

*Immediation.*<sup>TM</sup>

# Terms and conditions

**IMMEDIATION.COM**

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ABN 53 628 122 609

## Immediation Terms and Conditions

These "Immediation Terms and Conditions" (also referred to as the "Terms") consist of:

- the "**General Terms of Use**" set out in sections 2 to 20, which apply to all Users;
- the "**Additional Subscriber Terms**" set out in sections 20 to 22, which only apply to Subscribers;
- the "**Service Specific Terms**" set out in sections 22 to 37, which only apply in respect of your use of the relevant services;
- the "**Data Processing Addendum**" set out in sections 37 to 49, which applies where 'personal data' (as defined under the GDPR or Data Protection Act 2018 (UK)) is processed in connection with the Agreement;
- the "**Definitions**" set out at the end of this page; and
- any other document incorporated by reference.

You may also enter into a services agreement (Services Agreement) with Immediation that includes additional terms and conditions agreed by the parties in that Services Agreement. A reference to the "Agreement" includes a reference to these Terms and your Services Agreement (if any).

By clicking 'I AGREE', or using the Services (including by participating in any Matter), or entering into a Services Agreement referring to these Terms, you agree to these Terms and a binding agreement is formed between you and Immediation. You may not use the Services unless you have agreed to these Terms.

In these Terms, you are referred to as "you" and "Immediation" refers to the Immediation Entity in your Territory (see section 12.1 below).

## General Terms of Use

*These General Terms of Use apply to all Users, whether or not they are a Subscriber. These provisions explain:*

- *your rights and obligations when using the Services;*
- *requirements for any Content you provide in connection with the Services and how we handle Your Content and any Personal Information;*
- *disclaimers about your use of the Services, including that Immediation does not provide you with any legal advice and that the Services are provided on an "as-is" basis;*
- *what you will be liable for and what Immediation will be liable for;*
- *other general obligations, such as where disputes can be brought and when we can change these Terms.*



## 1. Application of These Terms

These General Terms of Use apply to every User in relation to their use of the Services.

## 2. Provision of the Platform and Services

### 2.1 Platform and Services

Immediation operates an online dispute resolution platform available at [immediation.com](https://immediation.com), for use in legal practice and online dispute resolution including mediations, arbitrations, expert determinations and hearings (the Platform). The Platform allows Users to conduct and participate in online mediations, hearings, conferences, conciliations, arbitrations, determinations or other instances of dispute resolution or other types of legal practice including meetings, conferences with clients, witnesses or counterparties, negotiations or internal meetings (each a Matter), including by uploading and sharing Content and participating in video-conferencing and other forms of digital collaboration including document sharing, drafting and e-signing.

Subject to the terms of the Agreement, Immediation agrees to make the Platform and related services (together the Services) available to you. Not all functionality and features of Services will be available to you free of charge. To access Subscription Functionality you must be a Subscriber or an Authorised User. Some Services may be provided without the use of the Platform.

### 2.2 Platform Functionality

The Platform can provide the following functionality:

- (a) accessing, exchanging and storing Content relating to a Matter and making such Content available to other Users;
- (b) communicating with other Users or Immediation during or after a Matter, including for a pre-mediation or pre-hearing conference or conferences;
- (c) access to proforma and templated dispute resolution agreements and rules including settlement agreements;
- (d) documenting the settlement of a dispute, including functionality to draft and sign documents; and
- (e) utilising any other applicable functionality (including Subscription Functionality) that you are authorised to use pursuant to the Agreement.

Not all functionality and features will be available to all Users at all times, including where a fee is payable for access to that functionality. To access Subscription Functionality, you must be a Subscriber or an Authorised User.

### 2.3 Support

You may ask the Immediation Group to provide, through its employees or contractors or those of its Affiliates, technical and other support regarding Matters to be conducted on the Platform. Support may be provided by staff who are members of the Immediation Group, including staff



who have legal training (including law students or graduates) (Customer Support) or technicians or engineers (Technical Support).

You agree that the participation of any member of the Immediation Group in any way (including as Customer Support or Technical Support) does not waive the "without prejudice" privilege which applies during any compulsory conference or mediation, including to: any settlement proposal; the willingness of a User to consider any such proposal; any admission or concession made by a User; any statement or document made by a User.

## **2.4 Use of Additional Software**

Additional Software includes:

- (a)** Additional Software that is incorporated into:
  - (i) the Platform and is made available for use by all Users; or
  - (ii) the specific Subscription Functionality that is made available for use by all Authorised Users of that Subscription Functionality,

(General Additional Software); and

- (b)** Additional Software that is:
  - (i) only available when specified in your Services Agreement or Subscription Offer (as applicable);
  - (ii) not otherwise made available to Users; and
  - (iii) is subject to the Additional Service Specific Terms (Specified Additional Software) in sections 35 and 36,

(Specified Additional Software).

Except as specified in section 9.2:

- (c)** your use of the Additional Software is subject to the terms applicable to the Platform and Services as set out in the Agreement; and
- (d)** references to the "Platform" in the Agreement are taken to include a reference to the Additional Software.

(Specified Additional Software).

## **3. Use of the Services**

### **3.1 User Requirements**

Immediation cannot guarantee that the Platform will work under all conditions or on all devices, including tablets and mobile devices. The Platform relies on high speed internet access and prefers the use of certain browsers as updated on our website from time to time.



You are responsible for ensuring that you have all equipment, software and services (such as internet services) necessary to access the Services. The Immediation Group is not responsible for any failures of the Platform due to issues with equipment, software or services used by you and other Users to access the Services or the inability of you or any other User to access any necessary equipment, software or services (including high speed internet or the preferred browsers).

You are responsible for ensuring that you are familiar with Immediation user guides and frequently asked questions provided at [immediation.com](https://immediation.com).

### 3.2 Prohibited Uses

You agree that you will not, and will not permit any other person to, use the Services:

- (a) to modify, adapt, translate, disassemble, decompile, prepare derivative works of, reverse engineer or otherwise attempt to gain access to the source code of any portion of the Services;
- (b) to develop a competitive product or service, or copy any features, functions, interfaces or graphics of the Services;
- (c) to post, upload or transmit any Content which:
  - (i) is subject to legal privilege. You acknowledge that any such disclosure may constitute an express and irrevocable waiver of such privilege;
  - (ii) infringes, violates or misappropriates the rights of any third party, including any Intellectual Property Rights or duty of confidentiality;
  - (iii) is offensive, defamatory, obscene, unlawful, vulgar, threatening, abusive, violent, harassing, malicious or harmful to any person or entity, or invasive of another's privacy; or
  - (iv) could harm, disable, destroy or interfere with the Services, including any material that contains viruses, worms, spyware, adware, or other potentially damaging programs or files; or
- (d) in a manner that:
  - (i) is false, fraudulent, misleading or deceptive (including impersonating any other person, or falsely stating or otherwise misrepresenting your affiliation with any person or entity);
  - (ii) interferes with the standard operation of the Services or the use of the Services by other Users; or
  - (iii) violates, or would cause Immediation to violate, any Applicable Law (including any laws or regulations applicable to privacy, surveillance, anti-spam, and export controls).



You agree that you will not use any robot, spider, scraper, or other automated or manual means to access the Platform or the Services, or copy any Content.

### **3.3 Your Account**

You will be required to create an account to use certain functionalities of the Services, including to create and accept Matters. You must ensure that all information provided by you to Immediation to create your account is complete, accurate, up-to-date and meets any other requirements notified to you by Immediation from time to time. You must keep your account information current.

You are responsible for all activities that occur on your account, including any unauthorised use or misuse of your account. You must keep your account login credentials (including your username and password) confidential and not provide them to any other person. You must notify Immediation immediately if you believe there has been any unauthorised use of your account.

## **4. User Content**

### **4.1 Responsibility for User Content**

You are solely responsible for Your Content, including the decision to upload Your Content or to authorise any person to access Your Content. You represent and warrant that:

- (a) you have the necessary rights to provide Immediation with Your Content for the purposes of the Agreement; and
- (b) Your Content does not, and use of Your Content by Immediation, its Affiliates and their respective employees, contractors and agents in accordance with the terms of the Agreement will not infringe the rights of any third party (including any Intellectual Property Rights or duty of confidentiality).

You acknowledge and agree that Immediation is not responsible for Your Content or any other User Content.

You grant each member of the Immediation Group a non-exclusive, royalty-free, worldwide, irrevocable, perpetual licence to use, copy, modify and sublicense Your Content, for the purposes of Immediation providing you with the Services.

If you have participated in a recorded Matter, you give the Immediation Group permission to use the recording for any lawful purpose in connection with the provision of the Services.

### **4.2 Your Use of Content**

Subject to your compliance with the terms of the Agreement (including any obligations relating to Confidential Information), you may use User Content where the relevant User has authorised you to access such User Content in relation to a Matter.



### 4.3 Protection of Content

Immediation implements reasonable security measures to help protect Your Content from security breaches, including unauthorised access to or disclosure of Your Content (Security Breach), and to otherwise keep Your Content confidential. Immediation will use reasonable commercial endeavours to:

- (a) prevent Security Breaches; and
- (b) notify you if it becomes aware of any Security Breach.

You acknowledge that:

- (c) due to the nature of internet-based services, Immediation cannot guarantee that Your Content will be totally secure or that the Services will be free from viruses, malware or other harmful code;
- (d) you upload Your Content to the Platform at your own risk and must take your own precautions to protect Your Content and your computer systems; and
- (e) Immediation is not responsible for any use of Your Content by any person who you have permitted to access Your Content, including their failure to keep Your Content confidential.

You agree that under no circumstances may you request any member of the Immediation Group to disclose any Content that was uploaded to the Platform or otherwise provided to the Immediation Group by another person, unless that person has agreed to provide you with access to that Content. For clarity, this restriction applies regardless of how the request is made, including by subpoena to give evidence or to produce documents, recordings or any other information in any arbitral or judicial proceedings of any nature whatsoever in relation to the Content.

### 4.4 Deletion of Content

Immediation may remove or delete Your Content from the Platform without notice:

- (a) following completion of:
  - (i) where you have not paid Immediation for any Extended Storage Period, the relevant Matter; or
  - (ii) where you have paid Immediation for an Extended Storage Period, the Extended Storage Period;
- (b) if the Services are terminated or expire; or
- (c) if any of Your Content breaches any requirement under these Terms (including the prohibited uses under section 3.2).

You acknowledge and agree that Immediation has no obligation to retain, or to return to you or any other person, any of Your Content after the conclusion or termination of the Services.



You may be able to delete Your Content from the Platform if your usage rights permit. Otherwise, you may request that we delete Your Content associated with a Matter by contacting Immediation at support@immediation.com. Immediation may retain Your Content where required by law or Immediation reasonably believes that it is required to provide the Services to you or other Users.

## **5. Intellectual Property**

### **5.1 Ownership of the Services and Trade Marks**

You acknowledge and agree that:

- (a) the content and compilation of the Services (including the Platform's text, graphics, logos, button icons, video images, audio clips, website, platform, code, scripts, design elements and interactive features) including any Services designed for, with or by you, including as part of any customisation or configuration of the Platform;
- (b) Immediation Content; and
- (c) all trade marks, service marks, trade names and business names (in each case, including any attached rights in goodwill),

are owned by, registered by, or licensed to, Disputech IP HoldCo Pty Ltd (ABN 56 643 975 160) (a member of the Immediation Group) (Disputech), Immediation or their respective licensors.

All intellectual property rights (including all industrial and intellectual property rights of any kind including copyright, trade mark, design, patent, semiconductor or circuit layout rights) (Intellectual Property Rights) in any modifications to the Platform executed by or on behalf of any User (whether or not authorised by Immediation) will immediately vest in Disputech. You hereby assign to Disputech, with full title guarantee (by way of present and, where appropriate, future assignment), all Intellectual Property Rights which would, but for this sub-clause, vest in you as a consequence of any modifications to the Platform. You grant to Disputech and the Immediation Group a royalty-free, worldwide, irrevocable, perpetual license (including the right to sublicense) to use and incorporate into the Platform any general suggestions, enhancement requests, recommendations or other feedback provided by you.

You agree to execute, or procure the execution of, any and all documents and to perform such acts as may be reasonably necessary for the purpose of securing the rights set out in these Terms that are to be assigned to Disputech.

### **5.2 Licence to Immediation Content**

Immediation grants you a non-exclusive, royalty-free, revocable licence to use Immediation Content in the Territory to the extent necessary for you to use the Services.

### **5.3 Reservation of All Other Rights**

You acknowledge and agree that the only rights granted to you in relation to the Services are those expressly specified in the Agreement. All other rights are expressly reserved by Immediation and Disputech.



#### 5.4 Notice Regarding Copyright Agent

Immediation respects the Intellectual Property Rights of others and requests that users of our Services do the same. If You believe that any content on our Platform violates or infringes upon your Intellectual Property Rights pursuant to Title 17, United States Code, Section 512(c)(2), please provide a notice to the designated copyright agent (as set forth below) for the applicable web site containing the following:

- (a) an electronic or physical signature of a person authorised to act on behalf of the owner of the copyright interest;
- (b) identification of the copyrighted work claimed to have been infringed;
- (c) identification of the material that is claimed to be infringing and information reasonably sufficient to permit Immediation to locate the material;
- (d) the address, telephone number, and, if available, an e-mail address at which the complaining party may be contacted;
- (e) a representation that the complaining party has a good faith belief that use of the material in the manner complained of is not authorised by the copyright owner, its agent, or the law; and
- (f) a representation that the information in the notice is accurate, and under penalty of perjury, that the complaining party is authorised to act on behalf of the owner of an exclusive right that is allegedly infringed.

Copyright infringement claims and notices should be sent to:

**Immediation USA, LLC**  
20700 Ventura Blvd. Ste 210  
Woodland Hills, CA 91364  
Attention: General Counsel

#### 6. Confidential Information

You may not use or disclose any Confidential Information, except to the extent necessary for you to exercise your rights and perform your obligations under these Terms. You must ensure that:

- (a) Confidential Information is only shared with other people on a need-to-know basis; and
- (b) any person who receives Confidential Information keeps that information confidential and only uses it to the extent necessary for you to exercise your rights and perform your obligations under these Terms.

If the disclosure of any Confidential Information is required by law, you must, to the extent permitted by law, notify Immediation as soon as possible, consult with Immediation prior to disclosing the Confidential Information, and disclose no more information than is necessary to comply with law.



You must delete and destroy all Confidential Information in your possession or control upon the termination or expiration of the Agreement.

## **7. Privacy**

### **7.1 General Privacy Obligations**

Immediation will handle Personal Information in accordance with the terms of its privacy notice available at <https://www.immediation.com/privacy> (as amended from time to time) (Privacy Notice). By accepting these Terms, you acknowledge and agree that you have read and understand the Privacy Notice.

You must at all times comply with the Data Protection Laws in connection with the Agreement and only collect, use, store, transfer, delete, disclose or otherwise process Personal Information in accordance with the Data Protection Laws. To the extent you provide Immediation with any Personal Information, you must ensure that you have a lawful basis to provide Immediation with that Personal Information, including so that Immediation can use, store, transfer, delete, disclose and otherwise process Personal Information in accordance with the terms of the Agreement and its Privacy Notice. It is your responsibility to provide all necessary notices and obtain all necessary consents in relation to any disclosure of Personal Information to Immediation.

You must ensure that your use of the Platform complies with the Data Protection Laws applicable in your location, including if you are located in any External Location.

### **7.2 Additional Privacy Provisions**

If you are an individual agreeing to these Terms in your own capacity and you are not agreeing to these Terms on behalf of any organisation or in a professional capacity, Immediation will be the "Controller" (as that term is defined in the Data Processing Addendum) of your Personal Information.

If you are agreeing to these Terms on behalf of an organisation or in a professional capacity (for example, as a self-employed professional), you agree to comply with the Data Processing Addendum, as applicable to the roles of the parties under applicable Data Protection Laws.

## **8. Fees And Payment**

### **8.1 Application of This Section**

Immediation may provide you with access to the Platform or some Services free of charge, including if they have been paid for by another User or by a third party. Some functionality and services can only be accessed if you purchase a Subscription or other services from Immediation. This section 8 will apply in respect of any Fees payable by you.

### **8.2 Payment of the Fees**

You must pay to Immediation the Fees set out in your Subscription Offer, your Services Agreement or otherwise notified to you via the Platform or by Immediation (as applicable).

Unless otherwise specified in the Agreement (including in a Services Agreement or your Subscription Offer), Fees will be charged at the end of the month.



The currency of any applicable Fees will be specified in your Subscription Offer or your Services Agreement (as applicable).

### 8.3 Payment Methods

You must provide Immediation with one or more Payment Methods to pay the Fees. You authorise Immediation to charge you via any of the Payment Methods provided by you for any Fees that you incur under the Agreement, including where your primary Payment Method is declined or no longer available to Immediation for payment of your Fees.

If your Payment Method is declined for any reason, Immediation may request you to provide a new Payment Method. However, Immediation may suspend any relevant Services until the Fees have been paid.

Immediation is not responsible for any fees charged by the provider of your Payment Method (for example, the bank you have a payment card with) including overdraft fees, insufficient funds fees, interest charges, foreign transaction fees, or other fees relating to the processing of your Payment Method.

You may not set-off or deduct any amount from the Fees payable by you under the Agreement.

### 8.4 Taxes and Other Charges

Except as specified otherwise in these Terms, the Fees are exclusive of all taxes, duties and charges (including GST, VAT, and other similar taxes) imposed or levied in the Territory or overseas in connection with the Agreement, including any bank fee or other third-party charges.

Immediation may display its pricing as inclusive of taxes, duties and/or charges, where the law in the applicable Territory requires Immediation to display its pricing as inclusive of taxes, duties and/or charges.

You agree that where any withholding or deduction is required on account of any such taxes, duties and charges, you will pay Immediation an additional amount equal to the amount withheld or deducted such that Immediation receives and retains the same amount it would have had no withholding or deduction been required.

To the extent that payments to be made under the Agreement are subject to taxes (excluding those on overall net income imposed on Immediation in any jurisdiction in which it is incorporated or a tax resident), duties or other charges, the amount of such tax, duty or charge will be shown as a separate item on the relevant invoice and will be added to the Fees. Immediation will submit valid tax invoices to you as required by the Applicable Law for all fees, taxes, duties and charges payable by you. You agree that all taxes, duties and charges are payable by you in addition to the Fees upon receipt of a valid tax invoice.

### 8.5 Refunds

If your account is terminated pursuant to section 11.3 of the General Terms of Use, you will be entitled to a pro-rated refund in respect of any Subscription Fees paid by you in advance for the remainder of your Subscription Term.



To the extent permitted by law, all Fees (including Subscription Fees) are otherwise non-refundable. For clarity, nothing in this section 8.5 limits any right to a refund that you have under any applicable Consumer Law.

## **9. Disclaimer**

### **9.1 General Disclaimers**

YOU ACKNOWLEDGE AND AGREE THAT:

- (a) TO THE EXTENT PERMITTED BY LAW (INCLUDING ANY APPLICABLE CONSUMER LAW), THE IMMEDIATION GROUP DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, NOT EXPRESSLY SET OUT IN THESE TERMS, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT;
- (b) TO THE EXTENT PERMITTED BY LAW (INCLUDING ANY APPLICABLE CONSUMER LAW), THE IMMEDIATION GROUP DOES NOT WARRANT THAT THE AVAILABILITY OF THE SERVICES OR THAT YOUR USE OF THE PLATFORM WILL BE UNINTERRUPTED OR ERROR-FREE. THE SERVICES ARE PROVIDED TO YOU ON AN "AS IS" AND "AS AVAILABLE" BASIS; AND
- (c) IMMEDIATION IS NOT A LAW PRACTICE AND YOU HAVE NOT RECEIVED, AND WILL NOT RECEIVE, ANY LEGAL ADVICE FROM THE IMMEDIATION GROUP IN CONNECTION WITH THE SERVICES, INCLUDING FROM ANY OF ITS CONTRACTORS INCLUDING ANY PANEL MEMBERS OR EMPLOYEES;
- (d) UNLESS OTHERWISE AGREED, THE SERVICES DO NOT INCLUDE THE IMMEDIATION GROUP PROVIDING YOU, OR ANY OTHER PERSON, WITH ANY ALTERNATIVE DISPUTE RESOLUTION SERVICES;
- (e) IF YOU ACCESS THE SERVICES IN AN EXTERNAL LOCATION, YOU ARE RESPONSIBLE FOR COMPLIANCE WITH THE LAWS OF THAT JURISDICTION, TO THE EXTENT THAT THEY APPLY. THE IMMEDIATION GROUP MAKES NO REPRESENTATIONS THAT THE SERVICES OR ANY CONTENT COMPLIES WITH THE LAWS OF ANY EXTERNAL LOCATION;
- (f) YOU USE THE SERVICES AT YOUR OWN RISK;
- (g) FROM TIME TO TIME, ACCESS TO OR USE OF ALL OR PART OF THE SERVICES MAY BE DISRUPTED OR LIMITED, INCLUDING BY THE QUALITY OF INTERNET CONNECTIONS, TELECOMMUNICATIONS NETWORK ISSUES, EQUIPMENT USED, COMPATIBILITY AND INTEROPERABILITY OF DATA AND APPLICATIONS, SOFTWARE AND SERVER ISSUES, HUMAN ERROR OR INTERFERENCE, AND THE NUMBER OF CONCURRENT USERS OF THE SERVICES USING THE SAME COMMUNICATIONS NETWORKS (OUTAGE); AND
- (h) TO THE EXTENT PERMITTED BY LAW (INCLUDING ANY APPLICABLE CONSUMER LAW), THE IMMEDIATION GROUP IS NOT RESPONSIBLE FOR ANY DELAYS, INTERRUPTIONS, DELIVERY FAILURES, DEGRADATION OF DATA OR ANY OTHER LOSS OR DAMAGE



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**IMMEDIATION.COM**

RESULTING FROM ANY MATTER OUTSIDE OF THE IMMEDIATION GROUP'S REASONABLE CONTROL (INCLUDING ANY OUTAGE).

FOR CLARITY, NOTHING IN THESE TERMS LIMITS OR EXCLUDES ANY GUARANTEES, WARRANTIES, REPRESENTATIONS OR CONDITIONS IMPLIED OR IMPOSED BY LAW (INCLUDING ANY CONSUMER LAW) THAT CANNOT BE LIMITED OR EXCLUDED.

## 9.2 Disclaimers in Relation to Additional Software

NOTWITHSTANDING ANY OTHER PART OF THE AGREEMENT, YOU ACKNOWLEDGE AND AGREE THAT IN RELATION TO ANY ADDITIONAL SOFTWARE:

- (a) THE ADDITIONAL SOFTWARE (INCLUDING ALL INTELLECTUAL PROPERTY RIGHTS IN THE ADDITIONAL SOFTWARE) IS OWNED OR LICENSED BY THE THIRD PARTY LICENSOR OF THAT ADDITIONAL SOFTWARE;
- (b) IMMEDIATION DOES NOT HOST THE ADDITIONAL SOFTWARE AND IS NOT RESPONSIBLE FOR THE AVAILABILITY, SUPPORT OR MAINTENANCE OF THE ADDITIONAL SOFTWARE, INCLUDING THE TIMING OF ANY MAINTENANCE AND DOWNTIME;
- (c) YOUR USE OF ANY ADDITIONAL SOFTWARE IS SUBJECT TO THE STANDARD TERMS AND CONDITIONS APPLICABLE TO THAT ADDITIONAL SOFTWARE AS PROVIDED BY THE THIRD PARTY LICENSOR OF THAT ADDITIONAL SOFTWARE; AND
- (d) TO THE EXTENT PERMITTED BY LAW (INCLUDING ANY APPLICABLE CONSUMER LAW), IMMEDIATION:
  - (i) MAKES NO REPRESENTATIONS OR WARRANTIES IN RELATION TO THE ADDITIONAL SOFTWARE OR YOUR USE OF THE ADDITIONAL SOFTWARE, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT; AND
  - (ii) DISCLAIMS ALL LIABILITY FOR ANY FAILURES, LOSSES AND DAMAGES CAUSED BY ANY USE OF THE ADDITIONAL SOFTWARE.

## 10. Liability and Indemnities

### 10.1 Limitation of Liability

- (a) SUBJECT TO SECTION 10.1(b), EACH PARTY'S LIABILITY UNDER THE AGREEMENT IS LIMITED IN THE AGGREGATE TO THE GREATER OF:
  - (i) AU \$1,000; AND
  - (ii) THE TOTAL FEES PAID IN THE 12 MONTHS PRIOR TO THE DATE OF THE EVENT GIVING RISE TO THE RELEVANT CLAIM,

EXCEPT IF SECTION 10.2 OR 10.3 APPLIES.

- (b) WHERE YOU HAVE PAID NO FEES IN THE PAST 12 MONTHS PRIOR TO THE DATE OF THE EVENT GIVING RISE TO THE RELEVANT CLAIM OR LIABILITY IS IMPOSED BY ANY



CONSUMER GUARANTEE (INCLUDING UNDER ANY CONSUMER LAW), TO THE MAXIMUM EXTENT PERMITTED BY LAW THE LIABILITY OF THE IMMEDIATION GROUP WILL BE LIMITED IN ALL CASES (INCLUDING CONTRACT, TORT (INCLUDING NEGLIGENCE), IN EQUITY, OR UNDER STATUTE) TO, AT IMMEDIATION'S DISCRETION:

- (i) THE RESUPPLY OF THE SERVICES TO YOU; OR
  - (ii) THE COST OF RESUPPLYING THE SERVICES TO YOU.
- (c) NEITHER PARTY WILL BE LIABLE FOR ANY LOSS NOT ARISING NATURALLY ACCORDING TO THE USUAL COURSE OF THINGS, LOSS OF PROFIT OR SAVINGS, LOSS OF GOODWILL OR DAMAGE TO REPUTATION, LOSS OF DATA, OR LOSS THAT IS INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY.

### 10.2 Exclusions From Limitation of Liability

NOTWITHSTANDING SECTION 10.1:

- (a) NEITHER PARTY'S LIABILITY UNDER THE AGREEMENT (INCLUDING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), EQUITY, OR UNDER STATUTE) IS LIMITED IN RELATION TO PERSONAL INJURY (INCLUDING SICKNESS AND DEATH), AN INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, FRAUD OR ANY UNLAWFUL ACT OR OMISSION, OR OTHER LIABILITIES THAT CANNOT BE LIMITED BY LAW; AND
- (b) YOUR LIABILITY UNDER THE AGREEMENT IS NOT LIMITED IN RELATION TO THE NON-PAYMENT OF FEES, A BREACH OF THE PROHIBITIONS UNDER SECTION 3.2 OF THE GENERAL TERMS OF USE, OR A BREACH OF ANY OBLIGATION IN RESPECT OF PRIVACY.

### 10.3 No Liability

NOTWITHSTANDING SECTION 10.1, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE IMMEDIATION GROUP WILL NOT BE LIABLE TO YOU, ANY WITNESS, REPRESENTATIVE OR OTHER GUEST OR USER OF THE PLATFORM, OR ANY PERSON YOU REPRESENT FOR:

- (a) ANY ACT OR OMISSION OF A USER;
- (b) ANY OUTAGE, FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, FAILURE TO CORRECT DEFECTS, DELAY IN OPERATION OR TRANSMISSION, COMPUTER VIRUS OR OTHER HARMFUL COMPONENT, LOSS OF DATA, COMMUNICATION LINE FAILURE, UNLAWFUL THIRD-PARTY CONDUCT, OR THEFT, DESTRUCTION, ALTERATION OR UNAUTHORISED ACCESS TO RECORDS;
- (c) THE ACCURACY, SUITABILITY OR CURRENCY OF ANY INFORMATION ACCESSED OR RECEIVED BY YOU IN CONNECTION WITH THE SERVICES (INCLUDING CONTENT, THIRD PARTY MATERIALS AND ADVERTISEMENTS ON THE PLATFORM);
- (d) YOUR USE OF, OR RELIANCE ON, THE SERVICES AND ANY CONTENT.

NO MEMBER OF THE IMMEDIATION GROUP HAS ANY LIABILITY OR RESPONSIBILITY FOR THE ACTIONS OR INACTIONS OF YOU OR ANY OTHER USER.



FOR CLARITY, THE ABOVE EXCLUSIONS APPLY REGARDLESS OF HOW ANY CLAIM IS BROUGHT, INCLUDING CONTRACT, TORT (INCLUDING NEGLIGENCE), IN EQUITY, OR UNDER STATUTE.

#### 10.4 Indemnities

YOU AGREE TO INDEMNIFY IMMEDIATION AND THE IMMEDIATION GROUP FROM AND AGAINST ALL ACTIONS, SUITS, CLAIMS, DEMANDS, LIABILITIES, COSTS, EXPENSES, LOSS AND DAMAGE (INCLUDING LEGAL FEES ON A FULL INDEMNITY BASIS) (LOSS) INCURRED, SUFFERED OR ARISING OUT OF OR IN CONNECTION WITH:

- (a) YOUR BREACH OF SECTIONS 3.2, 6 OR 7 OF THESE GENERAL TERMS OF USE;
- (b) YOUR CONTENT; OR
- (c) YOUR USE OF THE PLATFORM IN BREACH OF THE TERMS OF THE AGREEMENT.

YOUR LIABILITY UNDER THIS SECTION WILL BE REDUCED TO THE EXTENT ANY MEMBER OF THE IMMEDIATION GROUP DIRECTLY CAUSED OR CONTRIBUTED TO ANY SUCH LOSSES.

#### 10.5 Consumer Laws

NOTHING IN THESE TERMS LIMITS OR EXCLUDES ANY LIABILITY IMPOSED BY LAW (INCLUDING ANY CONSUMER LAW) THAT CANNOT LIMITED OR EXCLUDED.

### 11. Termination and Suspension

#### 11.1 Terminating Your Account

If you are a Non-Subscriber, you may terminate your account at any time by providing Immediation with 30 days' notice of your intention to terminate your account via the "Contact Us" link on the immediation.com website.

If you are a Subscriber, you may terminate your account following cancellation of your Subscription in accordance with section 16.1 of the Additional Subscriber Terms.

#### 11.2 Restrictions, Suspensions and Termination by Immediation for Cause

Immediation may at any time restrict, suspend or terminate your account and your access to the Services (in whole or in part) if:

- (a) where you are a Non-Subscriber, you have breached any provision of the Agreement or Immediation reasonably believes that you will, or you intend to, breach any provision of the Agreement;
- (b) where you are a Subscriber, Immediation has a right to cancel your Subscription in accordance with section 16.1 of the Additional Subscriber Terms;
- (c) Immediation is required to do so by law;
- (d) Immediation reasonably believes that it is necessary to maintain the security of the Services and any Content, including where Immediation reasonably believes that there has been unauthorised use of your account; or



- (e) your conduct impacts Immediation's name or reputation or violates the rights of Immediation or any other person.

Except to the extent necessary to comply with law or protect the security of the Services and any Content, Immediation will provide you with written notice before it restricts, suspends or terminates your account or your access to the Services. Nothing in this section 11.2 limits any other rights or remedies available to Immediation.

### 11.3 Termination by Immediation for Legitimate Reasons

Immediation may, acting reasonably, restrict, suspend or terminate your account or your access to the Services (in whole or in part) for any legitimate business, legal or regulatory reason by providing you with at least 30 days' written notice, including if:

- (a) Immediation decides to withdraw the Services from the country in which you are resident or from which you use the Platform;
- (b) your account has been inactive for more than 12 months; or
- (c) provision of the Services to you is no longer commercially viable or would result in a material adverse consequence to Immediation's operations or financial condition.

### 11.4 Consequences of Termination

If your account is terminated, you must immediately cease use of the Services and any Content (excluding Your Content).

Terms that by their nature survive termination or expiration of the Agreement, including:

- (a) sections 5, 6, 7, 8, 9, 10, 11.4 and 12 of these General Terms of Use;
- (b) sections 14.5 and 16.2 of the Additional Subscriber Terms;
- (c) sections 19.4, 21.3, 28.3, 9.2 of the Service Specific Terms;
- (d) the Data Processing Addendum; and
- (e) the Definitions,

will survive expiration or termination of the Agreement.

## 12. General

### 12.1 Territory And Immediation Entity

Immediation or Immediation Entity means the following entity, based on the Territory in which you use the Platform (unless otherwise specified in an Services Agreement):

Territory	Immediation Entity	Governing law
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Australia	Immediation Platform Pty Ltd (ACN 628 122 609) of Suite 11, 53 Coppin Street, Richmond VIC 3121, Australia.	Victoria, Australia
New Zealand	Immediation New Zealand Limited 8046096 (NZBN 9429048422192) of Level 15, 152 Quay St, Auckland 1010	New Zealand
United Kingdom	Immediation Platform Pty Ltd (ACN 628 122 609) of Suite 11, 53 Coppin Street, Richmond VIC 3121, Australia.	Laws of England and Wales
United States of America	Immediation USA, LLC of 20700 Ventura Blvd. Ste 210, Woodland Hills, CA 91364.	California, USA
External Location	Immediation Platform Pty Ltd (ACN 628 122 609) of Suite 11, 53 Coppin Street, Richmond VIC 3121, Australia.	Victoria, Australia
Singapore	Immediation Platform Pty Ltd (ACN 628 122 609) of Suite 11, 53 Coppin Street, Richmond VIC 3121, Australia.	Singapore

## 12.2 Governing Law and Disputes

The Agreement is governed by the governing law applicable to the Territory that applies to you as specified in section 12.1.

In connection with all matters concerning the Agreement, each party submits to:

- (a) if the Territory that applies to you is Australia, the non-exclusive jurisdiction of courts of Victoria, Australia; and
- (b) if the Territory that applies to you is outside of Australia, binding arbitration in accordance with the ACICA Arbitration Rules. The seat of arbitration will be Melbourne, Australia or such other location agreed by the parties. The language of the arbitration will be English.

To the extent permitted by law (including under the Consumer Law), neither party may bring any claim against the other party, unless:

- (c) the party has provided the other party with notice of the dispute (Dispute Notice); and
- (d) the parties have met in good faith to resolve the dispute and are unable to resolve the dispute within 30 days from the date of the Dispute Notice.

## 12.3 Class Action Waiver

WHERE THE TERRITORY IS THE UNITED STATES OF AMERICA, TO THE MAXIMUM EXTENT PERMITTED BY LAW, YOU AGREE:



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- (a) THAT YOU ARE WAIVING THE RIGHT TO PARTICIPATE IN A CLASS ACTION OR TO SEEK REMEDIES BEYOND THE EXTENT NECESSARY TO PROVIDE INDIVIDUALISED RELIEF TO, AND AFFECTING, YOU;
- (b) NOT TO ACT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED OR DE FACTO CLASS OR REPRESENTATIVE PROCEEDING, OR AS A PRIVATE ATTORNEY GENERAL, OR ON BEHALF OF THE GENERAL PUBLIC;
- (c) THAT YOU ARE WAIVING THE RIGHT TO SEEK REMEDIES BEYOND THE EXTENT NECESSARY TO PROVIDE INDIVIDUALISED RELIEF TO, AND AFFECTING, YOU;
- (d) THE ARBITRATOR MUST NOT CONSOLIDATE OR JOIN YOUR CLAIM WITH THE CLAIM OF ANY OTHER PERSON OR PARTY, AND MUST NOT OTHERWISE PRESIDE OVER ANY FORM OF A CONSOLIDATED, REPRESENTATIVE, CLASS ACTION OR PROCEEDING;
- (e) THE ARBITRATOR IS ONLY PERMITTED TO AWARD RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) IN FAVOUR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF NECESSITATED BY THAT PARTY'S INDIVIDUAL CLAIM(S);
- (f) ANY RELIEF AWARDED CANNOT AFFECT OTHER USERS, CUSTOMERS OR SUBSCRIBERS;

IF A COURT DECIDES THAT APPLICABLE LAW PRECLUDES ENFORCEMENT OF ANY OF THE PROHIBITIONS ON CLASS, REPRESENTATIVE, OR PRIVATE ATTORNEY GENERAL ACTIONS OR PROCEEDINGS AS TO ANY CLAIM IN THIS SECTION (d), THEN THAT CLAIM (AND ONLY THAT CLAIM) MUST BE SEVERED FROM THE ARBITRATION AND RESOLVED IN COURT, SUBJECT TO YOUR AND IMMEDIATION'S RIGHT TO APPEAL THE COURT'S DECISIONS, AFTER ALL OTHER CLAIMS HAVE BEEN ARBITRATED.

#### 12.4 Changes to These Terms

Immediation may modify these Terms at any time. If the proposed modification will result in a material detriment to your rights under these Terms, Immediation will provide you with no less than 30 days' written notice. During that 30 day period, you may terminate the Agreement without penalty by notice in writing to Immediation. Any such modification will take effect after the later of the expiry of the notice period and the posting of the amended Terms on the immediation.com website. Your continued access or use of the Services after such posting, or after the expiry of the notice period (whichever is later), constitutes your consent to be bound by these Terms as amended.

Your Services Agreement may only be varied by written agreement between the parties.

#### 12.5 Notices

Immediation may send notices to your email address or your address as set forth in your account. You may send notices to Immediation to the address for the relevant Immediation Entity specified in section 12.1.



**12.6 Assignment and Subcontracting**

Immediation may subcontract its obligations under the Agreement (in whole or in part) without your consent.

Immediation may assign or novate its rights under the Agreement at any time without your consent, including in connection with a sale of its business or assets, merger or consolidation. You may not assign or novate any of your rights under the Agreement without Immediation's written consent.

**12.7 Force Majeure**

Immediation is not liable for any delay in performing, or failure to perform, its obligations under the Agreement to the extent such delay or failure is caused by any event that is beyond Immediation's reasonable control, including floods, earthquakes, storms, tornadoes, tsunamis, landslides, fires, explosions, acts of government, pandemics, epidemics, quarantine, war, acts of terrorism, riots, insurrections, industrial actions or disputes, Outages and other similar events.

**12.8 Entering Into These Terms on Behalf of a Company**

If you agree to these Terms on behalf of a company, you represent and warrant that:

- (a) you have the full power and the authority to enter into these Terms on behalf of the company and bind the company to these Terms; and
- (b) the company is properly organised, validly existing and in good standing under the laws of the jurisdiction where it is incorporated.

**12.9 Anti-Bribery**

Each party must comply with all applicable Anti-Bribery Laws.

**12.10 Miscellaneous**

To the maximum extent permitted by law, the Agreement contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by the Agreement and has no further effect.

In the event of any inconsistency between the terms of the Agreement, the Agreement will be interpreted with the following order of priority: (a) your Services Agreement; (b) the Definitions; (c) the Data Processing Addendum; (d) the Service Specific Terms; (e) the Additional Subscriber Terms; (f) these General Terms of Use; and (g) any other document incorporated by reference.

For any parties entering into the Agreement in the United Kingdom, except as expressly set out otherwise in the Agreement, no term of the Agreement is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to the Agreement.

If any part of the Agreement is found to be void or unenforceable by a court of competent jurisdiction, that part will be severed from the Agreement, and the rest of the Agreement will not be affected.



In the Agreement, the meaning of general words is not limited by specific examples introduced by "including", "for example" or any similar expression.

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## Additional Subscriber Terms

*These Additional Subscriber Terms only apply to Subscribers. These provisions explain:*

- *how Subscriptions operate;*
- *your responsibility for Users who access functionalities in connection with your Subscription;*
- *your payment obligations;*
- *the liability of each party in connection with the Subscription;*
- *each party's right to terminate the Subscription and what happens when your Subscription ends.*

### 13. Application of These Terms

These Additional Subscriber Terms only apply to you if you are a Subscriber.

### 14. Subscriptions

#### 14.1 Subscriptions

You may enter into a Subscription by:

- (a) accepting a Subscription Offer; or
- (b) entering into a Services Agreement.

#### 14.2 Subscription Term

Your Subscription will continue for the period of time specified in your Subscription Offer or your Services Agreement (as applicable), unless terminated earlier in accordance with the Agreement (Subscription Term).

The Subscription Term may be defined by reference to a period of time (e.g. monthly or annually) or a number of Matters (e.g. a single Matter). Where a Subscription Term is defined by reference to a number of Matters, it will conclude when each of those Matters has been completed.

Unless otherwise agreed in your Services Agreement, at the end of your then current Subscription Term your Subscription will automatically renew for a further Subscription Term (Renewal Term). Either party may decide not to enter into a Renewal Term by cancelling your Subscription in accordance with section 16.

#### 14.3 Right to Use Services and Subscription Functionality

For the duration of your Subscription Term, Immediation will permit you and your Authorised Users to use Services, including the applicable Subscription Functionality.



#### 14.4 Restrictions

You must comply with any restrictions identified in your Subscription Offer or Services Agreement (as applicable).

#### 14.5 Authorised Users

You may permit the number of Authorised Users specified in your Subscription Offer or Services Agreement (as applicable) to use the Services under your Subscription.

You acknowledge and agree that you:

- (a) will be responsible for the acts or omissions of each Authorised User as if they were your own acts or omissions, including their breach of any provision of the Agreement; and
- (b) must ensure that each Authorised User is aware of, and complies with, the terms of the Agreement.

### 15. Subscription Fees

In return for your Subscription, you will be required to pay the Subscription Fees specified in your Subscription Offer or Services Agreement (as applicable).

Notwithstanding section 8.2, the Subscription Fees will be charged prior to the commencement of your Subscription Term and each Renewal Term. Unless you cancel your Subscription before the commencement of your Renewal Term, you authorise Immediation to charge the Subscription Fee for each Renewal Term to your Payment Method.

### 16. Cancelling Your Subscription

#### 16.1 Cancellation

Either party may cancel your Subscription immediately by notice in writing to the other party:

- (a) if the other party materially breaches the Agreement and such breach is not remedied within 14 days, or cannot be remedied;
- (b) if the other party becomes, threatens or resolves to become or is in jeopardy of becoming subject to any form of insolvency administration in the relevant Territory; or
- (c) if the other party ceases or threatens to cease conducting its business in the normal manner.

Immediation may cancel your Subscription immediately and without notice if you fail to pay your Subscription Fees.

Either party may decide not to enter into a Renewal Term by providing notice in writing to the other party at any time prior to the conclusion of the then current Subscription Term, in which case your Subscription will be cancelled at the end of the Subscription Term.



## 16.2 Conduct After Subscription Term

On cancellation or expiration of your Subscription:

- (a) you, and each Authorised User, must cease to use any Subscription Functionality; and
- (b) you will remain liable to pay to Immediation, and Immediation is entitled to recover from you, all Fees (including Subscription Fees) that arose before termination that have not been paid.

If you continue to use the Services as a Non-Subscriber after termination or expiration of the Agreement, the Terms will continue to apply to your use of the Services as a Non-Subscriber.

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## Service Specific Terms

*These Service Specific Terms set out the additional terms that apply depending on the services that you request. These include provisions relating to:*

- *early facilitation of disputes – where Immediation acts as an impartial and neutral facilitator to help the parties resolve the dispute;*
- *facilitated dispute resolutions – where Immediation engages Panel Members on your behalf to assist with the resolution of disputes, including via mediations, arbitrations and expert determinations;*
- *complete claims processes – a fixed rate service that includes access to the Platform to conduct a single matter, administrative support, and the engagement of a Panel Member;*
- *premium support – where Immediation can assist Subscribers with matter hosting;*
- *managed service – where Immediation provides a range of services to assist you with conducting Matters on a one-off basis (e.g. hosting, dispute management, user guides, training and support);*
- *additional software – which specifies additional provisions relating to the use of additional software provided as part of the Services or in connection with the Platform; and*
- *white-label service – which allows for a white-label version of the Platform to be used.*

## 17. Application of Service Specific Terms

The Service Specific Terms apply in addition to any other provisions of the Agreement, based on the services that you use or that are included under your Services Agreement or Subscription Offer (as applicable).

The Service Specific Terms include the following Services:

- Early Facilitation
- Facilitated Dispute Resolution
- Complete Claims Process
- Premium Support



- Managed Service
- Specified Additional Software
- White-label Platform



## Service Specific Terms – Early Facilitation

### 18. Application of these Service Specific Terms

These Service Specific Terms (Early Facilitation) apply to all parties who request or participate in Early Facilitation. Early Facilitation may be provided with or without the use of the Platform.

### 19. Additional Service Specific Terms

#### 19.1 Conducting Early Facilitation

Subject to the terms of the Agreement, Immediation may conduct Early Facilitation. The Early Facilitation will be conducted by Immediation in accordance with these Terms.

Early Facilitation may only be conducted where the parties to the Early Facilitation have all agreed to participate in the process. If you have created a Matter or otherwise indicated that you may wish to utilise the Services of Immediation, Immediation will confirm whether you would like Immediation to assist with Early Facilitation before contacting the other party involved in the Matter. You acknowledge and agree that it is your decision whether or not you choose to participate in the Early Facilitation and that Immediation cannot compel any party to participate in any Early Facilitation or other dispute resolution process.

If you agree to participate in Early Facilitation, you agree to:

- (a) participate in the Early Facilitation in good faith; and
- (b) without limiting section 6 of the General Terms of Use, keep all communications and documents strictly confidential.

Everything said and done during the Early Facilitation process is confidential and without prejudice. By participating in Early Facilitation, you acknowledge and agree that nothing said in the Early Facilitation process or any document created for the purpose of the process may be relied on in subsequent proceedings (except for enforcement of any settlement agreement).

#### 19.2 Role of Immediation

Immediation will act as an impartial and neutral facilitator of the process. Immediation cannot and do not provide you with any legal advice in relation to the Early Facilitation process.

As part of the Early Facilitation, Immediation can:

- (a) help to start a conversation between the parties;
- (b) help to explore whether the parties would like to move to a mediation process;
- (c) upon request, speak to each party separately to help facilitate discussion.

#### 19.3 Concluding Early Facilitation

You are free to withdraw from Early Facilitation at any time.



You acknowledge and agree that Immediation:

- (a) cannot decide on the outcome of any Early Facilitation process; or
- (b) does not have the ability to hand down or impose any decisions on the parties.

If the Matter is not resolved as part of Early Facilitation, no further steps will be taken by Immediation (unless required by law).

#### **19.4 Limitation of Liability In Respect of Early Facilitation**

EXCEPT IN RELATION TO IMMEDIATION'S FRAUDULENT ACTIONS, IMMEDIATION WILL NOT BE LIABLE IN RELATION TO THE ACTS OR OMISSIONS OF ANY PERSON IN CONNECTION WITH THE EARLY FACILITATION PROCESS.

FOR CLARITY, NOTHING IN THESE SERVICE SPECIFIC TERMS LIMITS OR EXCLUDES ANY LIABILITY IMPOSED BY LAW (INCLUDING ANY CONSUMER LAW) THAT CANNOT BE LIMITED OR EXCLUDED.

## **Service Specific Terms –Facilitated Dispute Resolution**

### **20. Application of these Service Specific Terms**

These Service Specific Terms (Facilitated Dispute Resolution) apply to all parties involved in Facilitated Dispute Resolution.

### **21. Facilitated Dispute Resolutions**

#### **21.1 Conducting Facilitated Dispute Resolution**

Subject to the terms of the Agreement, Immediation may arrange for the conduct of Facilitated Dispute Resolutions. The Facilitated Dispute Resolution will be conducted by a Panel Member. Facilitated Dispute Resolution may be provided with or without the use of the Platform.

A Facilitated Dispute Resolution may only be conducted where the parties to the Matter have all agreed to participate in the process. You acknowledge and agree that it is your decision whether or not you choose to participate in the Facilitated Dispute Resolution process and that Immediation cannot compel any party to participate in any Facilitated Dispute Resolution process or other dispute resolution process.

If you agree to participate in a Facilitated Dispute Resolution, you agree to:

- (a) participate in the Facilitated Dispute Resolution in good faith;
- (b) comply with the terms of any FDR Agreement;
- (c) comply with any rules applicable to the Facilitated Dispute Resolution, including any applicable FDR Rules or other third party terms specified in the FDR Agreement or otherwise agreed by you;
- (d) abide by any rules or instructions given by the Panel Member in relation to the Facilitated Dispute Resolution process; and



- (e) without limiting section 6 of the General Terms of Use, keep all communications and documents strictly confidential.

## 21.2 Role of Immediation

Immediation is not a party to any Facilitated Dispute Resolution. Except in relation to Early Facilitation, Immediation does not provide any dispute resolution services, including mediation services, arbitration services or expert determination services.

Immediation's sole responsibilities in relation to any Facilitated Dispute Resolution are:

- (a) to provide Users with access to the Platform in accordance with the terms of the Agreement, including providing Users with the Subscription Functionality (if any);
- (b) providing Technical Support and Customer Support; and
- (c) appointing Panel Members on behalf of the parties to the Facilitated Dispute Resolution; and
- (d) arranging for the Facilitated Dispute Resolution to take place, either with or without the Platform.

If the parties to a Facilitated Dispute Resolution process agree, you may choose a preferred Panel Member or Panel Members and Immediation will use reasonable efforts to appoint that Panel Member or Panel Members. You acknowledge and agree that Immediation cannot guarantee that the preferred Panel Member will be appointed, including where the Panel Member is unavailable. Panel Members are not employees of Immediation or any member of the Immediation Group, and do not operate under the direction or control of Immediation or any member of the Immediation Group. You may need to enter into a separate FDR Agreement with the Panel Member to receive their services. Immediation is not a party to the FDR Agreement between you and any Panel Member.

You acknowledge and agree that Immediation:

- (e) cannot decide on the outcome of any Facilitated Dispute Resolution; or
- (f) does not have the ability to hand down or impose any decisions on the parties.

Immediation and the Immediation Group are not responsible for any determination made by a Panel Member, including in any arbitration or expert determination.

If the Matter is not resolved as part of the Facilitated Dispute Resolution, no further steps will be taken by Immediation.

## 21.3 Limitation of Liability In Respect of Facilitated Dispute Resolution

EXCEPT IN RELATION TO IMMEDIATION'S FRAUDULENT ACTIONS, IMMEDIATION AND THE IMMEDIATION GROUP WILL NOT BE LIABLE OR RESPONSIBLE FOR THE ACTS OR OMISSIONS OF ANY PERSON IN CONNECTION WITH THE FACILITATED DISPUTE RESOLUTION, INCLUDING ANY PANEL MEMBERS.



FOR CLARITY, NOTHING IN THESE SERVICE SPECIFIC TERMS LIMITS OR EXCLUDES ANY LIABILITY IMPOSED BY LAW (INCLUDING ANY CONSUMER LAW) THAT CANNOT BE LIMITED OR EXCLUDED.

#### **21.4 Role of the Panel Member**

- (a)** Panel Members are independent professional mediators, arbitrators and experts.
- (b)** Panel Members are appointed by Immediation to provide Facilitated Dispute Resolution to Parties who have engaged with Immediation pursuant to the Agreement.
- (c)** Panel Members are appointed taking into account the Parties, the nature of the Services, the legal relationship out of which the dispute arose, the monetary value of the dispute, and any subject matter expertise that Immediation deems may be required or helpful. Panel Members have the discretion to accept or reject a proposed appointment.
- (d)** Panel Members act as professionals impartially and independently, either on a facilitative or determinative basis, in accordance with the applicable FDR Rules and the FDR Agreements.

### **22. Mediations**

#### **22.1 Role of the Panel Member**

In addition to the general role described in section 21.4, where the parties are engaging in a Mediation, the Panel Member is responsible for conducting the Mediation impartially, including:

- (a)** guiding and supporting the parties through the process;
- (b)** facilitating communication between the parties; and
- (c)** promoting a productive discussion between the parties.

#### **22.2 Concluding Mediations**

The parties to the Mediation are solely in control of the conclusion and resolution of any Mediation, including any decision to:

- (a)** end the Mediation process;
- (b)** proceed to other dispute resolution processes; or
- (c)** reach an agreement, including the terms of any such agreement.

You acknowledge and agree that, in respect of any Mediation, the Panel Member:

- (d)** cannot decide on the outcome of any Mediation; and
- (e)** does not have the ability to hand down or impose any decisions on the parties.



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If the Matter is not resolved as part of the Mediation, no further steps will be taken by the Panel Member (unless required by law).

## **23. Binding Dispute Resolution**

### **23.1 Role of the Panel Member**

In addition to the general role described in section 21.4, where the parties are engaged in a Binding Dispute Resolution process, the Panel Member is responsible for conducting the Binding Dispute Resolution process fairly and impartially, including:

- (a) ensuring each party is given adequate opportunity to participate in proceedings;
- (b) attempting to bring the parties involved in the dispute to a settlement of the issues referred to for resolution; and
- (c) making a determination to conclude the dispute

### **23.2 Concluding Binding Dispute Resolution**

Prior to a determination being made, the parties may withdraw or settle their dispute.

You acknowledge and agree that, in respect of any Binding Dispute Resolution process, the Panel Member:

- (a) may decide on the outcome of any Binding Dispute Resolution process; and
- (b) has the ability to hand down and impose binding decisions on the parties.

Subject to any rights of appeal at law or agreement between the parties, you acknowledge and agree that any determination made by a Panel Member in respect of a Binding Dispute Resolution process will be final and binding on the parties.

## **24. Panel Member Fees**

If Immediation engages a Panel Member on your behalf in accordance with these Service Specific Terms, Immediation may charge you a fee for the costs incurred by Immediation to engage the Panel Member (including any administrative and other incidental costs incurred by Immediation) (Panel Member Fee).

Immediation will notify you of the fees that will be incurred to engage a Panel Member before you incur those fees. The Panel Member Fee may be included within your CCP Fee.

## **Service Specific Terms – Complete Claims Process**

### **25. Application of these Service Specific Terms**

These Service Specific Terms (Complete Claims Process) apply to all parties involved in a Complete Claims Process.



## 26. Complete Claims Process

### 26.1 CCP Services

In return for the CCP Fee, the CCP Services will be provided to you in relation to a single Matter.

The "CCP Services" include the following:

- (a) a Subscription to the Platform for the duration of the single Matter, allowing for you and each Party to the Matter to access the functionality of the Platform in relation to that single Matter, including the functionality specified in section 2.2 and the functionality to:
  - (i) create pre-populated questionnaires;
  - (ii) invite representatives or witnesses of a Party or Parties to participate in the resolution of a dispute on the Platform;
  - (iii) schedule online dispute resolution conferences or hearings; and
  - (iv) access Panel Members;
- (b) performance of certain administrative tasks, including:
  - (i) review and approval of a claim or counterclaim;
  - (ii) selection and appointment of one or more Panel Members according to availability, expertise and the nature of the Matter; and
  - (iii) liaising with, and organising, Panel Members and, if necessary, replacing a Panel Member;
- (c) Customer Support and Technical Support;
- (d) subject to the Service Specific Terms (Facilitated Dispute Resolution), the appointment of a Panel Member or Panel Members to conduct Facilitated Dispute Resolution;
- (e) in relation to a Family Matter, use of the integrated third party Additional Software, "Family Property Platform". Your use of the "Family Property Platform" is subject to the Service Specific Terms (Additional Software); and
- (f) any other services described in your Services Agreement or Subscription Offer (as applicable).

For clarity, the CCP Fee does not provide you with access to the full functionality of the Platform for any other Matter.

### 26.2 Timeframe for Providing CCP Services – Commercial Matters

If you are entering into a Subscription for a Complete Claims Process in relation to a Commercial Matter, this section 26.2 will apply.

Subject to this section 26.2, Immediation will use reasonable endeavours to provide the CCP Services within the following timeframes:



- (a) mediation – within 30 days of the later of the Parties signing the FDR Agreement and the Parties making full payment of the CCP Fee;
- (b) evaluation – within 30 days of the later of the Parties signing the FDR Agreement and the Parties making full payment of the CCP Fee;
- (c) determination – within 60 days of the later of the Parties signing the FDR Agreement and the Parties making full payment of the CCP Fee, with the determination being provided within 10 Business Days of the hearing date;
- (d) arbitration – within 60 days of the later of the Parties signing the FDR Agreement and the Parties making full payment of the CCP Fee, with the award being provided within 10 Business Days of the hearing date; and
- (e) review panel – within 30 days of the later of the request for review panel by the Parties and the Parties making full payment of the CCP Fee.

These timeframes do not apply if the Parties do not participate in a scheduled online resolution conference or hearing on the date agreed on the Platform or the Parties otherwise change the timeframes by consent.

In the event that the agreed Panel Member is not available for a scheduled online resolution conference or hearing on the pre-agreed date due to unforeseen circumstances, Immediation agrees to provide another suitably qualified Panel Member to replace the original Panel Member. If the parties do not want to have the Panel Member replaced, the Parties may agree to reschedule the online resolution conference or hearing to a date where the Panel Member is available or request a refund in accordance with section 28.3.

## **27. CCP Fee**

### **27.1 CCP Fee**

In return for Immediation providing you with the CCP Services, you must pay the applicable fee(s) specified on the Platform for the CCP Services (CCP Fee). The CCP Fee will be calculated in accordance with the "Immediation Complete Claim Pricing Schedule" (as made available by Immediation from time to time) (Pricing Schedule). The CCP Fee will vary depending on the services requested by you in your Services Agreement or Subscription Offer (as applicable). The CCP Fee includes:

- (a) the Subscription Fee; and
- (b) the Panel Member Fees.

The CCP Fee will be due and payable to Immediation when an invoice is generated by the Platform. The CCP Fee, once due and payable, is payable irrespective of the outcome of the Facilitated Dispute Resolution.

No liability arises to pay the CCP Fee until the Panel Member has been appointed and the FDR Agreement has been signed by you, the other Party or Parties and the Panel Member. There is no



obligation on Immediation or the Panel Member(s) to provide access to the Platform or any other services until the CCP Fee has been paid in full.

### **27.2 Allocation of CCP Fee Between Parties**

You may agree with the other Party or Parties how the CCP Fee will be allocated for payment. You must notify Immediation of how the CCP Fee will be allocated between the parties prior to Immediation issuing an invoice, including if there is any change to how the CCP Fee will be allocated. If you notify Immediation regarding how the CCP Fee will be allocated, you represent and warrant that you have the agreement of the other Party or Parties in relation to the allocation of the CCP Fee.

If you do not notify Immediation of the allocation of the CCP Fee between the parties:

- (a) Immediation has the right to invoice the party bringing the claim for the full CCP Fee; and
- (b) where a party brings a counterclaim, Immediation has the right to invoice the party bringing the counterclaim for 25% of the CCP Fee.

Nothing in these Terms prevents either party from claiming the CCP Fee (in whole or in part) as part of the resolution of the Matter.

## **28. CCP Fee – Commercial Matters**

In addition to the provisions set out in section 27, if you are entering into a Subscription for a Complete Claims Process in relation to a Commercial Matter, this section 28 will apply in relation to the calculation of your CCP Fee.

### **28.1 Calculation of CCP Fee – Commercial Matters**

The CCP Fee is comprised of a flat flagfall fee and a percentage of the Value of the Dispute as further described in the Pricing Schedule. The "Value of the Dispute" is equal to:

- (a) the higher of the value of the claim or any counterclaim submitted on the Platform by either Party in relation to the Matter (including any legal fees claimed); or
- (b) where the claim is non-monetary or unquantified, AU\$1,000,000 (or local equivalent).

The CCP Fee is set based on the CCP Assumptions and may be increased if the CCP Assumptions are not met.

If the Value of the Dispute increases at any time (including as a result of a counterclaim) or any of the CCP Assumptions are not met, Immediation may, acting reasonably, recalculate the CCP Fee in accordance with the Pricing Schedule. Where Immediation has already invoiced you for the CCP Fee, Immediation may charge you the difference between the amount paid by you and the recalculated CCP Fee. You authorise Immediation to charge any additional amount owed by you to your Payment Method. We will tell you as soon as possible in writing if your CCP Fee has been



recalculated in accordance with this section 28.1 and you may contact us at [support@immediation.com](mailto:support@immediation.com) if you disagree with the recalculation of the CCP Fee.

## 28.2 Other Fees – Commercial Matters

Further services purchased in relation to the same Matter will be discounted at a rate of 10% on their standard pricing.

Scientific or technical expert fees will be notified by Immediation and are charged separately.

All fees must be paid prior to the commencement of the CCP Services.

## 28.3 Refunds of CCP Fees – Commercial Matters

- (a) In the event that the Matter settles prior to the online resolution conference or hearing or the Parties otherwise decide not to proceed, Immediation will pay the following refunds to the Party or Parties who paid part of the CCP Fee, within 5 Business Days of receiving notification in writing from a Party that they wish to cancel the CCP Service and receive a refund:
- (i) 80% of the portion of the CCP Fee received from a Party if the request is received by Immediation once the Panel Member has been appointed but before the online resolution conference or hearing has been scheduled;
  - (ii) 75% of the portion of the CCP Fee received from a Party if the refund request is received by Immediation once the online resolution conference or hearing has been scheduled but prior to 5 Business Days before the scheduled date;
  - (iii) 50% of the portion of the CCP Fee received from a Party if the refund request is received by Immediation between 2 and 5 Business Days before the scheduled date for the online resolution conference or hearing;
  - (iv) 25% of the portion of the CCP Fee received from a Party if the refund request is received by Immediation on the Business Day before the scheduled date for the online resolution conference or hearing.
- (b) Subject to 28.3(c), in the event that an agreed Panel Member is not available for a scheduled online resolution conference or hearing on the pre-agreed date due to unforeseen circumstances, Immediation agrees to provide another suitably qualified Panel Member in lieu of the original Panel Member. Alternatively, the Parties may choose to reschedule the online resolution conference or the hearing to another date and time with the appointed Panel Member. Immediation will notify the Parties in writing of the need to change.
- (c) If the Parties do not wish to proceed with an alternative Panel Member or to reschedule the conference with the appointed Panel Member to another suitable time and both Parties agree that they do not wish to proceed with the online



resolution conference or hearing, then the following refunds will be paid by Immediation:

- (i) 75% of the portion of the CCP Fee received from a Party if the notification request is made by Immediation once the online resolution conference or hearing has been scheduled but prior to 5 Business Days before the scheduled date for the online resolution conference or hearing;
- (ii) 80% of the portion of the CCP Fee received from a Party if the notification request is made by Immediation between 2 and 5 Business Days before the scheduled date for the online resolution conference or hearing;
- (iii) 90% of the portion of the CCP Fee received from a Party if the notification is made by Immediation on the Business Day before or the scheduled date for the online resolution conference or hearing.

#### 28.4 CCP Assumptions

The following assumptions apply to the calculation of the CCP Fee:

- (a) Documents. The volume of documents uploaded to the Platform must be reasonable. As a guide, Immediation considers the following to be reasonable in most circumstances, per Party:
  - (i) for claims or counterclaims of less than \$1 million, the greater of: (A) 500 pages or 1 standard lever arch file of documents per claim or counterclaim; or (B) 10 documents;
  - (ii) for claims or counterclaims of between \$1 million and \$10 million, the greater of: (A) 1000 pages or 2 standard lever arch files of documents per claim or counterclaim, or; (B) 20 documents;
  - (iii) for claims or counterclaims of \$10 million and above, the greater of: (A) 2000 pages or 4 standard lever arch files of documents per claim or counterclaim; or (B) 40 documents; and
  - (iv) videos of witness testimony of approximately 1 hour per claim or counterclaim.

Immediation reserves the right to assess whether the documentation uploaded is reasonable in volume and to ask Parties to reduce the volume of material where it considers the volume uploaded to be unreasonable or to charge an additional proportionate fee (which will be no more than 50% of the original CCP Fee).

- (b) Length of online resolution conference or hearing. The time taken for any online resolution conference or hearing must be reasonable. As a guide, Immediation considers the following to be reasonable in most circumstances:



- (i) for claims or counterclaims of less than \$1 million, approximately half a day (4 to 6 hours) for an online resolution conference or hearing;
- (ii) for claims or counterclaims of between \$1 million and \$10 million, one day for an online resolution conference or hearing (up to 10 hours); and
- (iii) for claims or counterclaims of \$10 million and above, two days for an online resolution conference or hearing (up to 20 hours).

Immediation reserves the right to assess whether the time taken is reasonable and to charge an additional proportionate fee (which will be no more than 50% of the original CCP Fee) where the time taken for the conduct of the online resolution conference or hearing is unreasonable,

(together the **CCP Assumptions**).

## **Service Specific Terms – Premium Support**

### **29. Application of these Service Specific Terms**

These Service Specific Terms (Premium Support) apply where you have agreed with Immediation for the provision of Premium Support in a Services Agreement or Subscription Offer (as applicable).

### **30. Premium Support**

If agreed in your Services Agreement or Subscription Offer (as applicable) Immediation will provide you with Premium Support upon request, provided that:

- (a) you have requested the Premium Support at least one Business Day in advance; and
- (b) unless otherwise specified in your Services Agreement or Subscription Offer (as applicable), the Premium Support will be provided during Business Hours.

### **31. Premium Support Fees**

In return for Immediation providing you with the Premium Support, you must pay the fee(s) specified in your Services Agreement or Subscription Offer (as applicable) for the Premium Support.

## **Service Specific Terms – Managed Service**

### **32. Application of these Service Specific Terms**

These Service Specific Terms (Managed Service) apply where you have agreed with Immediation for the provision of Managed Services in a Services Agreement or Subscription Offer (as applicable).



### 33. Managed Service

Immediation will provide the Managed Services, as described in your Services Agreement or Subscription Offer (as applicable).

The "Managed Services" described in your Services Agreement or Subscription Offer (as applicable) may include some or all of the following services:

- (a) dispute management – support from Immediation to set up Matters and provide links to Users to access the Platform in relation to those Matters;
- (b) user guides – provision of user guides and tech check guides and other materials to you or to other Users to enable you and other Users to use the Platform with or without Premium Support;
- (c) training – provision of virtual training to you or to Users to enable you and other Users to use the Platform with or without Premium Support;
- (d) Premium Support;
- (e) tech check support – provision of a pre-organised check of the technology used by you or other Users to ensure that the technology may be used with the Platform;
- (f) technical support – means assisting you or other Users to ensure that the technology may be used with the Platform, which may include ad hoc provision of technical and administrative support before, during or after the course of a Matter provided by telephone, email or via the Platform;
- (g) other – other managed services that are described in your Services Agreement or Subscription Offer (as applicable).

You must have a Subscription to receive Managed Services.

### 34. Managed Service Fees

In return for Immediation providing you with the Managed Service, you must pay the fee(s) specified in your Services Agreement or Subscription Offer (as applicable) for the Managed Service (Managed Service Fee).

The Managed Service Fee will include the applicable Subscription Fee.

## Service Specific Terms – Specified Additional Software

### 35. Application of these Service Specific Terms

These Service Specific Terms (Specified Additional Software) apply where you use or procure any Specified Additional Software.



### 36. Specified Additional Software Fees

In return for Immediation making the Specified Additional Software available to you, you must pay the fee(s) specified in your Services Agreement or Subscription Offer (as applicable) for the Specified Additional Software.

## Service Specific Terms – White-label Platform

### 37. Application of these Service Specific Terms

These Service Specific Terms (White-label Platform) apply where you have agreed with Immediation for the provision of a white-label platform in an Services Agreement or Subscription Offer (as applicable).

### 38. White-Label Platform

Subject to the terms of the Agreement, Immediation will make the White-label Platform available to you in accordance with the White-label Licence.

The White-label Licence entitles you to:

- (a) invite unlimited Users to access the White-label Platform via your web-based interface for Matters of the nature and in the volume set out in your Services Agreement or Subscription Offer (as applicable); and
- (b) where specified in your Services Agreement or Subscription Offer, collect payments from its clients via payment gateways integrated into the White-label Platform; and
- (c) utilise the Additional Software as a sub-licensor pursuant to the terms and conditions of Immediation's licence of the Additional Software,

as agreed with Immediation in your Services Agreement or Subscription Offer (as applicable).

The White-label Platform will always be co-branded as "powered by Immediation" (or other similar wording approved by Immediation in writing).

### 39. White-Label Fee

In return for Immediation making the White-label Platform available to you, you must pay the fee specified in your Services Agreement or Subscription Offer (as applicable) for the White-label Platform (White-label Fee).

## Data Processing Addendum

*This Data Processing Addendum sets out the obligations for each party relating to the processing of 'personal data' (as defined under the GDPR or Data Protection Act 2018 (UK)) which is processed in connection with the Agreement. These include:*

- *the general obligations to comply with the Data Protection Laws;*



- *the obligations of a party if they are acting as a processor or as a controller;*
- *how this data is processed outside of the UK and EEA; and*
- *other general provisions relating to data processing.*

## **40. Application of This Data Processing Addendum**

### **40.1 When This Data Processing Addendum Applies**

This Data Processing Addendum applies where 'personal data' (as defined under the GDPR or Data Protection Act 2018 (UK)) is processed in connection with the Agreement.

### **40.2 Interpretation of This Data Processing Addendum**

In this Data Processing Addendum:

- (a)** the terms "Controller", "Processor", "Data Subject", "Joint Controller", "Personal Data Breach", and "processing" shall have the same meaning as in the Data Protection Laws;
- (b)** in the event of any conflict between this Data Processing Addendum and any other part of the Agreement, the terms imposing a higher standard of protection in relation to Personal Information will prevail; and
- (c)** except as supplemented by this Data Processing Addendum, all other terms of the Agreement will remain in full force and effect.

## **41. Your Obligations**

- (a)** You must ensure that:
  - (i)** you have complied, and will continue to comply, with Data Protection Laws where using the Services and processing Personal Information; and
  - (ii)** you have, and will continue to have, the right to transfer, or provide access to, the Personal Information to Immediation for processing in accordance with the Agreement and this Data Processing Addendum.
- (b)** Where Immediation acts as a Controller, Immediation will provide you with a link to or copy of its Privacy Notice. You must promptly (and in any event within a month from the date of Immediation first processing the Personal Information of a Data Subject as a Controller) bring Immediation's Privacy Notice to the attention of relevant Data Subjects.
- (c)** Where you expect that Immediation will process Your Data as Processor, you must:
  - (i)** ensure that Your Data is accurate and up-to-date, and remains so during the period of the processing;



- (ii) ensure that you have all lawful authority (including obtaining all necessary consents, if applicable) under the Data Protection Laws for the supply of Your Data and its processing by Immediation and if requested by Immediation shall promptly provide written confirmation of the same;
  - (iii) ensure that you have a lawful basis to process and disclose Your Data to Immediation and any required consents from the Data Subjects have been obtained for such processing by Immediation; and
  - (iv) not do anything in connection with Your Data that would or might cause Immediation to be in breach of any Data Protection Laws or other law and/or to incur liability to any Data Subject.
- (d) Nothing in this Data Processing Addendum or any instructions provided by you to Immediation will require Immediation to process (or permit the processing of) Personal Information in a manner which is expressly prohibited by the Agreement.
- (e) You are responsible for ensuring that suitable safeguards are in place prior to transmitting or processing, or prior to permitting your end users (including any Authorised Users) to transmit or process, any Sensitive Information via the Services.
- (f) You will indemnify Immediation and its Affiliates and Approved Sub-Processors (each an Indemnified Party) against all costs, claims, demands, liabilities and reasonable expenses of whatever nature incurred or suffered by an Indemnified Party arising out of or in connection with any breach by you or any Authorised User of this clause 41(f). This indemnity is not subject to any limitation or exclusion of liability in the Agreement.

## 42. Processor Obligations

### 42.1 Roles of the Parties as Processor and Controller

- (a) The parties acknowledge and agree that with regard to the processing of Your Content, you may act either as a Controller or Processor and Immediation is a Processor.
- (b) Each party must comply with the obligations that apply to it under applicable Data Protection Laws in relation to the processing of Your Content.
- (c) Immediation will only process Your Content on behalf of you in connection with the performance of the Services in accordance with your written instructions, which, for the avoidance of doubt, are the terms of the Agreement and this Data Processing Addendum and such other instructions as may be agreed in writing with you, unless processing by Immediation is required by Applicable Law. Immediation may charge you additional fees where you request Immediation,



and Immediation agrees, to undertake additional processing activities in accordance with your additional instructions.

- (d) Schedule 0 to this Data Processing Addendum sets out certain information regarding the processing of Your Content as required by Article 28(3) of the GDPR.

#### 42.2 Confidentiality

Immediation must ensure that any employee, agent or contractor with access to Your Content is subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

#### 42.3 Data Security

- (a) Immediation has implemented and will maintain the technical and organisational measures set out in the Security Controls to protect Personal Information. Additional information about the technical and organisational security measures involving the Services are described at <https://docs.immediation.com/legal/security-overview>.
- (b) You acknowledge that the Services include certain features and functionalities that you may elect to use that impact the security of the data processed by your use of the Services, such as multi-factor authentication on your account. You are responsible for reviewing the information Immediation makes available regarding its data security and making an independent determination as to whether the Services meet your requirements and legal obligations, including its obligations under Data Protection Laws. You are further responsible for properly configuring the Services and using features and functionalities made available by Immediation to maintain appropriate security in light of the nature of the Personal Information processed by your use of the Services.
- (c) You agree that you have assessed the level of security appropriate to the processing in the context of your obligations under Data Protection Laws and agree that the security measures set out in <https://docs.immediation.com/legal/security-overview> are consistent with such assessment.

#### 42.4 Approved Sub-Processors

- (a) You instruct and grant a general written authorisation for Immediation and each Approved Sub-Processor to process Personal Information and to transfer Personal Information as reasonably necessary for the provision of the Services.
- (b) Immediation will only use Approved Sub-Processors to process Personal Information.
- (c) Immediation may continue to use its Existing Sub-Processors but must ensure that:
  - (i) the arrangement between it and each of its Existing Sub-Processors is governed by a written contract including terms which offer at least the



same level of protection for Personal Information as set out in this Data Processing Addendum and which meet the requirements of Article 28(3) of the GDPR; and

- (ii) if that arrangement involves a Restricted Transfer, that the safeguards set out in applicable Data Protection Laws has been properly and appropriately implemented and maintained in respect of that Restricted Transfer.

**(d)** You acknowledge and agree that:

- (i) Immediation will give you reasonable prior notice of the appointment of any New Sub-Processor, including details of the processing of Personal Information to be undertaken by such New Sub-Processor. You must raise any reasonable objections in writing within 10 Business Days of such notice. Immediation will take reasonable steps to address any objections raised by you and provide you with a reasonable written explanation of the steps taken.
- (ii) Each New Sub-Processor shall become an Approved Sub-Processor on the completion of: (A) Immediation providing notice to you as envisaged by clause 42.4(d)(i); and (B) satisfaction of all of the conditions in clause 42.4(e) below in respect of that New Sub-Processor.

**(e)** With respect to each New Sub-Processor, Immediation will:

- (i) carry out adequate due diligence to ensure that such New Sub-Processor is capable of providing the level of protection for Personal Information required by this Data Processing Addendum;
- (ii) ensure that the arrangement between Immediation and the New Sub-Processor is governed by a written contract including terms which offer at least the same level of protection for Personal Information as those set out in this Data Processing Addendum and which meet the requirements of Article 28(3) of the GDPR; and
- (iii) if that arrangement involves a Restricted Transfer, ensure, prior to any transfer to that New Sub-Processor, that the safeguards set out in Data Protection Laws has been properly and appropriately implemented and maintained in respect of that Restricted Transfer. Where reliance is placed on the standard contractual clauses, you appoint Immediation as your agent for the limited purposes of executing the European Commission approved Controller to Processor standard contractual clauses where transfer occurs from the United Kingdom to a third country.

**(f)** Immediation will remain fully liable for the performance of the Approved Sub-Processors obligations under this Data Processing Addendum.



**42.5 Data Subject Rights**

- (a) As part of the Services, Immediation provides you with a number of self-service features, including the ability to delete, obtain a copy of, or restrict use of Your Content, which may be used by you to assist in responding to Data Subject Requests, at no additional cost.
- (b) Taking into account the nature of the processing and only upon your request, Immediation will (at your cost) assist you to respond to Data Subject Requests.

**42.6 Data Protection Impact Assessments**

Immediation will provide reasonable assistance to you with any data protection impact assessment which you are required to undertake in order to comply with Articles 35 and 36 of the GDPR or an equivalent requirement under other Data Protection Laws, in each case solely in relation to the processing of Personal Information and taking into account the nature of the processing and information available to Immediation.

**42.7 Incident And Breach Notification**

- (a) Immediation will, on becoming aware of a Personal Data Breach:
  - (i) notify you (via your account owner email address) without undue delay; and
  - (ii) following such notification, cooperate with you and take such reasonable commercial steps as are directed by you to assist in the investigation, mitigation and remediation of such Personal Data Breach, including providing you with such information as you reasonably require to allow you to meet any obligations to report or to inform Data Subjects of the Personal Data Breach under relevant Data Protection Laws.
- (b) You agree that, in any communication with Data Subjects or Supervisory Authority relating to Personal Information, you must:
  - (i) act in good faith;
  - (ii) not misrepresent Immediation or its Approved Sub-Processors; and
  - (iii) to the extent permitted by the relevant Data Protection Laws and other Applicable Laws, consult in advance with Immediation in relation to such communication,

provided always that nothing in this clause 42.7(b) will cause or require you to miss any response or reporting deadlines specified in the applicable Data Protection Laws.

**42.8 Audit and Certifications**

- (a) Upon your reasonable request, and subject to confidentiality obligations, Immediation will make available to you (or your independent, third party auditor



that is not a competitor of Immediation), such information as is reasonably necessary to demonstrate its compliance with this Data Processing Addendum.

- (b)** Immediation uses external auditors to verify the adequacy of its security measures with respect to its processing of Your Content. Such audits are performed at least once annually at Immediation's expense by independent third party security professionals and result in the generation of a confidential audit report (Audit Report). A description of Immediation's certifications and/or standards for audit can be found at <https://docs.immediation.com/legal/security-overview>.
- (c)** Subject to clause 42.8(d), Immediation will reasonably allow for and contribute to audits, including inspections, conducted by you or an independent third party auditor mandated by you and approved by Immediation for the purpose of demonstrating compliance by such Immediation with its obligations under Data Protection Laws.
- (d)** You must:

  - (i) give Immediation reasonable prior written notice (which will in no event be less than thirty (30) days' notice unless required by a Supervisory Authority) of any audit or inspection to be conducted under clause 42.8(c);
  - (ii) use your best efforts (and ensure that each of your mandated auditors uses its best efforts) to avoid causing, and indemnify Immediation in respect of, any damage, injury or disruption to Immediation's premises, equipment, personnel, data, and business (including any interference with the confidentiality or security of the data of Immediation's other customers or Users or the availability of the Services to such other customers or Users) while you, your personnel and/or your auditor's (and the auditor's personnel) (if applicable) in the course of any on-premise inspection (and this indemnity is not subject to any limitation or exclusion of liability); and
  - (iii) if the requested audit scope addressed in the Audit Report or similar audit report performed by a qualified third party auditor within twelve months of your audit request and Immediation confirms there are no known material changes in the controls audited, you agree to accept those findings in lieu of requesting an audit of the controls covered by the report.
- (e)** Immediation need not give access to its premises for the purposes of such an audit or inspection:

  - (i) to any individual unless he or she produces reasonable evidence of their identity and authority;
  - (ii) unless the auditor enters into a non-disclosure agreement with Immediation on terms acceptable to Immediation; or



- (iii) where, and to the extent that, Immediation considers, acting reasonably, that to do so would result in interference with the confidentiality or security of the data of Immediation's other customers or Users or the availability of the Services to other customers or Users;
  - (iv) outside normal business hours at those premises; or
  - (v) on more than one occasion in any calendar year during the term of this Data Processing Addendum except if and when required upon instruction of a Supervisory Authority.
- (f)** All audits are at your sole cost and expense. Any request for Immediation for audit assistance requiring the use of resources different from or in addition to those required for provision of the Services will be considered an additional service for which reasonable additional fees may be charged. Immediation reserves the right to require your written agreement to pay for such fees before providing such audit assistance.

#### **42.9 Deletion or Return of Personal Information**

- (a)** Prior to the termination of the Agreement, you agree that you are solely responsible for deleting Your Content via the Platform.
- (b)** Upon termination of the Agreement, Immediation will:
- (i) provide you access to the Services for thirty (30) days after the effective date of termination of the Agreement solely for the purpose of you downloading a copy of any stored Your Content via the Platform; and
  - (ii) unless otherwise agreed with you, automatically delete any stored Your Content thirty (30) days after the effective date of termination of the Agreement save that any of Your Content stored on Immediation's back-up systems shall be retained for sixty (60) days after the effective date of termination of the Agreement and then automatically deleted.
- (c)** Notwithstanding clauses 42.9(a) and 42.9(b), the parties agree that Immediation and Approved Sub-Processor may retain Personal Information to the extent required by and for such period as required by Applicable Laws, provided that it ensures:
- (i) the confidentiality of all such Personal Information; and
  - (ii) such Personal Information is only processed as necessary for the purpose(s) specified in the Applicable Laws requiring its storage.



## 43. Controller Obligations

### 43.1 Roles of The Parties as Controllers

- (a) Notwithstanding any other clause in this Data Processing Addendum, the parties agree that, where Immediation determines the means or purpose of processing Personal Information, such Immediation will be acting as a Controller in relation to that Personal Information and not a Processor.
- (b) For the avoidance of doubt, the parties acknowledge that Immediation acts as a Controller (not a Joint Controller) when it is processing:
  - (i) Your Account Data; and
  - (ii) Your Usage Data.
- (c) Each party will comply with its respective obligations under Data Protections Laws where processing Your Account Data and Your Usage Data as a Controller.

### 43.2 Your Account Data

- (a) Immediation will process Your Account Data in order to:
  - (i) manage the relationship with you and your Authorised Users;
  - (ii) carry out Immediation's core business operations, such as accounting and filing taxes; and
  - (iii) detect, prevent, or investigate security incidents, fraud and other abuse and/or misuse of the Services.
- (b) Immediation will process Your Account Data for as long as required to:
  - (i) provide the Services to you and your Authorised Users;
  - (ii) satisfy Immediation's legitimate business needs; and
  - (iii) comply with Applicable Laws.
- (c) Your Account Data will be stored in accordance with the Privacy Notice.

### 43.3 Your Usage Data

- (a) Immediation will process and retain Your Usage Data in order to carry out the necessary functions as a communications service provider, such as:
  - (i) accounting, tax, billing, audit, and compliance purposes;
  - (ii) to provide, optimize, and maintain the Services and security;
  - (iii) to investigate fraud, spam, wrongful or unlawful use of the Services; and/or



(iv) as required by Applicable Laws.

- (b) Immediation will anonymise or delete Your Usage Data when Immediation no longer requires it for the purposes set forth in clause 43.3(a).

## 44. International Processing

### 44.1 Processing in Australia

You acknowledge that Immediation's primary processing facilities are in Australia.

### 44.2 Cross Border Data Transfer Mechanisms For Data Transfers

To the extent that your use of the Services requires the transfer of Personal Information out of the European Economic Area, United Kingdom, Switzerland, or such other jurisdiction set forth in schedule 2 of this Data Processing Addendum, then Immediation will take such measures as are necessary to ensure the transfer is in compliance with Data Protection Laws.

### 44.3 Immediation Policies

The parties agree that Immediation will process Personal Information in the Services in accordance with Immediation's policies. The parties further agree that, with respect to the Services, the Immediation policies will be the lawful transfer mechanism of Your Account Data, Your Content and Your Usage Data from the EEA, Switzerland, or the United Kingdom to Immediation in Australia, or any other non-EEA Immediation Entity subject to the binding corporate rules.

### 44.4 Jurisdiction Specific Terms

To the extent Immediation processes Personal Information originating from and protected by Data Protection Laws in one of the jurisdictions listed in schedule 2 to this Data Processing Addendum, then the terms specified in schedule 2 to this Data Processing Addendum with respect to the applicable jurisdiction(s) will apply in addition to the terms of this Data Processing Addendum. In the event of any conflict or inconsistency between schedule 2 to this Data Processing Addendum and any other terms of this Data Processing Addendum, the applicable schedule 2 of this Data Processing Addendum shall take precedence.

## 45. General Terms

### 45.1 Notification Cooperation

- (a) You acknowledge that Immediation, as a Controller, may be required by Data Protection Laws to notify a regulatory authority of a Personal Data Breach or other breach of Data Protection Laws involving Your Data.
- (b) If a Supervisory Authority requires Immediation to notify impacted Data Subjects with whom Immediation does not have a direct relationship (e.g. Authorised Users), Immediation will notify you of this requirement.
- (c) You will provide all reasonable assistance to Immediation to notify the impacted Data Subjects.



#### 45.2 GDPR Penalties

Notwithstanding anything to the contrary in this Data Processing Addendum or in the Agreement (including, without limitation, either party's indemnification obligations), neither party will be responsible for any GDPR fines issued or levied under Article 83 of the GDPR against the other party by a Supervisory Authority or other governmental or regulatory body in connection with such other party's violation of the GDPR.

#### 45.3 Change In Law

In the event that there is change in the Data Protection Laws in relation to Restricted Transfers of Personal Information which requires amendments to the provisions of this Data Processing Addendum (Change in Law), the parties shall work together in good faith to agree on any changes to this Data Processing Addendum that are required in order to comply with the Change in Law.

### Schedule 1 To The Data Processing Addendum

Data processing details

This schedule includes certain details of the processing of Your Content as required by Article 28(3) of the GDPR. Categories of Personal Information and Data Subjects may include, but are not limited to, the examples listed below.

Subject matter of processing	The performance of the services documented in the Agreement.
Duration of processing	The processing shall continue for the period as set out in clause 0 of this Data Processing Addendum.
Nature and purpose of processing	The processing is being conducted in order to facilitate the performance of the services documented in the Agreement.
Types of Personal Information	Personal Information contained in Your Content.
Categories of Data Subject	You and any Authorised Users.
Obligations and rights of you (as data controller)	As set out in this Data Processing Addendum and the Agreement.

### Schedule 2 to the Data Processing Addendum

#### Jurisdiction Specific Terms

The following jurisdiction specific provisions will apply where processing of Personal Information by Immediation occurs in a jurisdiction indicated below:

#### 46. Australia

- (a) The definition of "Data Protection Laws" includes the Australian Privacy Principles and the Australian Privacy Act (1988).



- (b) The definition of "Personal Information" includes "Personal Information" as defined under Data Protection Laws.
- (c) The definition of "Sensitive Information" includes "Sensitive Information" as defined under Data Protection Laws.

#### 47. California

- (a) The definition of "Data Protection Laws" includes the California Consumer Privacy Act (CCPA).
- (b) The definition of "Personal Information" includes "Personal Information" as defined under Data Protection Laws and, for clarity, includes any Personal Information contained within Your Account Data, Your Content, and Your Usage Data.
- (c) The definition of "Data Subject" includes "Consumer" as defined under Data Protection Laws. Any Data Subject rights apply to Consumer rights. In regards to Data Subject requests, Immediation can only verify a request from you and not from any of your Authorised Users or any third party.
- (d) The definition of "Controller" includes "Business" as defined under Data Protection Laws.
- (e) The definition of "Processor" includes "Service Provider" as defined under Data Protection Laws.
- (f) Immediation will process, retain, use, and disclose Personal Information only as necessary to provide the Services under the Agreement, which constitutes a business purpose. Immediation agrees not to (a) sell (as defined by the CCPA) your Personal Information or your Authorised User's Personal Information; (b) retain, use, or disclose your Personal Information for any commercial purpose (as defined by the CCPA) other than providing the Services; or (c) retain, use, or disclose your Personal Information outside of the scope of the Agreement. Immediation understands its obligations under the Data Protection Laws and will comply with them.
- (g) Immediation certifies that its Sub-Processors are Service Providers under Data Protection Laws, with whom Immediation has entered into a written contract that includes terms substantially similar to this Data Processing Addendum. Immediation conducts appropriate due diligence on its Sub-Processors.
- (h) Immediation will implement and maintain reasonable security procedures and practices appropriate to the nature of the Personal Information it processes as set forth in clause 42.3 of this Data Processing Addendum.
- (i) Immediation will only transfer Personal Information to Sub-Processor in accordance with clause 42.4 of this Data Processing Addendum.



**48. Singapore**

- (a) The definition of "Data Protection Laws" includes the Personal Data Protection Act 2012 (Act 26 of 2012) (PDPA).
- (b) The definition of "Personal Information" will be read to mean "personal data" as defined under the PDPA.
- (c) The definition of "Controller" includes an "organisation" as defined under the PDPA.
- (d) The definition of "Data Subject" includes an individual as defined under the PDPA.
- (e) For the purposes of the PDPA, the definition of "Processor" will be read to mean "data intermediary" as defined under the PDPA.
- (f) The definition of "Personal Data Breach" will be read to mean "data breach" as defined under the PDPA.
- (g) Immediation will process Personal Information to a standard of protection comparable to that under the PDPA, including by implementing adequate technical and organisational measures as set forth in clause 42.3 of this Data Processing Addendum and complying with the terms of the Agreement.
- (h) Where Immediation has reason to believe that a data breach has occurred in relation to Personal Information that Immediation is processing on your behalf for your purposes, Immediation will notify you of the occurrence of the data breach.
- (i) Immediation will comply with sections 24 and 25 of the PDPA in respect of the protection and retention of Personal Information respectively.

**49. United Kingdom**

- (a) References in this Data Processing Addendum to GDPR will to that extent be deemed to be references to the corresponding laws of the United Kingdom (including the UK GDPR and Data Protection Act 2018).
- (b) The Standard Contractual Clauses will also apply to you in the United Kingdom as data exporter and to Immediation as data importer for transfers of Personal Information to countries that are not deemed to have an adequate level of data protection under the United Kingdom's Data Protection Laws.

**50. New Zealand**

- (a) The definition of "Data Protection Laws" includes the Information Privacy Principles and the Privacy Act (2020).
- (b) The definition of "Personal Information" includes "Personal Information" as defined under Data Protection Laws.



- (c) The definition of "Sensitive Information" includes "Personal Information" as defined under Data Protection Laws.

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## Definitions

In addition to any terms defined in text, the following definitions apply to these Terms:

**Additional Software** means any software integrated into the Platform owned by a person other than a member of the Immediation Group, which includes the software described as additional software in your Services Agreement or Subscription Offer (as applicable).

**Affiliates** means, in relation to an Immediation Entity, another entity that controls, is under the control of or is under common control with the Immediation Entity. In this definition, control means that an entity has the capacity to determine the outcome of decisions about the other entity's financial and operating policies, including by holding more than 50% of the relevant voting or ownership interest in the other entity.

**Anti-Bribery Law** means all laws relating to anti-bribery or anti-corruption applicable to the parties in the Territory. For parties entering into the Agreement in the United Kingdom, Anti-Bribery Law includes the Bribery Act 2010.

**Applicable Laws** means any applicable law or regulation in force from time to time.

**Approved Sub-Processor** means, to the extent that it meets the conditions set out in clause 42.4, each:

- (a) Existing Sub-Processor; and
- (b) New Sub-Processor.

**Authorised User** means a User who is authorised by you to access the Subscription Functionality under your Subscription.

**Binding Dispute Resolution** means any Facilitated Dispute Resolution that will have a binding determination made in respect of the parties.

**Business Day** means Monday to Friday in Sydney, Australia, excluding any public holidays.

**Business Hours** means between 9am and 5pm (Sydney time) on a Business Day.

**Commercial Matter** means, for the purposes of the Service Specific Terms (Complete Claims Process) any Matter that is not a Family Matter.

**Complete Claims Process** means a Facilitated Dispute Resolution process for a single Matter utilising the Services, which involves the payment of a fixed fee CCP Fee covering the costs of the Subscription and engaging the Panel Member.

**Confidential Information** means information that is made available by or on behalf of Immediation, or is otherwise obtained by you or on your behalf and is by its nature confidential or



you know, or ought to know, is confidential. Confidential Information includes Immediation Content and User Content. Confidential Information does not include information which is or becomes public knowledge other than by your breach of any confidentiality obligation, is or was made available to you by a person (other than Immediation) who is not or was not then under an obligation of confidence to Immediation in relation to that information, or has been independently developed or acquired by you as established by written evidence.

**Consumer Law** means a law applicable in the Territory that provides rights, protections, guarantees or warranties to consumers that cannot be excluded through contract. For example, where the Territory is Australia – the Schedule 2 of the Competition and Consumer Act 2010 (Cth) (the "Australian Consumer Law"); or where the Territory is New Zealand – the Consumer Guarantees Act 1993 (NZ).

**Content** means documents, communications or other information or materials.

**Data Subject Request** means a request made by a Data Subject to exercise any rights of Data Subjects under Data Protection Laws.

**Data Protection Laws** means:

- (a) any Applicable Law regarding the processing, privacy, and use of Personal Information in Australia, New Zealand, or the Territory, including any binding privacy codes or requirements, as applicable to you, Immediation and/or the services provided by Immediation to you; and
- (a) includes:
  - (i) the Privacy Act 1988 (Cth);
  - (ii) the Privacy Act 2020 (NZ);
  - (iii) the EU General Data Protection Regulation 2016/679 (**GDPR**); and
  - (iv) the Data Protection Act 2018 (UK).

**Early Facilitation** means a flexible and informal process where Immediation works with the parties involved in the dispute to seek to resolve the issue and/or explore whether the parties wish to participate in a mediation or other dispute resolution process.

**Existing Sub-Processor(s)** means any Sub-Processor already appointed by Immediation to process Personal Data in relation to its Services at the date Immediation commences performance of the Services to you and as listed in <https://docs.immediation.com/legal/sub-processors> .

**Extended Storage Period** means the extended storage period specified in your Subscription Offer or your Services Agreement (as applicable).

**External Location** means a location outside of Australia, New Zealand or the United States.



**Facilitated Dispute Resolution** means dispute resolution, including mediations, arbitrations and expert determinations, that are facilitated by Panel Members.

**Family Matter** means a Matter relating to family law issues, such as a Matter relating to divorce or child custody arrangements.

**FDR Agreement** means a separate agreement between a User who is a Party to a Matter and a Panel Member.

**FDR Rules** means any rules relating to the Facilitated Dispute Resolution, including any mediation rules, arbitration rules, expert determination rules, evaluation rules or other rules of Immediation or a third party body.

**Fee means** the fees charged by Immediation to you in accordance with the Agreement, including any fees set out in your Subscription Offer, your Services Agreement or otherwise notified to you via the Platform or by Immediation (as applicable).

**Immediation Content** means any Content that is accessible by you through the Platform or that is otherwise provided to you by Immediation, excluding Your Content and User Content.

**Immediation Group** means the Immediation Entity and each of its Affiliates.

**Mediation** means a confidential and flexible process where people involved in a dispute come together to try and resolve their dispute or reach a negotiated settlement with the support of an impartial mediator.

**New Sub-Processor(s)** means any third party Processor to which Immediation wishes to delegate the processing of Personal Information.

**Non-Subscriber** means any User who is not a Subscriber or an Authorised User.

**Party** means a User who is a party to a Matter being managed through the Complete Claims Process.

**Panel Member** means an independent third party who is connected to parties conducting a Facilitated Dispute Resolution to facilitate the resolution of the dispute in accordance with applicable Service Specific Terms. The Panel Member has a separate agreement with Immediation allowing them to facilitate dispute resolutions and is not an employee of Immediation or the Immediation Group.

**Payment Method** means a current, valid, accepted method of payment (such as a debit or credit card), as may be updated from time to time. Payment Method also includes Immediation issuing you valid tax invoices in respect of the applicable Fees incurred by you, which must be paid within 30 days of the date specified on your invoice.

**Personal Information** means any 'personal information' or 'personal data' (as those terms are defined in the applicable Data Protection Laws), which is held, used or processed by Immediation in connection with the Agreement.



**Premium Support** means hosting support provided by an employee or contractor of the Immediation Group who has legal training (e.g. a lawyer, law graduate or law student), which may be provided before, during or after a Matter, as specified in your Services Agreement or Subscription Offer (as applicable). Premium Support may include formal or ad-hoc training, set up of Matters, and/or 'virtually' assisting you to conduct Matters.

**Restricted Transfer** means any transfer of Personal Information from Immediation to any Approved Sub-Processor where such Approved Sub-Processor is located in a jurisdiction outside the EEA or United Kingdom, unless the Approved Sub-Processor is in a country or territory in respect of which the European Commission has issued (and not withdrawn) a finding of adequacy with regard to the data protection laws of that country or territory.

**Security Controls** means the terms set forth in the Agreement outlining Immediation's technical and organisational measures to protect Your Data, or, if the Terms has no such terms, then the "Immediation Security Overview" available at <https://www.immediation.com> or <https://docs.immediation.com/legal/security-overview>.

**Sensitive Information** means:

- (a) national ID card number, social security number, passport number, driver's license number, or similar identifier (or any portion thereof);
- (a) credit or debit card number (other than the truncated (last four digits) of a credit or debit card), financial information, banking account numbers or passwords;
- (b) employment, financial, genetic, biometric or health information;
- (c) racial, ethnic, political or religious affiliation, trade union membership, or information about sexual life or sexual orientation;
- (d) account passwords, mother's maiden name, or date of birth;
- (e) criminal history; or
- (f) any other information or combinations of information that falls within the definition of 'special categories of data', 'sensitive data' or 'sensitive information' applicable Data Protection Laws.

**Sub-Processor** means any third party appointed by or on behalf of Immediation to process Your Data.

**Subscriber** means a person with a Subscription.

**Subscription** means a subscription to use particular Subscription Functionality in accordance with the details set out in your Subscription Offer or Services Agreement (as applicable).

**Subscription Fee** means the fees specified in your Services Agreement or Subscription Offer (as applicable) for the use of the Services (including the relevant Subscription Functionality). The standard Subscription Fees can be found at <https://www.immediation.com>.



**Subscription Functionality** means functionality or services provided to you by Immediation via the Platform or related services that you have chosen to purchase, as further specified in your Subscription Offer or Services Agreement (as applicable).

**Subscription Offer** means the offer made by Immediation to you via the [immediation.com](https://www.immediation.com) website to enter into a Subscription. Your Subscription Offer will specify:

- (a) your Subscription Fees;
- (g) your Subscription Term;
- (h) the number of Authorised Users who may use your Subscription;
- (i) any restrictions that apply to your use of the Services (e.g. a limit on the number of Matter); and
- (j) the Subscription Functionality that you may access.

**Supervisory Authority** means any local, national or multinational agency, department, official, parliament, public or statutory person or any government or professional body, regulatory or supervisory authority, board or other body responsible for administering Data Protection Laws.

**Territory** means, unless otherwise specified in your Services Agreement:

- (a) New Zealand, if you are located in New Zealand;
- (k) the United States of America, if you are located in the United States of America;
- (l) the United Kingdom, if you are located in the United Kingdom;
- (m) Australia, if you are located in Australia; or
- (n) the External Location in which you are located, if you are located in an External Location.

**User** means any person who accesses or uses the Services, including you and any of your employees or contractors that you authorise to access or use the Service.

**User Content** means any Content that is uploaded by a User or that is otherwise provided to Immediation by a User.

**White-label Licence** means a licence you to use the White-label Platform for the White-label Fees, as agreed in your Services Agreement or Subscription Offer (as applicable).

**White-label Platform** means a 'white-labelled tenancy' of the Platform made available for use by you and is more particularly described in your Services Agreement or Subscription Offer (as applicable) and which may include customisations or configurations in accordance agreed with Immediation in writing.

**Your Account Data** means Personal Information that relates to your relationship with Immediation, including your name and/or contact information, the names and/or contact



information of Authorised Users, and billing information of individuals that you have associated with your account. Your Account Data also includes any data Immediation may need to collect for the purpose of identity verification, or as part of its legal obligation to retain subscriber records.

**Your Content** means any Content uploaded by you to the Platform or otherwise provided by you to Immediation in connection with these Services, and includes:

- (a) Personal Information exchanged by means of use of the Services, such as text, message bodies, voice and video media, images, email bodies, email recipients, and sound, and
- (o) data stored on your behalf such as files, documents, electronic signatures, photos and any other electronic media.

**Your Data** means Your Account Data, Your Usage Data, Your Content, and Sensitive Information, as defined in these Terms.

**Your Usage Data** means the Personal Information processed by Immediation for the purposes of transmitting or exchanging Your Content, including data used to identify the source and destination of a communication, such as:

- (a) individual Data Subjects' email addresses, telephone numbers, location data generated in the context of providing the Services, and the date, time, duration of the communication; and
- (p) activity logs used to identify the source of Service usage, optimise and maintain performance of the Services, and investigate and prevent system abuse.

