

NEW ORANGE

General Terms and Conditions

Version April 2026 – 2.0



Important notice to Client – potentially prejudicial terms (NSW)

The summary set out in the Annexure to this document is provided in accordance with section 47A(1) of the Fair Trading Act 1987 (NSW). It highlights certain terms in New Orange's "General Terms and Conditions" set out below, including the Schedule (the **Conditions**) that may substantially prejudice your interests (as the Client). Those terms include (but are not limited to) limitations and exclusions of New Orange's liability, restrictions on your use of New Orange's software and obligations on you to make payments to New Orange in certain circumstances on termination of the agreement between you and New Orange. The summary in the Annexure is not a substitute for reading the full Conditions, which apply to all goods and services supplied by New Orange to the Client.

By entering into an agreement with New Orange, you acknowledge that the terms summarised in the Annexure have been brought to your attention prior to the supply of goods and/or services, and that you understand their substance and effect.

1. Definitions

In these General Terms and Conditions, the following terms have the meanings set out below, unless the context requires otherwise:

- **Client:** the legal entity or individual that enters into an Agreement with New Orange (or is named in an Agreement as the "Client").
- **Agreement:** any agreement, including any master agreement, managed services agreement, statement of work, data processing agreement or other individual agreement between New Orange and the Client, under which New Orange provides or will provide Services to the Client, or which relates to such Services.
- **New Orange:** New Orange APAC Pty Ltd ACN 165 341 748.
- **Services:** all software development, SaaS, consultancy, support and other services provided by New Orange, and includes any goods which may be supplied by New Orange in connection with any of those services.
- **Software:** any standard software, custom software, applications, websites or other digital deliverables developed for, or made available by New Orange to, the Client.
- **Custom Software:** software specifically developed by New Orange for the Client.
- **Parties:** New Orange and the Client together, and Party means either one of them.
- **IP Rights:** all present and future intellectual and industrial property rights conferred by statute, at common law or in equity (whether registrable, registered or unregistered), including copyright, design rights, patent rights, trade marks, trade secrets, know-how and similar rights.
- **Business Hours:** the standard business hours observed by the Client at its primary place of business.

2. Applicability

New Orange uses these General Terms and Conditions (including the Schedule) for all quotations and agreements with, or submitted to, Clients. Deviations are only valid if agreed by New Orange in writing. All purchasing and other terms and conditions of, or issued by, the Client (including, without limitation, any terms and conditions included in any purchase order provided by the Client to New Orange) are expressly excluded.

These Terms will always apply once they have been declared applicable to a legal relationship between New Orange and the Client, unless expressly agreed otherwise.

Order of precedence: In the event of a conflict (a) a signed agreement prevails over these Terms; and (b) any statement of work and/or schedule thereto prevails over both to the extent of any inconsistency. If there is any conflict or inconsistency between the Schedule and any other provision of these Terms, the Schedule will prevail to the extent of the conflict or inconsistency.

If any provision of this document or any Agreement is void or unenforceable, the remaining provisions remain in full force and effect, and the Parties will replace the invalid provision with a valid provision that most closely reflects the original intent.

3. Forms of communication

Where these Terms require any notice, consent or agreement to be in writing, that requirement is satisfied by communication by email.

4. Offers / Costs

New Orange may issue non-binding quotations including an estimate of costs. Costs are based on information provided by the Client. Incorrect or incomplete information may result in changes to the costs. The Client guarantees the accuracy and completeness of the information provided.

New Orange may provide Services in various ways and charge costs accordingly, such as a fixed price or based on hourly rates. Services and costs are specified in the quotation and/or agreement.

All amounts and/or hourly rates may be adjusted annually based on demonstrable changes in market conditions or indexation.

All prices and fees are stated in Australian dollars (AUD) and exclude Goods and Services Tax (GST).

Invoices must be paid within 14 days of the invoice date, unless otherwise agreed in writing. Without limiting New Orange's other rights under this document or at law, New Orange may suspend Services if payment is overdue. The Client is liable for all reasonable costs incurred in recovering overdue amounts, including legal and collection costs.

5. Agreements

New Orange may enter into various types of agreements with the Client. Preference is given to a master or managed services agreement (MSA) outlining general arrangements. Such an MSA is concluded for an indefinite period and may be terminated at any time.

The Client may enter into individual agreements linked to the MSA for specific services. These may be for a fixed or indefinite period. Standalone agreements are also possible, with duration agreed mutually.

6. Term / Termination

An Agreement may be terminated in accordance with clause 5 of the Schedule.

7. Software & SaaS

Services may include making standard software available and/or developing Custom Software, defined as any form of digital content (including websites), software, hardware, etc., as specified in the quotation or agreement.

New Orange may also provide Software as a Service (SaaS), whether standard or custom.

8. Custom Software

Custom Software is developed specifically for the Client. The Client may not grant third parties access to the Custom Software or make it available to them.

The Client must not modify the Software without New Orange's prior written consent.

9. Additional Work

Work requested by the Client that falls outside the agreement is considered additional work and charged at agreed or standard rates. Such work will be determined in consultation and based on reasonableness.

10. Delivery / Acceptance

- (a)** Software will be delivered on a data carrier or made available online. Acceptance testing may be agreed upon (including under the terms of any applicable Agreement) and must be conducted within a defined period as specified in any applicable Agreement.
- (b)** The Client must report any defects or errors in any Custom Software in writing and in reasonable detail as soon as practicable after discovery, and in any case within 30 days after delivery of that Custom Software by New Orange, or (if applicable) acceptance of that Custom Software by the Client. Such defects or errors must be substantial, and be reproducible by New Orange. Subjective matters, including design preferences, do not constitute defects or errors.
- (c)** New Orange will use its best endeavours to remedy, within a reasonable time, any relevant defects or errors in Custom Software which are reported by the Client in accordance with clause 10(b), at no additional charge to the Client.
- (d)** After the 30 day period referred to in clause 10(b), the Software is taken to be provided on an "as is" basis, subject to applicable law and clause 6 of the Schedule.
- (e)** Except where the Parties have agreed on any user acceptance testing procedure in respect of any Software under an Agreement, use of the Software by the Client constitutes acceptance of the Software.

11. Maintenance / Changes

Standard and Custom Software may be maintained by New Orange under a separate agreement. Scope and costs will be defined therein. Costs for repairs due to outages or incorrect use will be charged separately.

New Orange may make technical changes to keep Software current and operational. The associated costs will be borne reasonably by the Client. If changes are substantial, the Client may terminate the relevant agreement.

Agile / iterative delivery: Unless otherwise agreed, Custom Software is developed using an iterative or agile approach. Accordingly, New Orange undertakes a best-efforts obligation and does not guarantee specific outcomes, features or deadlines unless expressly agreed in writing.

12. Use

The Client may use the Software and SaaS solely for its own internal business purposes and in accordance with the agreement.

The Client is responsible for configuration, data accuracy, compliance with applicable laws (including any industry-specific requirements), and ensuring its systems and networks are suitable for use with the Software.

13. Security

New Orange will apply reasonable security measures in line with current technical standards but cannot guarantee complete effectiveness.

The Client must take precautions to prevent unauthorised access, including for access credentials and Client systems.

The Client must not alter Software or circumvent security measures without New Orange's consent.

14. Intellectual Property

The Parties' rights and obligations with respect to intellectual property are set out in clause 3 of the Schedule.

15. Deployment of Employees

- (a)** Subject to clause 4 of the Schedule, New Orange may make personnel available to the Client on an hourly or other agreed basis. Such personnel operate under the Client's direction for day-to-day activities, but remain employees or contractors of New Orange.
- (b)** Non-solicitation: During the term of each Agreement and for twelve (12) months after its termination, the Client must not directly or indirectly solicit or engage New Orange personnel without New Orange's prior written consent.

16. Effort & Result

New Orange will use reasonable skill and care and make best efforts to achieve optimal results and report on progress. Active involvement and timely feedback from the Client are required.

17. Confidentiality

Each Party must keep confidential all information received from the other Party that is marked or reasonably understood to be confidential, including Software, source code, technical information and business information.

Confidential information may only be disclosed to employees or contractors on a need-to-know basis and only to the extent required to perform the Services.

Confidentiality obligations survive termination of any Agreement.

18. Privacy

- (a) Both Parties will comply with applicable Australian privacy and data protection laws, including the *Privacy Act 1988* (Cth) (**Privacy Act**) and the Australian Privacy Principles (APPs).
- (b) The Client agrees that New Orange will collect and handle any and all **Personal information** (as defined in the Privacy Act) (including any Personal Information contained in any of the information or data made available by the Client to New Orange (**Client Data**) which is hosted or processed by New Orange) in accordance with New Orange's privacy policy, as published on its website (at www.neworange.agency/au/privacy) from time to time.
- (c) Where required, the Parties will enter into a data processing agreement.
- (d) The Client is responsible for ensuring it has the right to provide any Personal Information to New Orange and for ensuring its instructions are lawful.

19. Assignment

The Client may not assign or otherwise transfer rights or obligations under this document or any Agreement without the prior written consent of New Orange, which may be given subject to conditions.

Schedule: Australian market provisions

1. Purpose Of This Schedule

- (a) This Schedule sets out certain provisions reflecting Australian legal, regulatory and market requirements that apply to the Services and Agreements. These provisions are included in this document to reflect applicable Australian laws and market practice, and do not detract from the collaborative and partnership-based nature of the Parties' relationship.
- (b) A reference in this Schedule to a "clause" of the "Standard Provisions" is a reference to a clause of the "General Terms and Conditions" section of this document. Otherwise, a reference in this Schedule to a "clause" is a reference to a clause of this Schedule.

2. Privacy and Data Breaches

- (a) Except where required in connection with the provision of Services under, or as otherwise set out in, this document or any Agreement, New Orange must:
 - i) use Personal Information forming part of any Client Data only to fulfil its obligations under this document or any Agreement; and
 - ii) not disclose any Personal Information forming part of the Client Data except in connection with performing New Orange's obligations under this document or any Agreement, or as required by law.
- (b) If New Orange becomes aware of any actual or suspected unauthorised access to, unauthorised disclosure of, or loss of any Client Data that includes Personal Information (**Data Breach**), New Orange must, as soon as reasonably practicable, notify the Client of the general nature of the Data Breach. New Orange's obligation to notify the Client under this clause 2(b) is limited to providing the Client with information that New Orange actually has in its possession or control and which it is legally permitted to disclose.
- (c) The Parties acknowledge that:
 - i) unless expressly stated otherwise in any Agreement, New Orange does not host, store or systematically process Client Data, and any handling of Personal Information by New Orange is incidental to the provision of the Services; and

- ii)** the Client remains responsible for its own compliance with the Privacy Act, including in relation to any **Eligible Data Breach** (as defined in the Privacy Act) assessments, or the notification of any Eligible Data Breach to the Office of the Australian Information Commissioner and/or to any affected third parties. This clause 2(c)(ii) does not apply to the extent that the Privacy Act (or any other applicable law) requires New Orange to deal with, and/or give notice of, an Eligible Data Breach.
- (d)** Despite anything else to the contrary in this clause 2, New Orange is not required to undertake any forensic investigation or detailed inquiry into systems or data that are not within New Orange's possession or control, or to take any action that would compromise or breach its own security or legal obligations.
- (e)** Except to the extent caused by the negligent act or omission of New Orange, New Orange is not liable for any Data Breach arising from or relating to the Client's systems, facilities, networks, or personnel.

3. Intellectual Property

3.1 Definitions

In this clause 3, **Background IP** means:

- (a)** the IP Rights of New Orange which subsisted or came into existence before New Orange commenced providing any Services involving the development of Custom Software;
- (b)** any IP Rights created or developed by New Orange independently of its provision of Services under this document or any Agreement; and
- (c)** general components, libraries, tools, know-how and underlying principles developed and used by New Orange in the development of any Custom Software for the Client.

Developed IP means the IP Rights in any Custom Software developed or created by New Orange for the Client under this document or any Agreement, but excluding any Non-assigned Products.

Non-assigned Products means the Background IP and Other Software.

Other Software means all Software other than Custom Software.

3.2 Ownership of IP Rights in Non-assigned Products

The Client acknowledges and agrees that:

- (a)** New Orange owns (and will continue to own) all Background IP, and all IP Rights in the Other Software; and
- (b)** except as expressly provided otherwise in clause 3.4 or in any Agreement, the Client does not acquire any right or interest in any Background IP or in any Other Software.

3.3 Developed IP

New Orange assigns to the Client (as the sole and exclusive owner) all right, title and interest in any Developed IP upon receipt by New Orange of all amounts payable by the Client for the delivery of that Developed IP to the Client, and any amounts which are overdue for payment by the Client to New Orange at the relevant time.

3.4 Licence of Non-assigned Products

- (a)** Subject to clauses 3.4(b), 3.4(c) and 3.4(d), New Orange grants to the Client a worldwide, irrevocable, non-exclusive and royalty-free licence to use all IP Rights subsisting in the Non-assigned Products to the extent necessary to enable the Client to enjoy the full benefit of the Services.
- (b)** If any Agreement requires the Client to pay for the use of any Non-assigned Products, then the licence granted under clause 3.4(a) is subject to the Client paying the relevant amounts to New Orange in accordance with the terms of the relevant Agreement.
- (c)** As a condition of the licence granted under clause 3.4(a), the Client must not:
 - i)** use the Non-assigned Products in any manner that is illegal or violates any applicable law or regulation;
 - ii)** upload files or data to the Non-assigned Products that contain viruses or other malware;
 - iii)** upload to the Non-assigned Products (or publish through the Non-assigned Products or link from the Non-assigned Products) any content which (in New Orange's reasonable opinion) consists of or contains IP Rights which the Client does not own or does not have a legal right to use, or any content which (in New Orange's reasonable opinion) is illegal, threatening, defamatory, violent, obscene or offensive;
 - iv)** attempt to circumvent or disable any security features or measures used within the Non-assigned Products;
 - v)** attempt to modify, copy, adapt or reproduce any part of the Non-assigned Products, except as necessary to use the Non-assigned Products for normal operation (as specified by New Orange);
 - vi)** decompile, disassemble, reverse-engineer, or otherwise derive the code for, the Non-assigned Products or any technology features or measures in the Non-assigned Products, or attempt to do any of the foregoing;
 - vii)** resell or sub-license access to the Non-assigned Products without New Orange's prior written consent;

5. Termination

5.1 Termination for convenience

Either New Orange or the Client may terminate an Agreement at any time by giving the other Party at least 2 months' written notice of termination.

5.2 Termination by immediate notice

To the extent permitted by law, either New Orange or the Client (**Terminating Party**) may immediately terminate an Agreement (or all Agreements) by giving written notice to the other Party (**Defaulting Party**), if the Defaulting Party:

- (a) fails to pay any overdue amount to the Terminating Party within 7 days after receipt of a written notice from the Terminating Party demanding payment of the overdue amount;
- (b) commits any breach of this document or any Agreement which is capable of remedy, and does not rectify the breach within 14 days after receiving written notice of that breach from the Terminating Party;
- (c) commits a breach of any material term of this document or any Agreement which is not capable of remedy; or
- (d) is or becomes the subject of any of the following events:
 - i) the Defaulting Party is in liquidation or provisional liquidation, or is under administration;
 - ii) the Defaulting Party has any of the following appointed to the Defaulting Party or any of its property:
 - (1) a receiver, receiver and manager, administrator or liquidator (whether provisional or otherwise); or
 - (2) anyone else who (whether or not as agent for the Defaulting Party) is in possession, or has control, of the Defaulting Party's property to enforce any security interest, charge, mortgage or other encumbrance;
 - iii) the Defaulting Party is taken under section 459F(1) of the *Corporations Act 2001*(Cth) to have failed to comply with a statutory demand;
 - iv) the Defaulting Party is unable to pay its debts or is otherwise insolvent;
 - v) the Defaulting Party becomes an insolvent under administration, as defined in section 9 of the *Corporations Act 2001*(Cth);
 - vi) the Defaulting Party enters into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors; or
 - vii) any analogous event or circumstance under the laws of any jurisdiction.

5.3 Consequences generally

- (a) When an Agreement is terminated by a Party under this clause 5:
- i) any and all statements of work entered into under that Agreement which are still being performed by New Orange as at the date of termination that have not been terminated under this clause 5 at that time (each, a **Continuing SOW**) will not terminate;
 - ii) each Party must minimise any losses to themselves and the other Party arising from termination of that Agreement;
 - iii) the Client must, within 7 days after the date of termination, pay New Orange all amounts owing by the Client to New Orange in respect of that Agreement, and must pay New Orange for all Services provided under that Agreement before termination, whether such amounts are due at that time or not;
 - iv) where that Agreement is terminated by New Orange under clause 5.1, or by the Client under clause 5.2, New Orange must, within 7 days after the date of termination, refund to the Client any amounts paid by the Client to New Orange under the Agreement before termination, to the extent those amounts relate to Services that were to be provided by New Orange under that Agreement after termination (but will not be, and are not, provided as a consequence of termination); and
 - v) each Party must immediately and permanently discontinue the use of and promptly return or surrender to the relevant Party all material or property belonging to the other Party in that Party's possession, custody or control (except that New Orange is not required to return or surrender Client Data (as defined in clause 18(b) of the Standard Provisions) or Developed IP (as defined in clause 3.1) to the Client to the extent that they are still required in connection with any Continuing SOW).
- (b) Subject to clause 5.4, on expiry or termination of an Agreement, that Agreement is at an end as to its future operation except for the enforcement of any right or claim by any Party that arises on, or has arisen before, expiry or termination (as applicable).

5.4 Survival

Despite any other provision of this document or any Agreement:

- (a) this clause 5 and clauses 2 ("Privacy and Data Breaches"), 3 ("Intellectual Property"), 6 ("Liability"), 9 ("Goods and Services Tax") and 10 ("Governing Law/Disputes"), and clauses 6 ("Term/Termination"), 15(b) ("Non-solicitation"), 17 ("Confidentiality") and 18 ("Privacy") of the Standard Provisions, survive expiry or termination of this document or any Agreement; and
- (b) this document will continue to apply in relation to any Continuing SOW until the end of the term of that Continuing SOW.

6. Liability

6.1 Exclusion of implied warranties

- (a) Except to the extent expressly provided otherwise in clause 6.2 (and in clause 10(c) of the Standard Provisions), any warranty, guarantee, condition, representation, undertaking or other right that would be implied in this document by legislation, common law, equity, trade, custom or usage is excluded to the maximum extent permitted by law.
- (b) Any advice, recommendation, information or assistance provided by New Orange in relation to any Services or their use or application (except to the extent that New Orange expressly agrees in writing to provide such advice or information) is given in good faith and, to the maximum extent permitted by law, New Orange does not accept any responsibility or liability in relation to any loss or damage arising in respect of any such advice, recommendations, information or assistance.

6.2 Non-excludable rights implied by statute

- (a) Despite the other provisions in this clause 6 and anything else in this document or in any Agreement, New Orange does not exclude, restrict or modify any warranty, guarantee, condition, representation, undertaking or other right under any statute (including the *Competition and Consumer Act 2010*(Cth) and the *Australian Consumer Law*) where to do so would contravene that statute or cause any part of this document or any Agreement to be void (such warranty, guarantee, condition, representation, undertaking or other right being a **Non-excludable Condition**).
- (b) If the Client acquires any Custom Software as a consumer for the purposes of the *Australian Consumer Law* set out in Schedule 2 of the *Competition and Consumer Act 2010*(Cth), the following statements apply:

Our [New Orange's] goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. Under the Australian Consumer Law, you [the Client] are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You [the Client] are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure. The benefits to the Client of clause 10(c) of the Standard Provisions are in addition to other rights and remedies of the Client under the Australian Consumer Law and any other applicable laws.

6.3 New Orange's maximum liability

- (a)** To the maximum extent permitted by law and subject to clause 10(c) of the Standard Provisions, and subject to clauses 6.3(b) and 6.5, New Orange's aggregate liability for all proven losses, damages and claims arising out of or in connection with this document, any Agreement, or the supply of Services, is limited:
- i)** if specific Services supplied by New Orange gave rise to the relevant loss, damage or claim (either in whole or in part) - to the total amount (excluding GST) paid by the Client to New Orange for those Services; or
 - ii)** otherwise - the total of all amounts (excluding GST) paid by the Client to New Orange under this document and all Agreements, up to the time that the relevant loss, damage or claim was suffered or incurred.
- (b)** Clause 6.3(a) does not apply so as to limit New Orange's liability:
- i)** for the death of, or injury to, any person to the extent it is caused or contributed to by the act or omission of New Orange or of any of New Orange's employees, agents or contractors;
 - ii)** for any infringement by New Orange of any third party's IP Rights; or
 - iii)** for any breach of clause 2 ("Privacy and Data Breaches"), or for any breach of clause 17 ("Confidentiality") or clause 18 ("Privacy") of the Standard Provisions.

6.4 Exclusion of liability for Client's conduct and indirect loss

To the maximum extent permitted by law, New Orange is not liable to the Client or to any other person for:

- (a)** any loss or damage of any kind to the extent it is caused or contributed to by any wrongful, wilful or negligent act or omission of the Client, or any of the Client's employees, agents or contractors; or
- (b)** any indirect, incidental, special or consequential loss or damage, loss of profits or anticipated profits, economic loss, loss of business opportunity, loss of data or loss or damage resulting from wasted management time irrespective of whether the loss or damage is caused by or relates to breach of contract, statute, tort (including negligence) or otherwise.

6.5 Liability for breach of non-excludable rights

To the maximum extent permitted by law, the liability of New Orange for a breach or non-fulfillment of a Non-Excludable Condition is limited, at New Orange's option, to:

- (a)** in the case of goods supplied by New Orange, any one or more of the following:
 - i)** the replacement of the goods or the supply of equivalent goods;
 - ii)** the repair of the goods;
 - iii)** the payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - iv)** the payment of the cost of having the goods repaired; or

- (b) in the case of Services or other services (as applicable) supplied by New Orange:
 - i) the supply of those Services or other services (as applicable) again; or
 - ii) the payment of the cost of having those Services or other services (as applicable) supplied again.

6.6 Notice of claims

The Client must notify New Orange in writing of any claim in respect of any Services provided by New Orange to the Client as soon as reasonably practicable after becoming aware of the claim, and must provide New Orange with a reasonable opportunity to investigate the claims and, where appropriate, remedy the issue in accordance with this document.

7. Force Majeure Events

- (a) In this clause 7, **Force Majeure Event** means any act, event or cause (other than lack of funds) which is beyond the reasonable control of the Party concerned including, but without limiting the generality of the foregoing, any:
 - i) act of God, peril of the sea, accident of navigation, war, sabotage, riot, insurrection, civil commotion, national emergency (whether in fact or law), martial law, fire, lightning, flood, cyclone, earthquake, landslide, storm or other adverse weather conditions, explosion, power shortage, strike or other labour difficulty (whether or not involving employees of the Party concerned), epidemic, pandemic, quarantine, radiation, shortage, strike or radio-active contamination; and
 - ii) action or inaction of any government agency or other competent authority (including any court of competent jurisdiction), including lockdown, expropriation, restraint, prohibition, intervention, requisition, requirement, direction or embargo by legislation, regulation, decree or other legally enforceable order.
- (b) If, by reason of a Force Majeure Event, either Party (**Impacted Party**) is prevented, hindered or delayed in the performance of any of its obligations under this document or any Agreement (other than the obligation to pay money), that Party must promptly give written notice to the other Party providing details of the Force Majeure Event and, to the extent reasonably ascertainable, the obligations from which it is prevented from discharging (**Force Majeure Notice**).
- (c) From the date of the Force Majeure Notice, the Impacted Party will not be liable to the other Party for not performing, or for the manner of its performance of, such obligation (other than the obligation to pay money) to the extent to which, and for the period of time during which, the Impacted Party is so prevented, hindered or delayed.

8. Assignment and Sub-Contracting By New Orange

- (a) New Orange may assign its rights under this document or any Agreement without the Client's consent.
- (b) New Orange may sub-contract any person or entity to carry out the Services or any part of the Services on behalf of New Orange, but New Orange remains responsible for the acts or omissions of each such sub-contractor.

9. Goods and Services Tax

9.1 Definitions

In this clause 9:

- (a) the expressions **Consideration, GST, Input Tax Credit, Recipient, Supply, Tax Invoice** and **Taxable Supply** have the meanings given to those expressions in the *A New Tax System (Goods and Services Tax) Act 1999* (**GST Act**).
- (b) **Supplier** means any Party treated by the GST Act as making a Supply under this document or any Agreement.

9.2 Consideration is GST exclusive

Unless otherwise expressly stated, all fees, prices or other sums payable or Consideration to be provided under or in connection with this document or any Agreement are exclusive of GST.

9.3 Payment of GST

- (a) If GST is imposed on any Supply made under or in connection with this document or any Agreement, the Recipient of the Taxable Supply must pay to the Supplier an additional amount equal to the GST payable on or for the Taxable Supply, subject to the Recipient receiving a valid Tax Invoice in respect of the Supply at or before the time of payment.
- (b) Payment of the additional amount must be made at the same time and in the same way as payment for the Taxable Supply is required to be made in accordance with this document or the relevant Agreement (as applicable).

9.4 Reimbursement of expenses

If this document or any Agreement requires a Party (the **First Party**) to pay for, reimburse, set off or contribute to any expense, loss or outgoing (**Reimbursable Expense**) suffered or incurred by the other Party (the **Other Party**), the amount required to be paid, reimbursed, set off or contributed by the First Party will be the sum of:

- (a) the amount of the Reimbursable Expense net of Input Tax Credits (if any) to which the Other Party is entitled in respect of the Reimbursable Expense (**Net Amount**); and
- (b) if the Other Party's recovery from the First Party is a Taxable Supply, any GST payable in respect of that Supply, such that after the Other Party meets the GST liability, it retains the Net Amount.

10. Governing Law / Disputes

- (a) This document, and all Agreements are governed by, and must be construed in accordance with, the laws of the State of Victoria, Australia. The Parties submit to the exclusive jurisdiction of the courts of that State and the Commonwealth of Australia in respect of all matters arising out of or relating to this document or any Agreement, or its performance or subject matter.
- (b) Despite clause 10(a), the United Nations Convention on Contracts for the International Sale of Goods (CISG) does not apply to this document or any Agreement (or to any transactions arising out of this document or any Agreement).
- (c) If a dispute arises between the Parties in relation to this document or any Agreement, the Parties will first try to resolve it amicably. If a dispute cannot be resolved amicably within 30 days after a Party first notifies the other Party in writing of the dispute (or within such other period as the Parties may agree in writing), then either Party may commence legal proceedings in respect of the dispute (unless the Parties have agreed to submit the dispute to arbitration). This clause 10(c) does not prevent a Party from commencing interlocutory proceedings in relation to a dispute at any time.

Annexure: Summary of potentially prejudicial terms (Section 47A(1), Fair Trading Act 1987(NSW))

Key terms of the above “General Terms and Conditions”, including the Schedule (Conditions) which may substantially prejudice you (as the Client):

- **Exclusion and limitation of liability:** The Conditions contain clauses that exclude New Orange’s liability for certain types of loss or damage, including indirect or consequential loss, loss of profits, economic loss, loss of data and wasted management time (except where prohibited by law). New Orange limits its liability to you for loss or damage, to the extent permitted by law. Its maximum liability is generally capped at the amount you paid under your agreement with New Orange. This may restrict the compensation available to you in certain circumstances.
- **Provision of Software on an “as is” basis:** After the 30 day defect reporting window for Custom Software, the Software provided by New Orange to you is deemed to be provided on an “as-is” basis, subject only to non-excludable statutory rights under the Australian Consumer Law. This may limit your ability to require fixes or remedies outside your rights under the Australian Consumer Law.
- **Client responsibility for data accuracy, configuration and compliance:** You are responsible for ensuring your systems, configuration and data are suitable and accurate, and for complying with relevant laws when using the Software. This may result in you being liable for issues arising from your own configuration, integration or data.
- **Restrictions on use and licensing of Software:** The licence terms restrict various uses of Software and prohibit modification, reverse engineering, sub-licensing, and other activities. Breach of these restrictions may lead to termination or liability.
- **No right to modify Software without consent:** You are prohibited from modifying the Software (including Custom Software) without New Orange’s written consent. This may substantially limit how you can use or adapt deliverables.
- **Suspension of Services for non-payment:** If payment is overdue, New Orange may suspend Services, and you are liable for costs incurred in recovering overdue amounts. This may impact business continuity and create additional financial liability.

- **Termination rights:** New Orange may terminate any agreement between you and New Orange for any reason (and without cause) by giving you at least 2 months' written notice. New Orange may also terminate any agreement immediately if you fail to pay any overdue amount within 7 days after New Orange demands payment in writing, or if you breach the agreement where the breach is capable of remedy, and you do not remedy the breach within 14 days after being notified of the breach, or if you breach a material term of the agreement which is not capable of remedy, or (subject to applicable law) if you become insolvent. You will be required to pay New Orange all amounts payable under the agreement, and for all Services provided to you by New Orange before termination, within 7 days after termination (whether such amounts are due at that time or not). On termination of the agreement, you will not be entitled to a refund of any amounts you paid to New Orange in advance of the provision of Services, except where you validly terminate the agreement for cause (such as due to an unremedied breach by New Orange), or where New Orange terminates the agreement without cause.
- **Possible disclosure of personal information to third parties:** New Orange may disclose your personal information (or personal information in data to which you give New Orange access) only as required to perform the Services or to comply with law. It is possible that in some circumstances, this could involve disclosure to third parties (such as New Orange's sub-contractors).
- **Jurisdiction:** The Conditions are governed by the laws of Victoria, and any disputes which are not resolved amicably between the parties can only be resolved in the Victorian courts.

Australia

G1/2 Wellington Parade
East Melbourne VIC 3002

Tel: +61 38 488 7437

Email: hi@neworange.agency

NEW ORANGE