruptcy administration.
- (b) Upon termination of these Terms by us, the Subscription Fees already paid will be non-refundable for change of mind, and you must promptly pay any other amounts owed to us by you.

13.3 TERMINATION BY CLIENT

You may terminate these Terms if:

- (a) we have committed a material breach of these Terms or a Subscription and have failed to remedy the breach within 90 days' written notice by you; or
- (b) we become subject to any form of insolvency or bankruptcy administration.
If you validly terminate in accordance with this clause, no further fees will be payable by you (unless later found that such termination was invalid).

14. NOTICES

A notice or other communication to a party under this agreement must be:

- (a) in writing and in English; and
- (b) delivered via email to the other party, or (via the pop up notice built into ATO SmartDoc) to the email address specified in this agreement, or if no email address is specified in this agreement, then the email address most regularly used by the parties to correspond for the purposes of the subject matter of this agreement as at the date of this agreement (**Email Address**). The parties may update their Email Address by notice to the other party. Note a copy of the latest Terms and Conditions can be accessed by this link or via the Terms and Conditions tab in ATO SmartDocs.
- (c) Unless the party sending the notice knows or reasonably ought to suspect that an email was not delivered to the other party's Email Address, notice will be taken to be given:
 - (i) 24 hours after the email was sent; or
 - (ii) when replied to by the other party; or
 - (iii) via the pop-up message in ATO SmartDocs whichever is earlier.

15. FORCE MAJEURE

- (a) We will not be liable for any delay or failure to perform its obligations under this agreement if such delay or failure arises out of a Force Majeure Event.
- (b) If a Force Majeure Event occurs, we must use reasonable endeavours to notify the Customer of:
 - (i) reasonable details of the Force Majeure Event; and
 - (ii) so far as is known, the probable extent to which We will be unable to perform or be delayed in performing its obligations under this agreement.
- (c) Subject to compliance with clause 15(b), our relevant obligation will be suspended during the Force Majeure Event to the extent that it is affected by the Force Majeure Event.
- (d) For the purposes of this agreement, a 'Force Majeure Event' means any:
 - (i) act of God, lightning strike, meteor strike, earthquake, storm, flood, landslide, explosion or fire;

- (ii) strikes or other industrial action outside of the control of us; or
- (iii) war, terrorism, sabotage, blockade, revolution, riot, insurrection, civil commotion, epidemic, pandemic; or
- (iv) any decision of a government authority in relation to COVID-19, or any threat of COVID-19 beyond the reasonable control of us, to the extent it affects our ability to perform our obligations.

16. GENERAL

16.1 GOVERNING LAW AND JURISDICTION

This agreement is governed by the law applying in New South Wales, Australia. Each party irrevocably submits to the exclusive jurisdiction of the courts of New South Wales, Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this agreement. Each party irrevocably waives any objection to the venue of any legal process on the basis that the process has been brought in an inconvenient forum.

16.2 WAIVER

No party to this agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

16.3 SEVERANCE

Any term of this agreement which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity and enforceability of the remainder of this agreement is not limited or otherwise affected.

16.4 JOINT AND SEVERAL LIABILITY

An obligation or a liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally.

16.5 ASSIGNMENT

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this agreement without the prior written consent of the other party.

16.6 ENTIRE AGREEMENT

This agreement embodies the entire agreement between the parties and supersedes any prior negotiation, conduct, arrangement, understanding or agreement, express or implied, in relation to the subject matter of this agreement.

16.7 INTERPRETATION

- (a) (**singular and plural**) words in the singular includes the plural (and vice versa);
- (b) (gender) words indicating a gender includes the corresponding words of any other gender;
- (c) (**defined terms**) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) (**person**) a reference to "person" or "you" includes an individual, the estate of an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;
- (e) (**party**) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (f) (**this agreement**) a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure to or of this agreement, and a reference to this agreement includes all schedules, exhibits, attachments and annexures to it;
- (g) (**document**) a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (h) (**headings**) headings and words in bold type are for convenience only and do not affect interpretation;

- (i) (includes) the word "includes" and similar words in any form is not a word of limitation; and
- (j) (adverse interpretation) no provision of this agreement will be interpreted adversely to a party because that party was responsible for the preparation of this agreement or that provision.

DEFINITIONS

[.Term|.Definition]

Client Data

means documents, files, data, materials or any other information supplied by you to us under or in connection with these Terms or a Subscription, including any Intellectual Property Rights attaching to those materials.

Confidential Information

means information of or provided by a party that is by its nature is confidential information, is designated by that party as confidential, or that the other party knows or ought to know is confidential, but does not include information, which is or becomes, without a breach of confidentiality, public knowledge.

Documentation

means all manuals, help files and other documents supplied by us to you relating to the Software, in electronic or hardcopy form.

Enhancements

means any upgraded, improved, modified or new versions of Mobile Apps (including any customisations made at your request).

Fees

means the fees set out in the Order Form.

Hosted Services

has the meaning given in clause 1.3.

Intellectual Property Rights

means any and all present and future intellectual and industrial property rights throughout the world, including copyright, trademarks, designs, patents or other proprietary rights, Confidential Information and the right to have information kept confidential, or any rights to registration of such rights whether created before or after the date of these Terms, whether registered or unregistered.

Laws

Any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in the relevant jurisdiction(s) where the Services or Solution is performed or received and includes any industry codes of conduct.

Number of Tax Returns per Year

means the number of uses that you may make of the Solution to submit a tax return, in accordance with your Subscription, as set out in an Order Form.

| | |
|----------------------------|---|
| Personnel | means, in respect of a party, its officers, employees, contractors (including subcontractors) and agents. |
| Software | means the software as described in the Order Form, and which is licenced to you in accordance with clauses 1.2 and 9.1(b). |
| Software Content | means all materials owned or licensed by us in connection with the Software and any Intellectual Property Rights attaching to those materials. |
| Solution | includes the Software, Hosted Services, and Support Services (and any other services to be provided to you under these Terms). |
| Subscription | has meaning given in the first paragraph of these Terms, and includes the limitations set out in clause 1.1(b) and in the Order Form. |
| Subscription Fees | has the meaning set out in clause 4(a) of these Terms. |
| Subscription Period | means the period of your Subscription to the Solution as agreed on the Order Form, or if no specific period is agreed, then the period from the date the Solution is first provided to you, until the date these Terms are terminated or your Subscription is cancelled in accordance with these Terms. |
| Subscription Tier | has the meaning given in the first paragraph of these Terms. |
| Support Services | has the meaning given in clause 1.3(d). |
| User | means end users of your valid uses of the Solution, on your website or any other platform, and any other third party granted access to the Software by you. |
| User Data | means documents, files, data, materials or any other information, which is uploaded to the Software by you or a User, including any Intellectual Property Rights attaching to those materials. |
| Website | means the website at the URL set out in the first paragraph of these Terms, and any other site operated by us in connection with the Solution. |

Please sign and return the attached copy of this letter to indicate that it is in accordance with your understanding of the arrangements. This letter will be effective for future years unless we advise you of any change. Accepting the Practice Ignition Engagement means you agree to the Digital Disruption Solutions Terms and Conditions.

Yours sincerely,

[Return to view the online proposal](#)