



ReadingDoctor® Pty Ltd  
School Terms and Conditions  
Effective Date: 1/1/20

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## SAAS TERMS AND CONDITIONS

### 1. TERM

This agreement commences on the Commencement Date and will continue for the Initial Term and any Renewal Terms pursuant to clause 1(b), unless terminated earlier in accordance with its terms (the **Term**).

- (a) Upon expiration of the Initial Term, this agreement will automatically renew for successive terms, each being the same length as the Initial Term, (each a **Renewal Term**), unless either party provides notice that the agreement will not automatically renew with thirty (30) days' notice prior to the expiration of the Initial Term or the then-current Renewal Term.

### 2. ORDER FORMS

- (a) These terms will apply to all the Customer's dealings with Reading Doctor, including being incorporated in all agreements, quotations or orders under which Reading Doctor is to provide services to the Customer (each an **Order Form**) together with any additional terms included in such Order Form (provided such additional terms are recorded in writing).
- (b) In the event of any inconsistency between these terms and conditions and any Order Form, the clauses of these terms and conditions will prevail to the extent of such inconsistency, except that any "Special Conditions" (being terms set out and described as such in an Order Form) will prevail over the other terms of this agreement to the extent of any inconsistency.

### 3. COOLING OFF PERIOD

- (a) Once an Order Form is accepted by Reading Doctor, this agreement is subject to a 30 day cooling off period, from the date of signing of the Order Form (**Cooling Off Period**), during which the Customer may rescind this agreement by written notice to Reading Doctor (**Cooling Off Notice**). If Reading Doctor receives a Cooling Off Notice during the Cooling Off Period, Reading Doctor will not provide the Solution and the Customer will not be liable to pay any Fees.
- (b) If Reading Doctor has started to provide the Solution when it receives a valid Cooling Off Notice, it will immediately revoke the Customer's access to the Solution and the Customer must comply with its obligations under clause 17.3 as if the agreement had been terminated.
- (c) If Reading Doctor has received any Fees from the Customer when it receives a valid Cooling Off Notice, it will provide the Customer with a full refund of those Fees.
- (d) Unless this agreement is rescinded during the Cooling Off Period, the parties intend for this document to form a binding contractual agreement between them and the parties must perform their respective obligations in accordance with these terms and conditions.
- (e) For the avoidance of any doubt, the Cooling Off Period will not apply in any Renewal Term.

### 4. THE SOLUTION

#### 4.1 SCOPE OF SOLUTION

- (a) The Solution includes the Software, Services and Support set out in an Order Form (**Solution**).
- (b) Reading Doctor may from time to time in its absolute discretion install enhancements to the Solution, where enhancements means any upgraded, improved, modified or new versions of the Solution (including any customisations made at the Customer's request).

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- (c) Reading Doctor will provide the Solution in accordance with all applicable laws.
  - (d) Unless otherwise agreed, Reading Doctor may, in its absolute discretion:
    - (i) not provide any part of the Solution until the Customer has paid any fees or deposit payable in respect of such Services; and
    - (ii) withhold delivery of any part of or all of the Solution until the Customer has paid the invoice in respect of the Solution.

#### 4.2 SOFTWARE LICENCE

During the Term, Reading Doctor grants to the Customer a non-exclusive, non-transferable licence to use the Solution and Documentation to provide access to the Solution for the Number of Licensed Users at the Site for the duration of the Term.

#### 4.3 SITE

The Customer must ensure that every person and system which has access to the Solution is located at the Site, unless the Customer has received Reading Doctor's prior written consent to the contrary.

- (a) Without limiting any of its other rights under this agreement or at law, Reading Doctor reserves the right to charge the Customer additional fees, with reference to the Fees, for any access to the Solution, or use of the Solution, that the Customer provides, or allows to be provided, to any person or system located outside the Site. The Customer must pay additional fees charged under this clause 4.3(b) in the same manner as Fees, as set out in the Order Form.
- (b) Notwithstanding clauses 4.2, 4.3(a) and 4.3(b), a Customer may permit a person and system to access the Solution outside the Site, provided that that person is:
  - (i) an enrolled student who attends a learning institution at the Site; and
  - (ii) accessing the Solution from their home.

#### 4.4 HOSTED SERVICES

- (a) **(hosting location)** The Customer acknowledges and agrees that Reading Doctor uses storage servers to host the Solution that may be located outside Australia.
- (b) **(service quality)** While Reading Doctor will use its best efforts to select an appropriate hosting provider, it does not guarantee that the hosting of the Solution will be free from errors or defects or that the Solution will be accessible or available at all times.
- (c) **(security)** Reading Doctor will use its best efforts to ensure that Customer Data is stored securely, however Reading Doctor does not accept responsibility or liability for any unauthorised use, destruction, loss, damage or alteration to the Customer Data, including due to hacking, malware, ransomware, viruses, malicious computer code or other forms of interference.
- (d) **(backups & disaster recovery)** Reading Doctor will use its best efforts to create scheduled daily backups of Customer Data stored by Reading Doctor. In the event that Customer Data is lost due to a system failure (e.g. a database or webserver crash), Reading Doctor will attempt to restore the Customer Data from the latest available backup, but cannot guarantee that this backup will be free from errors or defects.
- (e) **(troubleshooting)** Reading Doctor's Services do not include troubleshooting or fixing application or data-based failures relating to the Customer's, or any User's, hardware or software, and additional fees may apply for these sorts of services.

#### 4.5 SUPPORT SERVICES

- (a) Reading Doctor will provide reasonable Support Services to the Customer during the Term. The reasonableness of any requested support services will be determined by Reading Doctor in its absolute discretion from time to time.

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- (b) Any support services requested by the Customer that Reading Doctor considers either to be unreasonable, or to be in excess of a reasonable amount of Support Services already provided, will constitute a Change in accordance with clause 4.6 below.

#### 4.6 CHANGES TO SCOPE

- (a) The Customer must pay a 'change in scope fee' for changes to the Solution requested by the Customer which alter the scope set out in the relevant Order Form and require Reading Doctor to perform additional work or incur additional costs (**Changes**), such 'change in scope fee' being at a rate reasonably determined by Reading Doctor (the **Change Fee**).
- (b) Unless otherwise agreed in writing, Reading Doctor may at its discretion extend or modify any delivery schedule or deadlines for the Solution as may be reasonably required by Changes.
- (c) Reading Doctor will only be required to perform Changes, if:
  - (i) Reading Doctor agrees in writing to perform the Changes;
  - (ii) the Customer confirms in writing that they wish for Reading Doctor to proceed with the Changes and the relevant Change Fee; and
  - (iii) the Customer pays the Change Fee, in accordance with clause 7 as if it was a Fee.

### 5. CUSTOMER'S OBLIGATIONS

#### 5.1 USE OF SOLUTION

- (a) The Customer must, and must ensure that all Users, comply with this agreement at all times. The Customer acknowledges and agrees that Reading Doctor will have no liability for any act of a User for damage, loss or expense suffered by a User in connection with the use of the Solution and will indemnify Reading Doctor for any such damage, loss or expense.
- (b) The Customer must not, and must not encourage or permit any User or any third party to, without Reading Doctor's prior written approval:
  - (i) make copies of the Documentation or the Solution, except a reasonable number of physical copies of the Documentation necessary for the Customer to enjoy the Solution;
  - (ii) adapt, modify or tamper in any way with the Solution;
  - (iii) remove or alter any copyright, trade mark or other notice on or forming part of the Solution or Documentation;
  - (iv) create derivative works from or translate the Solution or Documentation;
  - (v) publish or otherwise communicate the Solution or Documentation to the public, including by making it available online or sharing it with third parties;
  - (vi) sell, loan, transfer, sub-licence, hire or otherwise dispose of the Solution or Documentation to any third party;
  - (vii) decompile or reverse engineer the Solution or any part of it, or otherwise attempt to derive its source code;
  - (viii) attempt to circumvent any technological protection mechanism or other security feature of the Solution; or
  - (ix) permit any person other than Licensed Users to use or access the Solution or Documentation.

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## 6. THIRD PARTY TERMS & CONDITIONS

- (a) The Customer acknowledges and agrees that third party terms & conditions (**Third Party Terms**) may apply.
- (b) The Customer agrees to any Third Party Terms applicable to any third party goods and services that are used in providing the Solution and Reading Doctor will not be liable for any loss or damage suffered by the Customer in connection with such Third Party Terms.

## 7. PAYMENT

### 7.1 FEES

- (a) The Customer must pay to Reading Doctor fees in the amounts and at the times set out in an Order Form, or as otherwise agreed in writing (**Fees**).
- (b) All Fees are paid in advance and are non-refundable for change of mind (subject to the Cooling Off Period).

### 7.2 TIME FOR PAYMENT

Unless otherwise agreed in writing:

- (a) if Reading Doctor issues an invoice to the Customer, payment must be made by the time(s) specified on such invoice; and
- (b) in all other circumstances, the Customer must pay for all goods and services within 7 days of receiving an invoice for amounts payable.

### 7.3 GST

Unless otherwise indicated, the Fees do not include GST. In relation to any GST payable for a taxable supply by Reading Doctor, the Customer must pay the GST subject to Reading Doctor providing a tax invoice.

### 7.4 CARD SURCHARGES

Reading Doctor reserves the right to charge credit card surcharges in the event payments are made using a credit, debit or charge card (including Visa, MasterCard, American Express or Diners Club).

## 8. UPGRADES AND DOWNGRADES OF YOUR SUBSCRIPTION

### 8.1 UPGRADE

- (a) The Customer may notify Reading Doctor that they would like to upgrade their Subscription Tier at any time during the Term, to a Subscription Tier for a higher Number of Licensed Users. If the Customer provides such notice to Reading Doctor, Reading Doctor will:
  - (i) take reasonable steps to promptly provide the Customer with access to the new Subscription Tier; and
  - (ii) upon providing such access, apply additional Fees in respect of the remainder of the Initial Term, from the date the Customer's access to the new Subscription Tier was provided (**Remainder of Term After Upgrade**), at the rate for the new Subscription Tier, as set out in the Order Form.
- (b) After providing access to a new Subscription Tier in accordance with clause 8.1, the Customer must pay Fees to Reading Doctor in an amount equivalent to the difference between:
  - (i) the Fees already paid for the original Subscription Tier in respect of the Remainder of Term After Upgrade; and
  - (ii) the Fees owed for the new Subscription Tier for the Remainder of Term After Upgrade,

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**(New Subscription Tier Fee)**

- (c) Reading Doctor will issue an invoice to the Customer in respect of the New Subscription Tier Fee, and the Customer must make payment by the due date specified on such invoice. If no due date is specified in the invoice, then the Customer must pay the New Subscription Tier Fee within 7 days of the date of issue of the invoice.

**8.2 DOWNGRADES**

- (a) The Customer may not downgrade their Subscription Tier, unless they have previously, during the Term, upgraded their Subscription Tier in accordance with clause 8.1 and, in such a case, the Customer may not downgrade to a Subscription Tier lower than the original Subscription Tier as at the Commencement Date.
- (b) The Customer may notify Reading Doctor that they would like to downgrade their Subscription Tier during the Term, if the Customer has upgraded their Subscription Tier earlier during the Term, in accordance with clause 8.1. If the Customer provides such notice to Reading Doctor, Reading Doctor will:
- (i) take reasonable steps to promptly provide the Customer with access to the new Subscription Tier; and
- (ii) upon providing such access, provide a refund to the Customer in an amount equal to the difference between:
- A. the Fees already paid for the upgraded Subscription Tier that the Customer had been using, in respect of the remainder of the Initial Term, from the date the Customer's access to the new, downgraded Subscription Tier was provided (**Remainder of Term After Downgrade**); and
- B. the Fees owed for the new Subscription Tier for the Remainder of Term After Downgrade.
- (iii) The Customer will issue an invoice to Reading Doctor for the refund amount set out in clause 8.2(b)(ii), and after receiving such invoice, Reading Doctor will pay that amount within 30 days of the date of receipt.
- (c) This agreement will be taken to be amended in accordance with any changes agreed in accordance with clause 8.
- (d) If the Customer chooses to downgrade their Subscription in accordance with clause 8.2, the Customer acknowledges and agrees that Reading Doctor is not liable for, and the Customer releases Reading Doctor for all claims arising in connection with, any loss of content, features, or capacity, including any Customer Data in relation to a downgrade to the Customer's Subscription Tier.

**9. INTELLECTUAL PROPERTY**

**9.1 CUSTOMER CONTENT**

- (a) The Customer grants to Reading Doctor (and its Personnel) a non-exclusive, royalty free, non-transferable, worldwide and irrevocable licence to use the Customer Content to the extent reasonably required to provide the Solution.
- (b) The Customer:
- (i) warrants that Reading Doctor's use of Customer Content as contemplated by an Order Form will not infringe any third-party Intellectual Property Rights; and
- (ii) indemnifies Reading Doctor from and against all losses, claims, expenses, damages and liabilities (including any taxes, fees or costs) which arise out of such infringement.

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## 9.2 COMPANY IP

- (a) Unless otherwise expressly agreed in an Order Form, the Customer will not under these terms or any Order Form acquire Intellectual Property Rights in any Reading Doctor IP. Any Developed IP will be solely and exclusively owned by Reading Doctor.
- (b) Reading Doctor grants to the Customer a non-exclusive, royalty free, non-transferable, worldwide and revocable licence to use Reading Doctor IP and any Developed IP to the extent required for the Customer to use and enjoy the benefit of the Solution.

## 9.3 DEFINITIONS

For the purposes of this clause 9:

- (a) **"Customer Content"** means any documents or materials supplied by the Customer to Reading Doctor under or in connection with this agreement or an Order Form, including any Intellectual Property Rights attaching to those materials.
- (b) **"Developed IP"** means any materials produced by Reading Doctor in the course of providing the Solution including documentation, reports, data, designs, concepts, know-how, information, advice, opinions, emails, notes whether in draft or final form, in writing, provided orally, either alone or in conjunction with the Customer or others, and any Intellectual Property Rights attaching to those materials.
- (c) **"Reading Doctor IP"** means all materials owned or licensed by Reading Doctor that is not Developed IP and any Intellectual Property Rights attaching to those materials.
- (d) **"Intellectual Property Rights"** means any and all present and future intellectual and industrial property rights throughout the world, including copyright, trade marks, designs, patents or other proprietary rights, Confidential Information and the right to have information kept confidential, or any rights to registration of such rights whether created before or after the date of this agreement, whether registered or unregistered.

## 10. CONFIDENTIALITY & RESTRAINT

### 10.1 CONFIDENTIALITY

- (a) Except as contemplated by this agreement, a party must not and must not permit any of its officers, employees, agents, contractors or related companies to use or to disclose to any person any Confidential Information disclosed to it by the other party without its prior written consent.
- (b) This clause does not apply to:
  - (i) information which is generally available to the public (other than as a result of a breach of these terms or another obligation of confidence);
  - (ii) information required to be disclosed by any law; or
  - (iii) information disclosed by Reading Doctor to its subcontractors, employees or agents for the purposes of providing the Solution or its obligations under this agreement.

### 10.2 RESTRAINT

For the duration of this agreement, the Customer must not employ or engage (or be knowingly involved in another employing or engaging) any officers or employees of Reading Doctor with which the Customer had contact during the Term.

## 11. PRIVACY

The Customer agrees to Reading Doctor's Privacy Policy, located: <http://www.readingdoctor.com.au/privacypolicy>, which is incorporated into this agreement by reference. Please read the Privacy Policy carefully as it governs Reading Doctor's collection, use, and disclosure of personal information.



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## 12. CUSTOMER DATA

- (a) Reading Doctor will:
  - (i) take reasonable steps to establish, maintain, enforce and continuously improve safety and security procedures and safeguards against the unauthorised use, destruction, loss or alteration of Customer Data;
  - (ii) not make any undocumented, unreported or authorised configuration changes to Reading Doctor's systems or to the information security controls that secure Customer Data, if those changes would materially decrease the protections afforded to Customer Data; and
  - (iii) notify and keep the Customer notified at all times of Reading Doctor's current safety and security procedures and safeguards that are made from time to time.
- (b) The Customer acknowledges and agrees that Licensed Users, Users, the Customer and its Personnel may have control within the Software to edit, delete and otherwise manipulate Customer Data and User's data, and the Customer releases Reading Doctor from any and all liability in relation to loss or damage which arises out of any such deletion, editing or manipulation.

## 13. SECURITY BREACH

- (a) Reading Doctor will notify the Customer promptly after Reading Doctor learns of any potential, actual or suspected loss, misappropriation or unauthorised access to, or disclosure or use of Confidential Information or other compromise of the security, confidentiality, or integrity of Confidential Information (collectively, **Security Breaches**).
- (b) Reading Doctor will promptly investigate each potential, actual or suspected Security Breach and assist the Customer and its Personnel in connection with any investigation that the Customer may desire to conduct with respect to the Security Breach.
- (c) Reading Doctor will take all steps requested by the Customer to limit, stop or otherwise remedy any potential, actual or suspected Security Breach.

## 14. WARRANTIES

### 14.1 READING DOCTOR WARRANTIES

- (a) Reading Doctor warrants that:
  - (i) during the Term, the Solution will perform substantially in accordance with the intended purpose;
  - (ii) to its knowledge, the use of the Solution in accordance with this agreement will not infringe the Intellectual Property Rights of any third party; and
  - (iii) the Support Services will be fit for purpose and provided by Personnel who have expertise in the provision of those services.

### 14.2 CORRECTION OF DEFECTS

- (a) Reading Doctor will correct any errors, bugs or defects in the Solution which arise during the Term and which are notified to Reading Doctor by the Customer unless the errors, bugs or defects:
  - (i) result from the interaction of the Solution with any other solution or any computer hardware or services not approved in writing by Reading Doctor;
  - (ii) result from any misuse of the Solution; or
  - (iii) result from the use of the Solution by the Customer other than in accordance with this agreement or the Documentation.



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- (b) The Customer agrees to provide Reading Doctor and its Personnel reasonable access to the Solution to assist Reading Doctor in correcting any defects in the Solution.

#### 14.3 EXCLUSION OF OTHER WARRANTIES

- (a) To the maximum extent permitted by applicable law, all express or implied representations and warranties (whether relating to fitness for purpose or performance, or otherwise) not expressly stated in this agreement are excluded.
- (b) Nothing in this agreement is intended to limit the operation of the Australian Consumer Law contained in the *Competition and Consumer Act 2010* (Cth) (**ACL**). Under the ACL, the Customer may be entitled to certain remedies (like a refund, replacement or repair) if there is a failure with the goods or services provided.

### 15. LIMITATION OF LIABILITY

To the maximum extent permitted by law, Reading Doctor's liability for all claims in aggregate (whether those claims be for breach of contract, negligence or otherwise, and whether those claims be only for economic loss, or for personal injury or other damage) arising under or in connection with this agreement or an Order Form:

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

### 16. INDEMNITY

The Customer indemnifies Reading Doctor from and against all losses, claims, expenses, damages and liabilities (including any taxes, fees or costs) which arise out of:

- (a) any breach of this agreement by the Customer; or
- (b) any negligent, fraudulent or criminal act or omission of the Customer or its Personnel.

### 17. TERMINATION

#### 17.1 TERMINATION FOR CONVENIENCE

Reading Doctor may terminate this agreement for convenience at any time by providing 1 month's written notice to the Customer.

#### 17.2 TERMINATION FOR CAUSE

Either party (**Non-Defaulting Party**) may terminate this agreement immediately by written notice to the other party (**Defaulting Party**) if the Defaulting Party is in breach of this agreement and either:

- (a) fails to remedy such breach within 14 days of receiving notice from the Non-Defaulting Party requiring it to remedy such breach; or
- (b) that breach is not capable of remedy.

#### 17.3 EFFECT OF TERMINATION

Upon termination of this agreement:

- (a) Reading Doctor may delete any data and material associated with the Customer, its Personnel, any Licensed User and any User, including Customer Data, 14 days after the end of the Term. Reading Doctor will not be able to recover any such data or content more than 14 days after the end of the Term, so it is recommended that the Customer backs up anything important to it during this period. Reading Doctor will not be responsible to the Customer, or any User, for, and Reading Doctor expressly disclaims

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any liability for, any cost, loss, damages or expenses arising out the cancellation, termination or expiry of this agreement and any loss of data;

- (b) if Reading Doctor has terminated this agreement under clause 17.1, or the Customer has terminated this agreement under clause 17.2, then Reading Doctor will refund any amounts paid by the Customer for goods or services not provided as at the date of termination;
- (c) if Reading Doctor has terminated this agreement under clause 17.2, then no refund will be provided to the Customer for goods or services not provided as at the date of termination;
- (d) the Customer must pay all amounts owed for goods or services already provided as at the date of termination;
- (e) each party must return all property of other parties to those respective parties;
- (f) each party must immediately return to each other party, or (if requested by that party) destroy, any documents in its possession or control containing Confidential Information of the other party; and
- (g) no rights, liabilities or remedies of any party will be invalidated by the termination.

#### 17.4 SURVIVAL

Any clause that by its nature would reasonably be expected to be performed after the termination or expiry of this agreement will survive and be enforceable after such termination or expiry.

### 18. DISPUTE RESOLUTION

- (a) A party claiming that a dispute has arisen under or in connection with this agreement must not commence court proceedings arising from or relating to the dispute, other than a claim for urgent interlocutory relief, unless that party has complied with the requirements of this clause.
- (b) A party that requires resolution of a dispute which arises under or in connection with this agreement must give the other party or parties to the dispute written notice containing reasonable details of the dispute and requiring its resolution under this clause.
- (c) Once the dispute notice has been given, each party to the dispute must then use its best efforts to resolve the dispute in good faith.
- (d) If the dispute is not resolved within a period of 14 days after the date of the notice, a party may by notice to the other party or parties to the dispute refer the dispute for mediation by the Australian Disputes Centre (the **ADC**) in accordance with the ADC Guidelines for Commercial Mediation operating at the time the matter is referred to the ADC (**Guidelines**). The terms of the Guidelines are hereby deemed incorporated into this agreement.
- (e) If the dispute is not resolved within 28 days after the appointment of the mediator any party may take legal proceedings to resolve the dispute.

### 19. NOTICES

- (a) A notice or other communication to a party under this agreement must be:
  - (i) in writing and in English; and
  - (ii) delivered via email to the other party, to the email address specified in this agreement, or if no email address is specified in this agreement, then the email address most regularly used by the parties to correspond regarding the subject matter of this agreement as at the date of this agreement (**Email Address**). The parties may update their Email Address by notice to the other party.
- (b) Unless the party sending the notice knows or reasonably ought to suspect that an email was not delivered to the other party's Email Address, notice will be taken to be given:

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- (i) 24 hours after the email was sent; or
  - (ii) when replied to by the other party,
- whichever is earlier.

## 20. FORCE MAJEURE

- (a) If a party (**Affected Party**) becomes unable, wholly or in part, to carry out an obligation under this agreement (other than an obligation to pay money) due to a Force Majeure Event, the Affected Party must give to the other party prompt written notice of:
  - (i) reasonable details of the Force Majeure Event; and
  - (ii) so far as is known, the probable extent to which the Affected Party will be unable to perform or be delayed in performing its obligation.
- (b) Subject to compliance with clause 20(a) the relevant obligation will be suspended during the Force Majeure Event to the extent that it is affected by the Force Majeure Event.
- (c) The Affected Party must use its best endeavours to overcome or remove the Force Majeure Event as quickly as possible.
- (d) For the purposes of this agreement, a 'Force Majeure Event' means any:
  - (i) act of God, lightning strike, meteor strike, earthquake, storm, flood, landslide, explosion or fire;
  - (ii) strikes or other industrial action outside of the control of the Affected Party;
  - (iii) war, terrorism, sabotage, blockade, revolution, riot, insurrection, civil commotion, epidemic, pandemic; or
  - (iv) any decision of a government authority in relation to COVID-19, or any threat of COVID-19 beyond the reasonable control of the Affected Party, to the extent it affects the Affected Party's ability to perform its obligations.

## 21. GENERAL

### 21.1 GOVERNING LAW AND JURISDICTION

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

### 21.2 AMENDMENTS

This agreement may only be amended in accordance with a written agreement between the parties.

### 21.3 WAIVER

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

### 21.4 SEVERANCE

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

### 21.5 JOINT AND SEVERAL LIABILITY

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

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21.6 ASSIGNMENT

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

21.7 COUNTERPARTS

This agreement may be executed in any number of counterparts. Each counterpart constitutes an original of this agreement and all together constitute one agreement.

21.8 COSTS

Except as otherwise provided in this agreement, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing this agreement.

21.9 ENTIRE AGREEMENT

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

**22. DEFINITIONS AND INTERPRETATION**

(a) In this agreement, the following rules of interpretation apply:

- (i) **(singular and plural)** words in the singular includes the plural (and vice versa);
- (ii) **(gender)** words indicating a gender includes the corresponding words of any other gender;
- (iii) **(defined terms)** if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (iv) **(person)** a reference to "person" includes an individual, the estate of an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;
- (v) **(party)** a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (vi) **(this agreement)** a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure to or of this agreement;
- (vii) **(document)** a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (viii) **(currency)** a reference to "\$" or "dollar" is to Australian currency;
- (ix) **(headings)** headings and words in bold type are for convenience only and do not affect interpretation;
- (x) **(includes)** the word "includes" and similar words in any form is not a word of limitation; and
- (xi) **(adverse interpretation)** no provision of this agreement will be interpreted adversely to a party because that party was responsible for the preparation of this agreement or that provision.

(b) In this agreement, capitalised terms have the meaning given to them in an Order Form, and the following phrases have the meaning set out in Table 1.

**Table 1: Definitions**

<b>Term</b>	<b>Definition</b>
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<b>Confidential Information</b>	means information of or provided by a party that is by its nature is confidential information, is designated by that party as confidential, or that the other party knows or ought to know is confidential, but does not include information which is or becomes, without a breach of confidentiality, public knowledge.
<b>Cooling Off Notice</b>	has the meaning given in clause 3(a).
<b>Cooling Off Period</b>	has the meaning given in clause 3(a).
<b>Customer Data</b>	means files, data or any other information, which is uploaded or inserted to the Solution by the Customer or its Licensed Users.
<b>Documentation</b>	means all manuals, help files and other documents supplied by Reading Doctor to the Customer relating to the Solution, whether in electronic or hardcopy form.
<b>Fees</b>	has the meaning given in clause 7.1(a) and includes the Setup Fee and Annual Fee set out in an Order Form.
<b>Initial Term</b>	has the meaning given in an Order Form.
<b>Number of Licensed Users</b>	has the meaning given in an Order Form.
<b>Order Form</b>	has meaning given in clause 2.
<b>Licensed User</b>	means a user of the Solution and Documentation who has been validly granted access to the Software and Documentation by the Customer in accordance with clause 4.2.
<b>Personnel</b>	means, in respect of a party, its officers, employees, contractors (including subcontractors) and agents.
<b>Solution</b>	has the meaning given in clause 3.
<b>Subscription Tier</b>	has the meaning given in an Order Form.
<b>User</b>	means the Customer's Licensed Users, its Personnel, and any other third party who are granted access to the Software or Documentation by the Customer, its Licensed Users or its Personnel.

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