
Ignition for Marketplaces – Terms & Conditions

By signing a Commercial Details Form that references these terms and conditions, the Parties agree to accept and be bound by the terms and conditions of this Agreement.

1 Definitions and Interpretation

1.1 In this Agreement, unless the context otherwise requires:

Additional Service Terms means any additional terms and conditions applicable to a particular feature, product or service, as made available at <https://www.ignitionformarketplaces.com/legal/AdditionalServiceTerms>.

Affiliate means, in relation to an entity, any other entity that directly or indirectly controls, is controlled by, or is under common control with that entity. For the purposes of this definition, control means the ownership or control (directly or indirectly) of more than 50% of the voting interests of an entity.

Agreement means these *Ignition for Marketplaces – Terms & Conditions*, together with any executed Commercial Details Form, and includes all schedules, addenda, and other documents expressly incorporated by reference.

Beta Services means services described in clause 5.

Business Day means a day that is not a Saturday, Sunday or public holiday in Melbourne, Australia.

Commencement Date means the date specified as the commencement date in the applicable Commercial Details Form, or where no such date is specified, the date of execution of the Agreement.

Commercial Details Form means the form titled 'Commercial Details Form' entered into by the Parties which references and forms part of this Agreement and includes any written addenda and supplements thereto.

Company means Automotive Exchange Pty Ltd (Australian Business Number 90 129 848 915) (trading as 'Ignition for Marketplaces') of Ground Floor, 188-198 Churchill Avenue, Subiaco WA 6008.

Company Background Materials means all Materials which are:

- (a) owned by the Company, or licensed to the Company by third parties, prior to the Commencement Date; or
- (b) developed or acquired by the Company independently of the Agreement; and
- (c) include modifications, developments and enhancements of the aforementioned Materials, which may be developed by the Company in the course of providing the Services and aggregated and anonymised data which may be received by the Company in the course of providing the Services.

However, for the avoidance of doubt, Company Background Materials does not include:

- (a) any Customer Background Materials;
- (b) any Customer Data; or
- (c) a Customer Digital Property.

Confidential Information (of a party) means any information of a confidential nature:

- (a) regarding the business or affairs of that party or Affiliates;
- (b) regarding the commercial arrangements between the parties; or
- (c) which the other party knows, or ought to know, is confidential.

Consumer Price Index means the Consumer Price Index (All Groups, weighted average of eight capital cities) published by the Australian Bureau of Statistics, or any replacement or successor index published by that body.

Customer means the entity identified as the customer in the Commercial Details Form.

Customer Background Materials means all Materials which are owned by the Customer, or licensed to the Customer by third parties, prior to the Commencement Date and modifications, developments and enhancements of the aforementioned Materials.

Customer Data means data that is not otherwise publicly available provided by the Customer to the Company to enable the Company to provide the Services.

Customer Digital Property means the Customer's website(s) (any site owned by the Customer and any subdomains to it) and the Customer's mobile application(s) downloaded by a user to a mobile device, solely as described in the Commercial Details Form.

Data Processing Addendum means the Company's data processing addendum made available at <http://www.ignitionformarketplaces.com/legal/DPA> as updated in accordance with its terms.

Fees means the fees payable by the Customer to the Company specified in clause 4.

Indirect Loss means Losses which do not arise naturally (that is, according to the usual course of things) from the relevant breach of this Agreement (including loss of profits or revenue, loss of goodwill or reputation, loss of anticipated benefits or savings, loss of data, loss of any prospect or business opportunity, loss of production or other business interruption loss).

Intellectual Property means all current and future intellectual property rights including copyright, trademarks, designs, patents, including any application or right to apply for registration of any such rights whether created before or after the date of the Agreement, and whether registered or unregistered, existing anywhere in the world.

Joint Controller Terms means the Joint Controller Terms made available at <http://www.ignitionformarketplaces.com/legal/JCTerms> as updated from time to time in accordance with its terms.

Loss includes any liability, damage, costs (including legal costs on a solicitor and own client basis) and other outgoing, and any diminution in value of, or deficiency of any kind, in anything.

Materials means any materials, content or information in any form, including documents, text, marketing copy, photographs, images, graphics, artwork, audio visual content, designs, models, software (including source and object code), data, databases and know-how, whether in written, electronic, digital, visual, audio or other human-readable or machine-readable form.

Parties means the Customer and Company.

Personal Data means any personal information, personal data or similar information regulated by, or otherwise subject to, applicable Privacy Laws.

Privacy Laws means any law, regulation, ordinance, code, determination, standard or other legally binding rule in any applicable jurisdiction relating to privacy, data protection, data security, cookies, tracking technologies, or the collection, access, use, disclosure, storage, transfer, processing or deletion of Personal Data.

Proposal means an introductory proposal presented by the Company to the Customer relating to the Services.

Representative means in relation to a Party, that Party's officers, directors, employees, agents, contractors, subcontractors, professional advisers and Affiliates, and the officers, employees and contractors of those Affiliates, in each case acting within the scope of their engagement or authority.

Services means the Company's provision of the Ignition for Marketplaces platform to Customer, and related services, as further described in clause 2.

Term means the duration of this Agreement as defined in clause 13.

1.2 In this Agreement, unless the context otherwise requires:

- (a) the singular includes the plural and the plural includes the singular;
- (b) a word importing a gender includes all other genders;
- (c) a reference to a part, clause or party is a reference to a part or clause of, or a party to, this Agreement;
- (d) any agreement, representation, warranty or indemnity by two or more parties binds them jointly and severally;
- (e) a reference to legislation includes any statutory modification or replacement and any subordinate or delegated legislation issued under such legislation;
- (f) if the day on which anything is to be done is not a Business Day it shall be done on the next Business Day;
- (g) reference to a Party to this Agreement includes that Party's executors, administrators, successors and permitted assigns;
- (h) headings are only for convenience and do not affect interpretation; and
- (i) where a defined term is used, its other grammatical forms and other parts of speech have a corresponding meaning.

1.3 In the event of any conflict or inconsistency between any documents forming part of this Agreement, the following order of precedence applies:

- (a) the Commercial Details Form;
- (b) Additional Service Terms;
- (c) Joint Controller Terms;
- (d) Data Processing Addendum; and
- (e) these Ignition *for Marketplaces – Terms & Conditions*.

2 Services

2.1 The Company grants to the Customer a non-exclusive, non-transferable and non-sublicensable licence to access and use the Services during the Term solely for the Customer's internal business purposes and for utilisation on the Customer Digital Properties only, in accordance with the terms of this Agreement.

2.2 The Customer must not, and must not permit any third party to:

- (i) reverse engineer, decompile, disassemble, copy, derive from or otherwise attempt to extract the source code, underlying ideas, algorithms or structure of the Services or any part of them;
- (ii) use the Services to develop, provide or assist in the development of a product or service that competes with the Services or any material functionality of the Services;

- (iii) licence, sublicense, sell, resell, rent, lease, distribute, make available or otherwise provide access to the Services to any third party, except as expressly permitted under this Agreement; or
- (iv) use the Services other than for the permitted purpose set out in clause 2.1 or in breach of applicable laws.

2.3 The Customer must:

- (a) provide accurate and complete information reasonably required to enable the Company to provide the Services;
- (b) ensure its Customer Digital Properties and Customer Data used in connection with the Services comply with applicable laws (including privacy, advertising and consumer protection laws);
- (c) ensure it has all necessary rights, licences and consents to use any data, creative or materials provided in connection with the Services;
- (d) comply with all reasonable usage guidelines made available by the Company from time to time; and
- (e) provide the Company and its Representatives with reasonable access to the Customer's systems, environments and personnel, to the extent reasonably required to implement, integrate, configure, support and maintain the Services.

3 Additional Terms

- 3.1 Certain Services, as described in the Additional Service Terms, are subject to those Additional Service Terms.
- 3.2 Where a Customer accesses or uses any Service that is subject to Additional Service Terms, those Additional Service Terms apply to and govern such access or use, and are incorporated into and form part of this Agreement.
- 3.3 3.3 The Company may update the Additional Service Terms from time to time (such as to reflect new product features, or changes in law). If an update materially adversely affects the Customer's rights or obligations, the Company will give the Customer at least 30 days' prior notice.
- 3.4 If the Customer does not agree to an update notified under clause 3.3, the Customer may, before the update takes effect, stop using the affected feature, product or service. Continued use of the affected feature, product or service after the update takes effect constitutes acceptance of the update.
- 3.5 The Company may modify the Additional Service Terms from time to time to accommodate new features, products or services, changes in law or regulatory guidance, third-party requirements, security, privacy or technical updates, changes to the Services, or operational or administrative requirements. Where a change may have a material adverse impact on the Customer, the Company will provide the Customer with at least 30 days' prior notice of the change by email to the Customer's nominated email address.
- 3.6 If the Customer does not agree to a proposed change that would have a material adverse impact on the Customer, the Customer may, before the change takes effect, elect to cease using the affected feature, product or service without penalty. Continued use of the affected feature, product or service after the effective date of the change constitutes acceptance of the change.

4 Fees

- 4.1 In consideration of the Company providing the Services, the Customer must pay all Fees as specified in the Commercial Details Form, and any additional charges as otherwise agreed in writing between the Parties.
- 4.2 The Fees will increase by 5% immediately prior to each anniversary of the Commencement Date, unless otherwise specified in the Commercial Details Form.
- 4.3 In accordance with the Commercial Details Form, the Company, or any Affiliate of the Company, may invoice the Customer for Fees and any applicable charges in the manner, frequency and timing specified in the Commercial Details Form. The Customer must pay all amounts invoiced within the payment period specified in the Commercial Details Form, calculated from the date of issue of the relevant invoice, unless otherwise agreed in writing. The Customer acknowledges and agrees that, depending on the particular product or services utilised by the Customer, the Customer may receive one or more invoices from Company and its Affiliates.
- 4.4 If the Commercial Details Form does not specify a payment period, invoices are payable within fourteen (14) days of issue.
- 4.5 To the extent that payments to be made under this Agreement are subject to a consumption tax or a withholding tax (e.g. GST / VAT) the amount of such tax will be shown as a separate item on the relevant invoice and will be added to the Fees.
- 4.6 All amounts payable by the Customer under this Agreement must be paid in full without any set-off, counterclaim, deduction or withholding of any kind, except to the extent required by applicable law. If the Customer is required by applicable law to make any deduction or withholding from an amount payable under this Agreement, the Customer must promptly pay to the Company such additional amount as is necessary to ensure that the net amount actually received by the Company equals the full amount the Company would have received had no such deduction or withholding been required, except in respect of any withholding imposed on the Company's net income.
- 4.7 If any amount owing by the Customer under this Agreement is forty-five (45) or more days overdue interest shall accrue on all amounts owing at the rate of 12% per annum or the maximum rate allowed by applicable law, whichever is less, from the date on which such payment was due until the date on which it is paid in full with accrued interest.

5 Beta Services

- 5.1 Beta Services may be offered by the Company from time to time on a pilot or beta basis, as specified in the Commercial Details Form or otherwise notified to the Customer.
- 5.2 The Customer acknowledges that Beta Services are pre-release, experimental and provided for evaluation purposes only. Beta Services may contain errors or defects and may not operate as intended or at all.
- 5.3 To the maximum extent permitted by law, Beta Services are provided on an "as is" and "as available" basis, without warranties of any kind. The Company does not make any representations or guarantees in relation to the availability, performance, functionality, accuracy or outcomes of Beta Services.
- 5.4 Notwithstanding anything else in this Agreement, the Company has no liability whatsoever arising out of or in connection with Beta Services, and any liability that cannot be excluded by law is limited to nil consideration.
- 5.5 The Company may modify, suspend or discontinue Beta Services at any time without notice. The Customer may cease using the Beta Services at any time upon written notice.
- 5.6 Unless otherwise specified in the Commercial Details Form, upon expiry of this Agreement in respect of Beta Services, the Agreement automatically terminates in relation to those

Beta Services and does not renew, continue or convert into an ongoing agreement for non-beta Services.

- 5.7 This clause 5 prevails over any inconsistent provision of this Agreement in respect of Beta Services.

6 Free Trials

- 6.1 A free trial (of the Services, or an element of the Services) may be offered by the Company if specified in the Commercial Details Form or otherwise agreed in writing between the Parties. Unless otherwise agreed in writing or specified in the Commercial Details Form, the free trial commences on the date the Customer is first given access to the relevant Services and continues for sixty (60) days.
- 6.2 Unless otherwise agreed in writing between the Parties before the end of the free trial, this Agreement automatically terminates at the end of the free trial in respect of the relevant Services, without any further liability by either Party except for rights and obligations which accrued before termination and any provisions which by their nature survive termination.
- 6.3 The Parties acknowledge and agree that this clause 6 and the Agreement are supported by sufficient consideration, including each Party entering into the Agreement, the Company making the relevant Services available for evaluation, and the Customer's obligations under this Agreement (including confidentiality, intellectual property, compliance and use restrictions), and that the Agreement is intended to be legally binding notwithstanding that no Fees are payable in respect of the free trial.
- 6.4 The Customer acknowledges that the free trial Services are provided for internal evaluation purposes only, may be incomplete, unavailable or changed at any time, and are provided on an "as is" and "as available" basis. To the maximum extent permitted by law, the Company gives no warranties, representations or commitments in relation to the free trial Services, including as to availability, continuity, performance, functionality or fitness for purpose.
- 6.5 Unless otherwise agreed by the Company in writing, the Customer must not use any live production data in connection with the free trial Services, and the free trial Services must only be used in a sandbox, test or other non-production environment.
- 6.6 The Company may suspend, modify or discontinue the free trial Services at any time. The Customer may stop using the free trial Services at any time. Unless otherwise agreed in writing, the Customer must cease using the free trial Services on expiry or termination of the free trial.
- 6.7 To the maximum extent permitted by law, the Company has no liability arising out of or in connection with the free trial Services, and where liability cannot be excluded, it is limited to resupplying the free trial Services. This clause 6 prevails over any inconsistent provision of this Agreement in respect of the free trial Services.

7 Privacy

- 7.1 Each Party is responsible for complying with applicable Privacy Laws in respect of any Personal Data it collects, receives, discloses, uses, stores, transfers or otherwise processes in connection with this Agreement, including any Personal Data received from or on behalf of the other Party or its Affiliates.
- 7.2 Each party will implement reasonable technical and organisational measures designed to protect Personal Data and data processed in connection with the Services against misuse, loss, unauthorised access, modification or disclosure.
- 7.3 As the operator of Customer Digital Properties, Customer acknowledges and agrees that it is solely responsible for obtaining all necessary consents from Customer Digital Property end users, making all necessary disclosures and notifications on its Customer Digital

Properties, and taking all other necessary steps, as required under applicable Privacy Laws, to ensure that Personal Data collected in connection with this Agreement is collected in accordance with all applicable Privacy Laws, and can be utilised for the purposes contemplated by this Agreement.

- 7.4 Each Party warrants that it maintains and will maintain reasonable policies, procedures and systems designed to identify, investigate, respond to and document any actual or suspected unauthorised access to, disclosure of, loss of, alteration of, or destruction of Personal Data collected or processed in connection with this Agreement (**Personal Data Breach**).
- 7.5 If a Party becomes aware of a Personal Data Breach, it must notify the other Party without undue delay and cooperate with the other Party as reasonably necessary to investigate, mitigate and remediate the Personal Data Breach and to enable the other Party to comply with its obligations under applicable Privacy Laws.
- 7.6 To the extent any of the GDPR, UK GDPR or CPRA (as defined in the Data Processing Addendum) apply, the Parties agree that:
- (a) subject to clause 7.6(b), the Company acts as a processor of Personal Data that it processes in connection with its provision of the Services to the Customer, and the Data Processing Addendum forms part of this Agreement and applies to that processing; and
 - (b) the Company acts as a joint controller for the limited collection and transmission of Personal Data from end-user devices using Company technologies, in relation to which the Joint Controller Terms apply.

8 Indemnity

- 8.1 The Customer indemnifies and will keep indemnified the Company and its Affiliates, against all losses, damages, liabilities, claims and expenses (including legal costs) incurred by the Company, arising out of or in connection with:
- (a) Customer's breach of the Agreement;
 - (b) any unlawful or negligent act or omission by the Customer or its Representatives except to the extent such loss or damage is caused or contributed to by the Company;
 - (c) any Materials provided by the Customer infringe the Intellectual Property of a third party; and
 - (d) without limiting clause 8.1(a), any act or omission of the Customer, its Affiliates or their respective Representatives in connection with this Agreement which causes the Company to contravene Privacy Laws.

9 Liability

- 9.1 Nothing in this Agreement excludes, restricts or modifies any consumer guarantee, right, remedy or liability that cannot be excluded, restricted or modified by law.
- 9.2 To the extent permitted by law, and subject to clause 9.1:
- (a) the Company excludes all terms, conditions, warranties and guarantees which might be implied into this Agreement; and
 - (b) the aggregate liability of the Company and its Affiliates and Representatives under or in connection with this Agreement, however arising, is limited to the amount of Fees paid by the Customer to the Company in the 12 months preceding the date on which the relevant Loss was suffered.
- 9.3 The liability cap in clause 9.2(b) does not apply to liability that cannot be excluded, restricted or modified by law, or liability arising from the Company's fraud or wilful misconduct.

- 9.4 Neither party will be liable to the other for any Indirect Loss, whether arising in contract, tort (including negligence), under statute or otherwise, even if advised of the possibility of such loss.
- 9.5 Without limiting clauses 9.2 to 9.3, the Company is not liable to the Customer for any Loss arising out of or in connection with any of the following:
- (a) any act or omission of the Customer, its Affiliates or Representatives, including any failure to provide accurate, complete or timely information, approvals, instructions, access, cooperation or Customer Data;
 - (b) any Customer-controlled settings, inputs, data, configurations, tags, integrations, activation decisions, campaign settings or use of the Services contrary to this Agreement, the Company's reasonable directions or applicable documentation;
 - (c) any systems, services, infrastructure, platforms, data sources, networks, exchanges, integrations or other technology provided, operated or controlled by the Customer or a third party, including any failure, delay, outage, suspension, degradation, incompatibility or change to those items;
 - (d) any disruption, outage, unavailability, delay, degradation, loss of functionality or loss of data affecting the Services to the extent it results from matters outside the Company's reasonable control.
- 9.6 Nothing in this Agreement limits the Customer's obligation to pay Fees in full when due.
- 9.7 In this clause 9, references to the Company include its Affiliates and Representatives.

10 Intellectual Property

- 10.1 Customer retains all rights in and to the Customer Background Materials and the Company retains all rights in and to the Company Background Materials.
- 10.2 Subject to clause 10.3, the Intellectual Property subsisting in any Materials, other than Customer Background Materials, created, developed or provided by or on behalf of the Company in connection with the Services vests in the Company.
- 10.3 Customer grants to the Company a non-exclusive, worldwide, royalty-free, sublicensable licence to use, copy, process, modify and distribute Customer Data, Customer Background Materials and any other Materials provided by or on behalf of the Customer under this Agreement, and data generated or derived from or by the Customer's use of the Services, in each case in accordance with the terms of this Agreement, and to the extent reasonably necessary to provide, support, maintain, secure and improve the Services. The Company does not acquire ownership of the Customer Data, Customer Background Materials or other Customer-provided Materials.
- 10.4 Company may use aggregated and de-identified data derived from the use of the Services for product improvement, analytics and benchmarking purposes on a perpetual basis.
- 10.5 Customer represents and warrants that it has all necessary rights, consents and licences to provide, licence and authorise the Company to use any Materials, including Customer Background Materials, used in connection with the Services, and that the provision and use of those Materials by the Customer, its Affiliates and the Company in accordance with this Agreement will not infringe the Intellectual Property or other rights of any third party.
- 10.6 All right, title and interest in and to the Services and all associated Intellectual Property vest exclusively in the Company and its licensors. No rights are granted to the Customer other than as expressly set out in this Agreement.
- 10.7 The Customer agrees that: (a) Company may use Customer's name, logo and brand assets in Company's marketing materials for the purpose of identifying Customer as a customer of the Company and promoting Customer's usage of the Services; and (b) Customer will reasonably participate with Company in a case study showcasing its utilisation of the

Services. Customer grants to the Company a revocable, non-exclusive, non-transferable, royalty-free licence to use and reproduce the Customer's name, logo and brand assets for that purpose. Customer may revoke this licence in respect of any further publication by the Company at any time by providing written notice to the Company.

11 Confidentiality

- 11.1 Each Party (a **Recipient**) must keep confidential, and not use or disclose, any Confidential Information of the other party, except as permitted by this Agreement.
- 11.2 The obligation of confidence in clause 11.1 does not apply to Confidential Information that is:
- (a) in the public domain otherwise than as a result of a breach of this Agreement or another obligation of confidence;
 - (b) independently developed by the Recipient; or
 - (c) already known by the Recipient independently of its interaction with the other party and free of any obligation of confidence.
- 11.3 A Recipient may disclose Confidential Information of the other Party:
- (a) if required by law or court order to do so;
 - (b) to officers, employees, agents, advisors and Affiliates of the Recipient who:
 - (i) have a need to know (and only to the extent that each has a need to know) the Confidential Information for the purposes of this Agreement; and
 - (ii) have been directed and have agreed to keep confidential the Confidential Information on terms not inconsistent with this Agreement.
- 11.4 Each Party must take all steps and do all things necessary, prudent or desirable in order to safeguard the confidentiality of the Confidential Information of the other Party.
- 11.5 A Recipient must promptly upon request from the other party destroy or return to the other party all the other Party's Confidential Information in the Recipient's possession or control. Notwithstanding the foregoing, the Recipient may retain Confidential Information that:
- (a) the Recipient is obliged by law to retain;
 - (b) is required for internal corporate governance, risk management or audit purposes, save that it must only be accessed for genuine compliance purposes; and
 - (c) is stored electronically in routine backups, so long as no attempt is made to recover the Confidential Information other than as required by law,
- provided that any Confidential Information retained is kept confidential in accordance with the terms of this Agreement.

12 Warranties & Disclaimers

- 12.1 Each party represents and warrants to the other party that each of the following statements is true and accurate at the date of this Agreement:
- (a) it is validly existing under the laws of its place of incorporation or registration; and
 - (b) it has the power to enter into and perform its obligations under this Agreement and to carry out the transactions contemplated by this Agreement;
- 12.2 Customer represents and warrants that by entering into this Agreement, or receiving Services under this Agreement, the Customer will not breach any agreement or arrangement between Customer and any third party.

- 12.3 Unless otherwise agreed by the Company in writing, to the maximum extent permitted by law, and subject to clause 9.1, the Services are provided on an “as is” and “as available” basis. Without limitation, the Company does not warrant that:
- (a) the Services will be uninterrupted, secure or error-free;
 - (b) the Services will be available at any particular time or location; or
 - (c) any data, insights or outputs generated by the Services will be complete, accurate or fit for a particular purpose.
- 12.4 Where the Company has provided a Proposal to the Customer, the Customer acknowledges and agrees that any statement made by the Company in the Proposal as to the projected outcomes the Customer may be able achieve through the use of the Services, is made on the assumptions set out in the Proposal and solely for the purpose of providing an indicative guide of the outcomes that are potentially achievable by the Customer. The Customer acknowledges that actual outcomes achieved by the Customer will be dependent on many factors outside the control of the Customer and the Company and that there can be no guarantee that any particular projected outcome will be achieved. The Company does not accept any liability from any reliance by the Customer on such statements.
- 12.5 The Company does not make any representation or warranty as to the revenue able to be generated or the amount of profit arising from the use of the Services.

13 Term & Termination

- 13.1 This Agreement commences on the Commencement Date and continues for an initial term of twelve (12) months, unless a different initial term is specified in the Commercial Details Form.
- 13.2 Following expiry of the initial term, this Agreement will continue on a rolling basis unless terminated by either party on ninety (90) days’ written notice, or in accordance with the other termination provisions of this Agreement.
- 13.3 Either Party may terminate this Agreement by notice in writing to the other Party (such notice to take effect immediately) if the other Party:
- (a) commits a material breach of this Agreement that is capable of remedy and fails to remedy that breach within 21 days after receiving written notice requiring it to do so;
 - (b) commits a material breach of this Agreement that is not capable of remedy; or
 - (c) becomes insolvent, meaning it is unable to pay its debts as they fall due or becomes subject to administration, liquidation, receivership or a similar insolvency process.
- 13.4 Without limiting clause 13.3, the Company may, without limiting its other rights and remedies, suspend the Services or terminate the Agreement if the Customer fails to pay any Fees when due and remains in default for fourteen (14) days after receiving written notice of non-payment.
- 13.5 Upon termination or expiry of this Agreement:
- (a) all rights granted to the Customer to access and use the Services immediately cease; and
 - (b) termination does not relieve the Customer of its obligation to pay Fees accrued up to the effective termination date.

14 Force Majeure

- 14.1 Should a Party be affected by an event beyond its control which may include, but is not limited to, floods, fires, storms, earthquake or other natural disasters, any act of God, any civil or labour unrest (such as strikes, lockouts, riots, acts of terror or actions on the part of a government or other authority), any internet service provider failure or delay, any epidemic, pandemic or public health emergency or any resulting government action (Force Majeure Event) which materially interferes with that Party's ability to perform their obligations under this Agreement then that Party shall immediately advise the other Party of the Force Majeure Event and take all reasonable steps to mitigate the effects of the Force Majeure Event on the Services.
- 14.2 Any delay or inability by a Party to perform its obligations under this Agreement shall not be deemed a breach if that delay or inability to perform is as a result of the Force Majeure Event of which the other Party has been notified.
- 14.3 Should the Force Majeure Event continue for more than 90 consecutive days, either Party shall be entitled to terminate the Agreement on immediate written notice.
- 14.4 For the avoidance of doubt, in the event that the Company is unable to provide the Services due to a Force Majeure Event, the fees payable by the Customer shall be adjusted accordingly for the relevant period.
- 14.5 A Force Majeure Event does not excuse the Customer's obligation to pay Fees when due.

15 Notices

- 15.1 A notice or other communication connected with this Agreement (**Notice**) must be in writing and in English.
- 15.2 Notices given under this Agreement must be sent by email. Notices to the Company must be sent to legal@ignitionformarketplaces.com, and any other email address notified by the Company for notices. Notices to the Customer must be sent to the email address included in the Commercial Details Form, or any more up-to-date email address notified in writing by the Customer for notices.
- 15.3 A notice is taken to be duly given and received when the email enters the recipient's email system, unless the party giving the notice receives an automated message indicating that delivery has failed. If an email is sent after 5.00 pm AEST/AEDT on a Business Day, or on a day that is not a Business Day, it is taken to be received at 9.00 am AEST/AEDT on the next Business Day at the place of receipt.

16 General

- 16.1 Other than as set out in clause 3.3, this Agreement may only be varied or replaced by an agreement in writing executed by the Parties.
- 16.2 This Agreement records the entire agreement between the parties in relation to its subject matter. It supersedes all prior contracts, arrangements, understandings or negotiations by, or between, the parties in relation to the subject matter of this Agreement.
- 16.3 The Company may, as part of a corporate restructure, or in connection with a sale, merger or transfer of business, novate this Agreement to any of its Affiliates by providing 30 days' written notice to the Customer.
- 16.4 A single or partial exercise or waiver by a Party of a right relating to this Agreement does not prevent any other exercise of that right or the exercise of any other right.
- 16.5 Any part or all of any provision of this Agreement that is illegal or unenforceable will be severed from this Agreement and will not affect the continued operation of the remaining provisions of this Agreement.
- 16.6 Any provision of this Agreement which, by its nature, would survive termination or expiration of this Agreement will survive any such termination or expiration of this Agreement.

- 16.7 The Parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the Parties.
- 16.8 Any rights and remedies that a person may have under this Agreement are in addition to and do not replace or limit any other rights or remedies that the person may have.
- 16.9 Customer represents and warrants that it is not, and will not during the Term become, an entity or individual that is the subject of any sanctions, embargoes, or similar restrictions under applicable laws, including but not limited to those imposed by the United Nations, the European Union, the United States, Australia, or any other jurisdiction. The Customer shall promptly notify the Company if it becomes subject to any such sanctions or restrictions. The Company may terminate this Agreement immediately upon written notice if the Customer breaches this clause.
- 16.10 This Agreement is governed by and is to be construed in accordance with the laws applicable in Victoria, Australia. Each party submits to the non-exclusive jurisdiction of courts exercising jurisdiction there in connection with all matters concerning this Agreement.