

Terms of Use for Flexkeeping Software as a Service

LAST UPDATED January 25th 2023

1. Acceptance of the Terms of Use

These terms of use for Flexkeeping – Housekeeping and Hotel Operations Platform are entered into by and between you, (the Customer, you or your) and Flexkeeping Australia PTY Ltd, Level 2, 1 West Street, North Sydney, NSW, 2060, Australia, ABN 39 670 483 511, (“Flexkeeping”, “Company”, “we” or “us”). The following terms and conditions, together with any documents expressly incorporated by reference and provided to the customer (collectively, these “Terms of Use”), govern your online access to and use of the Flexkeeping platform and solutions identified in the Order Form (the “SaaS Services”).

For the avoidance of doubt, any updates or amendments to the following. Terms of Use or any documents which have not been provided to the Customer will not form part of these Terms of Use.

Each of Flexkeeping’s service clients, platform, or any or all parts of the SaaS Services may be described in one or more separate written documents provided by Flexkeeping (Order Form), and these Terms of Use apply only to use of the SaaS Services in so far as they are not contrary to the terms contains in such Order Form and in no way affect the terms and conditions of such Order Form. Any provisions of any Order Form provided by Flexkeeping and accepted by you prevail over any provisions of these Terms of Use.

Please read the Terms of Use carefully before you start to use the SaaS Services. By using the SaaS Services or by clicking to accept or agree to the Terms of Use when this option is made available to you or by executing an Order Form, you accept and agree to be bound and abide by these Terms of Use. If you do not want to agree to these Terms of Use, you must not access or use any of the SaaS Services.

This SaaS Services are offered and available to users who are validly registered business according to legislation applicable to them. By executing an Order Form or by using the SaaS Services, you represent and warrant that you are of legal age to form a binding contract with Flexkeeping, that you are entitled to represent the Customer, and meet all of the foregoing eligibility requirements. If you do not meet all of these requirements, you must not access or use the SaaS Services.

II. Changes to the Terms of Use

Flexkeeping may revise and update these Terms of Use from time to time in Flexkeeping's sole discretion. Flexkeeping must provide not less than 30 days notice to the Customer of any proposed changes, all changes are effective immediately following the expiry of such notice, and apply to all access to and use of SaaS Services thereafter.

Notwithstanding any other provision of these Terms of Use, and without limitation to any termination rights specified in the Order Form, if the changes proposed by Flexkeeping are not acceptable to you, you may terminate the Agreement at any time during the thirty (30) day notice period by written notice to us.

If you choose to terminate this Agreement in accordance with the prior paragraph, we:

(a) may immediately on receipt of your notice terminate your access to the SaaS Services; and

(b) will, within 7 days of such termination, issue to you:

(i) where the monthly fee is paid in advance, a refund for the period beginning on the day immediately after the day on which your notice of termination is given and ending on the last day of that month; or

(ii) where the monthly fee is paid in arrears, a final invoice which shall be calculated on a pro rata basis for the period beginning the first day of that month and ending on day which your notice of termination is given.

Your continued use of the SaaS Services after the expiry of our notice to you means that you accept and agree to the changes. Any changes to Terms of Use also apply to any agreements based on existing and valid Order Forms (to the extent that such terms are not inconsistent with the terms of the Order Form, in which case the terms of the Order Form prevail). The updated Terms of Use are effective as of their acceptance (whether expressed or implied in accordance with the preceding paragraph) together with the Order Form.

Flexkeeping and Customer are referred to herein each individually as a "Party" and collectively the "Parties." In consideration of the mutual covenants contained in the Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

III. SaaS Services

1) Scope. Flexkeeping will provide Customer with online access to and use of the SaaS Services identified in more detail in the Order Form during the Term via the internet by use of a Customer-provided browser or the Flexkeeping's mobile application and platform, which are part of SaaS Services, which may be used by hotel staff of Customer pursuant to these terms of use. Flexkeeping may also provide additional services to the Customer in connection with its use of the SaaS Services, including additional training, data conversion and program modification and / or enhancements, as may be noted in the Order Form from time to time (Professional Services) for the applicable fees noted in the Order Form (Professional Fees) (such SaaS Services and Professional Services are referred to herein collectively as the "Services"). These Terms of Use together with one or more valid Order Form(s) are herein referred to all together as "the Agreement" . The date of the execution of the Order Form is deemed to be the "Effective Date".

2) Access and Use of SaaS Service. Subject to the terms and conditions of the Agreement and the payment of the monthly subscription fee specified in the Order Form, Flexkeeping grants Customer a limited, non-exclusive, non-transferable right to allow Customer's Authorized Users (as defined below) to access and use the SaaS Services during the Term solely for Customer's internal business purposes. "Authorized Users" means those employees, agents and independent contractors of Customer who are authorized by Customer to use the SaaS Services. The Agreement grants Customer and it's Authorised Users only the right to use the SaaS Services as set forth herein, and does not convey or transfer title or ownership of the SaaS Services, any underlying technology or software, or any intellectual property rights in any of the foregoing to Customer. Customer is responsible and liable for its Authorized Users' compliance with and/or breach of the terms of the Agreement. All rights not expressly granted herein are reserved by Flexkeeping, and no other licenses are granted herein by Flexkeeping by

implication, estoppel or otherwise. To access the SaaS Services or some of the resources it offers, you may be asked to provide certain registration details or other information. It is a condition of your use of the SaaS Services that all the information you provide to Flexkeeping is correct, current, and complete.

The Customer is responsible :

- making all arrangements in respect of its technology and internet connection necessary for the Customer and Authorized Users to have access to SaaS Services, ensuring that all persons who access the SaaS Services are aware of these Terms of Use and comply with them. "Fees" means the "Solutions Fees" and the "Professional Services Fees".

2.1) Documentation. Customer may print, copy and internally distribute program documentation, user manuals, product technical manuals and other information (either provided by Flexkeeping or made available by Flexkeeping online) describing the operation and use of the SaaS Services if and as available (the "Documentation"), for its internal business purposes only; provided, that Customer replicates all copyright and other proprietary rights notices contained in the original copy of the Documentation. Any Documentation and any copies made are the property and Confidential Information of Flexkeeping.

2.2) Restrictions. The SaaS Services constitute protected copyrighted material and valuable trade secrets of Flexkeeping. Accordingly, Customer will not: (i) authorize or permit use of the SaaS Services or Documentation by persons other than its Authorized Users; (ii) sublicense, lease, rent, loan or otherwise transfer to any third party the right to access and use the SaaS Services; (iii) use or access the SaaS Services for the purpose of building a competitive product; (iv) copy, frame, modify or create any derivative works of the SaaS Services (or any component, part, feature, function, user interface, or graphic thereof) or Documentation, except with the prior written consent of Flexkeeping or to the extent such restriction is prohibited by applicable law; (v) decompile, disassemble, reverse engineer or otherwise attempt to obtain or perceive the source code from which any component of the SaaS Services is compiled or interpreted; (vi) use the SaaS Services as part of a time-share, cloud services or service bureau or on a hosted basis for its own ASP or SAAS offerings; (vii) perform or disclose any benchmark or performance tests of the SaaS Services without Flexkeeping's prior written consent; (viii) perform or disclose any security testing of the SaaS Services or associated infrastructure without Flexkeeping's prior written consent including, but not limited to, network discovery, port and service identification, vulnerability scanning, password cracking, remote access testing, or penetration testing; (ix) remove or modify any

program markings or any notice of Flexkeeping's or its licensors' proprietary rights; (x) use the SaaS Services in violation of applicable laws; (xi) send or store infringing, obscene, threatening, or otherwise unlawful or tortious material, including material that violates privacy rights; (xii) send or store malicious code in connection with the SaaS Services; (xiii) interfere with or disrupt performance of the SaaS Services or the data contained therein; (xiv) attempt to gain access to the SaaS Services or its related systems or networks in a manner not set forth in the applicable Documentation; or (xv) cause or permit any Authorized Users or any other party to do any of the foregoing.

2.3) Passwords and security. Flexkeeping may provide Customer with passwords and other credentials required to enable Customer's Authorized Users with access to the SaaS Services or the Customer or their Authorized Users might be asked to set the passwords themselves. Customer is solely responsible for maintaining the security and confidentiality of its Authorized User's login information and credentials for its subscription to the SaaS Services, and is responsible for any use of the SaaS Services utilizing such information and credentials. Login credentials and passwords are assigned on a named user basis and may not be shared by multiple individuals, provided that, upon written notification to Flexkeeping, Customer may reassign credentials to new named Authorized Users. Customer may not

(i) permit login password codes to be cached in proxy servers and accessed by individuals who are not Authorized Users, or (ii) permit access to the SaaS Services through a single identification or password code being made available to multiple users on a network. Customer agrees to notify Flexkeeping immediately after becoming aware of any unauthorized access to or use of Customer's or Authorized User's user name or password or any other breach of security.

2.4) Customer Responsible for Providing Connectivity and Equipment. Customer is responsible for providing its Authorized Users with an internet connection as well as currently-supported browsers and any necessary equipment or hardware needed to access the SaaS Services. Additional Customer responsibilities may be specified in the Order Form.

2.5) Maintenance and Support. Flexkeeping will provide support to Customer by E-mail accessible at support@flexkeeping.com or via in-app chat available in the platform. Flexkeeping will as soon as possible on becoming aware of any error or failure (whether reported by the Customer or an Authorized User or otherwise), correct such errors or failures that impair the Customers or the Authorized Users' access to the SaaS Services. Flexkeeping may but is not obliged to provide other support options to Customers, any

additional support options and the terms on which and fees of such support options will be set out in the Order Form where applicable.

Flexkeeping and/or its subcontractors shall ensure access to the SaaS Services 24 hours per day, seven days a week, provided, however, that from time to time Flexkeeping or its subcontractors may, where necessary for the continued provision of the SaaS be required to perform scheduled or unscheduled maintenance as may be necessary to maintain the proper operation of the SaaS Services, and access to such SaaS Services by Customer may be impaired or interrupted while such maintenance is being performed. Except in cases of emergencies beyond Flexkeeping's reasonable control, Flexkeeping shall give the customer not less than twenty four (24) hours notice of any scheduled maintenance and provide details of any impact the scheduled maintenance may have on the use of the SaaS Services. Flexkeeping will use its best endeavours to conduct scheduled maintenance during a time which causes minimal disruption to the Customers use of the SaaS Services. **3) Professional Services.** Flexkeeping will provide the Professional Services as set forth in the Order Form, if such Order Form is confirmed by Flexkeeping. Flexkeeping is not obligated to provide any Professional Services or to render any maintenance or support services that are not expressly provided for in a confirmed Order Form, including but not limited to, training, data conversion, program modification or enhancements.

4) Data; Results; Use of Marks and Name.

4.1) Customer Data. As between Customer and Flexkeeping, Customer owns and retains ownership at all times to all right, title, and interest to the specific data and information about the Customer, its hotel(s), its guests, and its employees submitted, processed, or stored by Customer and Authorized Users using the SaaS Services (the "Customer Data"). Customer is solely responsible for the accuracy and quality of the Customer Data. The Parties agree that under no circumstances will Flexkeeping be responsible or have any liability for Customer's or an Authorized User's use of the Customer Data. Customer and each Authorized User are responsible for updating its own Customer Data. Flexkeeping may, by further agreement with the Customer be entitled to use, copy, reproduce, adapt, combine with other data, edit and re-format, generate, store, disclose, distribute, maintain a database of, and make derivative works based upon, any and all Customer Data, however such entitlement does not form under the Agreement and entry into any further agreement for such entitlement will be at the customers sole discretion.

4.2) Contractual processing of personal data. The Customer (as data controller) shall, if and only to the extent reasonably necessary for the provision of the Services by

Flexkeeping under this Agreement, provide the following personal data to Flexkeeping for the purpose of carrying out the obligations arising from the Agreement:

- Personal information about customers guests
- Personal information about platform users (customer's employees)
- Other personal data needed to carry out obligations arising from valid legislation

Flexkeeping (as data processor) will process the following data provided by Customer for the purpose of carrying out the obligations arising from the Agreement.

Personal information about Customer's guests

- Name
- Last name
- Number of adults on reservation
- Number of children on reservation
- Date of reservation
- Date and time of arrival at the hotel (check in)
- Date and time of departure from the hotel (check out)
- Company name (in case of a business trip)
- Country of origin
- ID number of the guest (from the Customer's information system)
- ID number of reservation (from the Customer's information system)

Personal information about platform users (Customer's employees)

- Users first name
- Users last name
- Users email
- Assigned username
- Assigned PIN

Flexkeeping (as data processor) shall process the personal data transmitted in accordance with the purpose deriving from the Agreement. The primary purpose of processing this data is thus to provide operational IT solutions to Customers – data controllers, where it is necessary to display processed personal data in an application for optimisation of operational processes. SaaS Software is used by Authorized Users for

the purpose of communicating activities in the operational process of the Customer and providing better guest services.

In accordance with the GDPR, Flexkeeping may also process personal data for the purposes which are compatible with the original purpose.

Flexkeeping will name a data protection officer (DPO) if current legislation for personal data protection demands it. DPO contact for Flexkeeping Australia PTY Ltd, is dpo@flexkeeping.com.

Sub-data processor is only entitled to perform individual tasks in regards to personal data processing within authorisation given by Flexkeeping and is not allowed to process this data for any other purpose. Flexkeeping is responsible for the execution of these procedures and measures by sub-data processor. The list of contractual sub-data processors is available on request. Please send your request to info@flexkeeping.com.

In order to maintain greater data security, guests' information is deleted from the application every day at midnight, for guests who have been checked out of the hotel during the day. Data on employees is deleted from the storage at the request of the customer, except in cases where it is necessary to store personal data of the employee in accordance with the law. As an exception to the above and in accordance with the purpose (providing IT solutions for operational processes in the hotel), the application keeps the personal information of the guests who reported the lost items necessary for successful return of the objects. This data is archived on the day the lost items are returned.

As an exception to the above and in accordance with the purpose (providing IT solutions for operational processes in the hotel), the application keeps the personal information of the guests (name and surname), which gave the customer a positive or negative review.

In case of the termination of the Agreement Flexkeeping and his sub-processors are obliged to stop processing the personal data belonging to Customer immediately. Exceptionally Flexkeeping is allowed to continue the processing of personal data for the purpose of completing the started obligation arising from the Agreement, which he is obliged to fulfil and any data he is allowed to process under law or under this contract.

In case of the termination of the Agreement, Flexkeeping is obliged to return all personal data belonging to the Customer, except as required to keep data under law.

Personal data protection

Parties to the Agreement undertake to fully comply with the provisions of the Personal Data Protection Act and the recently adopted General Regulation on the Protection of Personal Data 2016/679 regardless of whether they will come in contact with personal data at the location of Customer, during the supervision of the implementation of Flexkeeping platform, through written documentation or by any other means.

Flexkeeping ensures such data protection during data processing procedure as to prevent accidental or deliberate unauthorized destruction of data, their alteration or loss, and the unauthorized processing. He will therefore implement organizational, technical and logical-technical procedures and measures in regards to personal data provided by Customer such as:

- protects premises, equipment and system software, including input / output units,
- protects application software for processing personal data,
- prevents unauthorized access to personal data when they are transmitted, including transmission by telecommunication means and networks,
- provides an effective way of blocking, destroying, erasing or anonymizing personal data.

Personal data must be protected by using cryptographic methods in such a way as to ensure that they are not readable or unrecognizable.

Flexkeeping ensures that he will monitor the security of personal data and in case of identified reasons for increased risk to the security of personal data, take all necessary measures to eliminate or minimize the resulting risks to the minimum.

In the event of a breach of security of personal data (eg. destruction of data, intrusion into the information system or in Flexkeeping premises, unauthorized access, etc. and including, without limitation, in respect of Customer Data), Flexkeeping shall promptly inform the Customer, immediately or as soon as possible and not later than within 3 days and will take all possible measures to end the infringement and to eliminate adverse consequences. Flexkeeping must promptly investigate the relevant data breach event and fully cooperate with the Customers own investigation and provide all relevant information, data and reports, including details of all the customer data accessed.

Flexkeeping shall cooperate with the operator at all times in order to eliminate or reduce the consequences of the violation, to determine the possible damage, to perform legal obligations to inform the supervisory authority and individuals and to implement the instructions of the supervisory authority.

In the event of a dispute between Flexkeeping and Customer, Flexkeeping will in accordance to Article XIII. return the personal data provided by Customer based on his written request. Any copies of such data must be immediately destroyed or forwarded to an authority which, in accordance with the law, is competent to detect or prosecute criminal offenses or to a court or other state authority, if so provided by law.

Flexkeeping may process personal data only in accordance with Customer's instruction and the purpose deriving from the Agreement and in accordance with provisions of this Agreement and applicable law.

Flexkeeping may entrust the execution of works to subcontractors, subject to the provisions of the applicable legislation. The data sub-processor is bound by the same duty of protection of personal data as data processor.

Flexkeeping ensures that the persons authorized to process the personal data that are the subject of the Agreement will be obliged to protect the confidentiality of the data at all times during data processing and even after the termination of processing; Customer specifically undertakes:

- to have the proper legal basis for the acquisition and processing of personal data that he transmits to Flexkeeping.
- to inform Flexkeeping of the specifics and obligations in regards to obligations arising from the Agreement and of any known risks regarding the rights of individuals whose personal data is processed.

Data protection methods

As defined in the Personal Data Protection Act and recently implemented General Data Protection Regulation (GDPR), the operator acts as a data processing partner.

The operator is obliged to safeguard the data with the following methods:

- co-location takes place in a secure room,
- data are stored on two servers, whereas data is replicated between them,
- data archiving takes place every night through a secure channel onto a third server, which is situated at least 90 km from the primary servers,

- data about individual customers are stored in separate tables,
- all user activities are recorded into the diary,
- all other activities that are necessary for proper data protection.

4.2A ('Australian Privacy Protection and Data')

Notwithstanding any other term of these Terms of Use, Flexkeeping must, at all times:

- (a) retain, process or otherwise deal with the Customer Data and all other personal information provided or made available by the Customer in accordance with the Privacy Act 1988 (Cth) and the Australian Privacy Principles; and
- (b) upon the provision of such policies and procedures by the Customer to Flexkeeping, use commercially reasonable efforts to comply with the Customer's policies and procedures in respect of the Customer Data.

4.3) Results. Flexkeeping owns all information, data, documents and any other output results generated by queries, data feeds, and any use of and access to the SaaS Services by Customer (collectively "Results"). For the avoidance of any doubt, all Customer data is and will remain the sole exclusive property of the Customer and nothing in this section grants ownership to, or vests any rights of ownership in, the Customer data (even where de-identified) to Flexkeeping. Flexkeeping has no responsibility for any decisions made on the basis of Results or for completeness or accuracy of the Results or for their usefulness for Customer's purposes.

5) Security. Each Party will maintain commercially reasonable administrative, physical and technical safeguards designed to help protect the security of its internal networks from malicious activity and to provide for the privacy, confidentiality and integrity thereof. Neither Party is liable for breaches of security caused by the other Party's (or in the case of Customer, an Authorized User's) failure to secure its networks or any access information, including login credentials and passwords. Customer will ensure that Customer will not introduce any malicious software into the SaaS Services or which, upon the occurrence of a certain event, the passage of time, or the taking of or failure to take any action, would cause SaaS Services to be destroyed, damaged, or rendered inoperable.

6) Data Protection; Compliance with Privacy Policy; Required Consents.

6.1) Compliance with Laws. Customer will ensure that its use of, and Flexkeeping will ensure that the provision to the Customer of the SaaS Services will be in accordance with applicable law.

6.2) Required Consents. In order to carry out its responsibilities under the Agreement, Flexkeeping may need access to, or Customer may provide access to, software, databases, materials, products, hardware, Customer Data and Customer trademarks, trade names, service marks, logos and other similar indicia of origin (collectively "Customer-Provided Materials"). Customer represents and warrants to Flexkeeping that it has obtained all consents, authorizations or permissions necessary for Flexkeeping to access each item of Customer-Provided Materials (including without limitation any consumer consent required to provide the SaaS Services specified herein) as well as any consent required for communications with individuals (collectively "Required Consents"). Customer is responsible for determining the appropriate disclosures and level of consent required under the law as it is related to its business. Any costs to Customer that are associated with its carrying out these responsibilities are not included in the fees and will be the responsibility of Customer. Customer hereby grants Flexkeeping a non-exclusive, worldwide, royalty-free, paid-up, non-transferable and non-sub-licensable license in and to the Customer-Provided Materials for purposes of providing the Services hereunder.

7) Term and Termination.

7.1) Term of Agreement. The Agreement will begin on the Effective Date and continue as set forth in the Order Form (the "Initial Term"). If an Order Form specifies that the Customer shall make an advance payment, especially in case of agreed Implementation Period and related Professional Services, Flexkeeping is not obliged to render any Services under that Order Form until the receipt of the full advance payment from the Customer. The "Implementation Period" means the period of time between the Effective Date and the earlier of (i) 15 days from the Effective Date or (ii) The date on which all training in respect of the Flexkeeping software is complete and such software is installed and ready to use on each of the Customers devices in respect of all hotels listed in the Order Form.

7.2) Termination.

7.2.1) Termination for Breach. The Agreement may be terminated by either Party:

(i) for the other Party's material breach of its obligations under the Agreement (which in respect of the Customer includes the misuse of the services by the Customer and any

violations of Flexkeeping's privacy policy or the restrictions set forth in section 2.3), but only if such breach, if capable of being cured, is not cured within 30 days of the breaching Party's receipt of written notice of the breach that described the breach in reasonably sufficient detail;

(ii) where there is a delay in payment or nonpayment of fees that lasts more than 30 days from the date such payment was due; or

(iii) if the actions or omissions of a Party subject the other Party to actual or potential civil or criminal liability.

7.2.2) Termination for Insolvency. A Party may terminate the Agreement without prior notice to the other if:

(i) the other Party commences a voluntary case under insolvency law or the corresponding provisions of any successor laws;

(ii) anyone commences an involuntary case against the other Party under insolvency law or the corresponding provisions of any successor laws;

(iii) the other Party becomes insolvent or makes an assignment for the benefit of its creditors or an arrangement for its creditors pursuant to any insolvency law;

(iv) the other Party discontinues its business (for the avoidance of doubt, the closure of one or more (but less than all) hotels by the customer will not constitute a discontinuation of the Customer's business for the purposes of this sub section);

(v) a receiver is appointed for the other Party or its business; or

(vi) the other Party fails generally to pay its debts as they become due (unless those debts are subject to a good-faith dispute as to liability or amount) or acknowledges in writing that it is unable to do so.

7.2.3) Termination during the Money-back guarantee period. If specified in the Order Form, the Customer may be entitled to a Money-back guarantee period in relation to that Order Form. The Money-back guarantee period commences on the day that first Services under that Order Form are started to be rendered by Flexkeeping to a Customer, including any Implementation Services and is limited to Services under that particular Order Form, unless a later date for the commencement of the Money-back guarantee is specified by Flexkeeping in writing. The total duration of the Money-back guarantee period is 14 days, unless specified to be of a different length in the Order Form. During the Money-back guarantee period the Customer may at any time

terminate the Agreement in part related to the Order Form in which the Money-back guarantee period was defined, with immediate effect. In case of termination during the Money-back guarantee period, Flexkeeping shall return to the Customer in 30 days any Fees or Advance Payments actually received based on the Order Form in which the Money-back guarantee period was specified, and shall immediately cease to render any further services under that Order Form. The Customer is not entitled to any interest or other form of payment related to an Advance Payment made.

7.2.4) Effect of Termination. Upon the termination (the "Termination Date"), the rights and licenses, except where otherwise provided, that were granted to each Party under the Agreement will cease. Except for a termination of the Agreement for Flexkeeping's uncured breach, or termination of the Agreement during the Money-back guarantee period as specified under 7.2.3 above, Customer will make payment to Flexkeeping for all unpaid Services up to the Termination Date, within 30 days of Customer's receipt of Flexkeeping's invoice. In case of termination of the Agreement by the Customer for convenience, Flexkeeping will, within seven days of such termination, issue to you:

(a) where the monthly fee is payable in advance a refund for the period beginning on the Termination Date and ending on the last day of that month; or

(b) where the monthly fee is paid in arrears, a final invoice which shall be calculated on a pro rata basis for the period beginning on the first day of that month and ending on the termination date.

Upon written request following a termination, each Party will return to the other all originals and copies of all Confidential Information that has been exchanged hereunder, except as specifically provided herein, provided that Flexkeeping may retain copies of Confidential Information as required by its document retention policy, provided that the terms of the Agreement will continue to apply to such Confidential Information until it is returned or destroyed. Following termination of the Agreement, and except as provided herein, Flexkeeping will remove, delete and/or destroy any Customer Data remaining on the SaaS Services or on Flexkeeping's servers. If Customer wishes to receive any other termination or transition services from Flexkeeping after the Termination Date, the parties may enter into an Order Form for such services at Flexkeeping's then-current rates.

7.3) Suspension of Service. Flexkeeping reserves the right, in its reasonable discretion, to suspend or terminate access to the SaaS Services by Customer if Flexkeeping reasonably believes that Customer's use of the SaaS Services may violate or infringe any law or third party rights or which otherwise exposes or potentially exposes Flexkeeping

to civil or criminal liability, or otherwise threatens the SaaS Services, or data therein provided that such right will not obligate Flexkeeping to monitor or exert editorial control over Customer's use of the SaaS Service. Flexkeeping and Customer will cooperate to expeditiously determine the solution to the issue causing Flexkeeping's suspension of SaaS Service. Once the violation is remedied, Flexkeeping will restore access to the SaaS Service.

8) Fees.

8.1) Fees; Payment Terms. Customer will pay to Flexkeeping the Professional Fees as of the Effective Date and thereafter will pay to Flexkeeping the fees set forth in the Order Form within 15 days from date of receipt of invoice, unless specified to the contrary in the Order Form. Notwithstanding the above, all recurring monthly fees are payable on the 8th day of the month for the current month. Notwithstanding the above, the Order Form may specify that a Customer shall pay an advance payment for any Services to be rendered. In such case the advance payment can be used to cover any Fees for any Services rendered by Flexkeeping.

Past due balances are subject to interest equal to the lower of 1 ½% per month or the maximum rate allowed by law. Flexkeeping may, at its discretion, engage third parties to assist in the collection of past due accounts. Customer will be liable to Flexkeeping for all reasonable costs of third party collection activity, including attorneys' fees, resulting from Customer's past due account. In addition, Flexkeeping may restrict or remove access to the SaaS Services until such invoices are paid in full if Customer has not paid invoices within 30 days.

8.2) Expenses and Other Charges. Customer will reimburse Flexkeeping for all pre-approved expenses incurred in the performance of the Professional Services ("Expenses"). Upon request, Flexkeeping will provide reasonable back-up documenting the Expenses. Expenses will be invoiced by Flexkeeping and such invoices will be payable in accordance with Section 8.1.

8.3) Taxes. Customer will be responsible for any taxes, including but not limited to federal, state and local sales, use, excise, ad valorem, value-added, taxes on royalties, withholding taxes, and/or any other taxes and duties ("Taxes") imposed on the purchases, use, license, and/or provision of Services (including implementation services where applicable). Flexkeeping will use commercially reasonable efforts to include any applicable Taxes on invoices. If Taxes are not included on invoices, Customer has a duty to self-report and will indemnify Flexkeeping should any Taxes go unreported or unpaid to a taxing jurisdiction. If Customer produces supporting documentation certified by

state authority authorizing Customer to pay such Taxes directly, then Flexkeeping will gross up and add such amounts to the fees and withhold from including such Taxes on invoices. It is agreed that each Party will be responsible for any personal property taxes on property it owns or leases, for franchise and privilege taxes on its business, and for taxes based on its income and receipts.

9) Flexkeeping Property.

9.1) Generally. Flexkeeping owns all right, title and interest in and to

(i) the SaaS Services (and any and all developments, modifications, and derivative works of the SaaS Services),

(ii) any improvements, modifications, suggestions, work product, concepts, inventions, information, drawings, designs, programs, or software (whether developed by Flexkeeping, Customer, either alone or with others, and whether completed or in-progress) created as part of the Professional Services and/or to any extent related to the SaaS Services,

(iii) any materials provided by Flexkeeping to Customer or any Authorised User with respect to the SaaS Services, including but not limited to any Documentation, software (whether in object code or source code form), proprietary data, or other proprietary information developed or provided by Flexkeeping or its suppliers, such as text, graphics (including the underlying web-presentation code of the SaaS Services), logos, button icons, images and any non-public know-how, methodologies, equipment, or processes used by Flexkeeping to provide the SaaS Services to Customer, and

(iv) all patents, copyrights, moral rights, trademarks, trade secrets and any other form of intellectual property rights recognized in any jurisdiction, including applications and registrations for any of the foregoing (collectively "Flexkeeping Property").

The Agreement is not an agreement of sale, and no title, patent, copyright, trademark, trade secret, intellectual property or other ownership rights to any Flexkeeping Property are transferred to Customer under the Agreement. Flexkeeping reserves all rights not expressly granted by the Agreement and no licenses are granted by Flexkeeping to any party, whether by implication, estoppel or otherwise, except as expressly set forth in the Agreement.

9.2) Grant of License. Flexkeeping hereby grants to Customer a limited, non-exclusive, non-transferable license to use Flexkeeping Property developed as part of the Professional Services for that entity's use of the SaaS Services and solely for purposes

of the using of the SaaS Services in accordance with the terms of the Agreement during the Term. Any Flexkeeping Property related to SaaS Services will be deemed to constitute part of the SaaS Services and will be subject to all terms and provisions set forth in the Agreement or otherwise applicable to the SaaS Services, including terms and provisions related to use rights and restrictions, ownership and distribution of the SaaS Services.

9.3) Assignment. To the extent that Customer or any Authorised User owns any copyright, patent, trade secret, or any proprietary rights in and to the Flexkeeping Property, Customer hereby assigns to Flexkeeping, its successors and assigns, and Customer will cause all Authorized Users to assign to Flexkeeping, its successors and assigns, all right, title and interest in and to the Flexkeeping Property, including, but not limited to, all rights in and to any inventions, designs and intellectual property rights embodied in the Flexkeeping Property. Customer will execute, and cause any Authorised User to execute, any documents in connection with such assignment that Flexkeeping may reasonably request. Customer appoints Flexkeeping as its attorney-in-fact to execute assignments of, and register all rights to, the Flexkeeping Property and the intellectual property rights in the Flexkeeping Property. This appointment is coupled with an interest. Customer will enter into agreements with its Authorized Users or any other party as necessary to establish Flexkeeping's sole ownership in Flexkeeping Property, and upon Flexkeeping's request, Customer will provide Flexkeeping with copies of such agreements.

10) Confidentiality. A party receiving Confidential Information ("Recipient") may not disclose Confidential Information except to its employees and agents with a need to know and who are bound by confidentiality agreements as restrictive as this Section 10. "Confidential Information"

(a) means all information disclosed during the Term to Recipient by the party disclosing Confidential Information ("Discloser") in any manner, whether orally or in tangible form or whether created by Discloser or Recipient, but if in tangible form it is marked as "confidential information" or would be considered to be confidential by a reasonable person and, if it is disclosed orally, it is written within 2 days of disclosure and declared as confidential under this provision,

(b) but does not mean information that

(i) was in Recipient's possession prior to disclosure by Discloser prior to the Effective Date,

(ii) is in the public domain and is generally known, other than through a breach of this Agreement by the Recipient or through disclosure by any other person to whom the Recipient disclosed the relevant information,

(iii) has come into possession of Recipient by a third party that is not under any confidentiality obligation with Discloser, or

(iv) was developed by Recipient independently and without reference to the Confidential Information.

The Agreement and Flexkeeping Property are Confidential Information.

11) Additional Representations and Warranties. Each party represents and warrants that:

(i) it has the power and authority to enter into and perform its obligations under the Agreement; and

(ii) that it will comply with all applicable laws, regulations, policies, and rules including those relating to data privacy, consumer protection, marketing, promotion, text messaging, chat bot, email, direct mail, and other communications or otherwise applicable to its use of the SaaS Services. The Customer further represents and warrants that the Customer Data and Customer-Provided Materials(a) do not and will not infringe or misappropriate the intellectual property rights of any third party, (b) do not and will not violate any applicable law, statute, ordinance, regulation or treaty, (c) will not be defamatory, libellous, unlawfully threatening or harassing, (d) will not be obscene or indecent, and (e) will not, to the best of its knowledge, contain any viruses or other computer programming routines that could damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information of any person or entity.

Flexkeeping further represents and warrants that the provision of the Services (a) do not and will not infringe or misappropriate the intellectual property rights of any third party, (b) do not and will not violate any applicable law, statute, ordinance, regulation or treaty, (c) will not be defamatory, libellous, unlawfully threatening or harassing, (d) will not be obscene or indecent, and (e) will not contain any viruses or other computer programming routines that could damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information of any person or entity.

12) Limited Warranty

Flexkeeping warrants to Customer that the SaaS Services shall perform in accordance with the Documentation as defined under Clause 2.1 above and with any specifications set forth in the Order Form above. Flexkeeping's sole obligation, and Customer's sole remedy, with respect to any breach of this limited warranty of performance shall be for Flexkeeping to correct such non-conformance or provide reasonable alternative functionality at Flexkeeping's sole cost and expense.

EXCEPT FOR THE LIMITED WARRANTY EXPRESSLY SET FORTH HEREIN, AND SUBJECT TO NON-EXCLUDABLE PROVISIONS OF APPLICABLE LAW (INCLUDING WITHOUT LIMITATION THE AUSTRALIAN CONSUMER LAW) THE SAAS SERVICES ARE PROVIDED STRICTLY ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY EXCEPT TO THE EXTENT THAT THE AUSTRALIAN CONSUMER LAW OR ANY OTHER APPLICABLE LAW IMPLIES IN THESE TERMS OF USE ANY GUARANTEE, CONDITION OR WARRANTY, AND THAT LAW AVOIDS OR PROHIBITS PROVISIONS IN A CONTRACT EXCLUDING OR MODIFYING THE APPLICATION OF, OR EXERCISE OF, OR LIABILITY UNDER SUCH GUARANTEE, CONDITIONAL WARRANTY, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE EXPRESS WARRANTIES SET FORTH IN THE AGREEMENT ARE IN LIEU OF, AND Flexkeeping SPECIFICALLY DISCLAIMS, ALL SUCH OTHER WARRANTIES WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO, AND NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, CUSTOMER SPECIFICALLY ACKNOWLEDGES THAT Flexkeeping, ITS LICENSORS AND THEIR SUPPLIERS MAKE NO WARRANTY THAT THE SERVICES WILL MEET CUSTOMER REQUIREMENTS OR BE ERROR-FREE OR WITHOUT INTERRUPTION; THAT THE SERVICES WILL BE FREE OF VULNERABILITY TO INTRUSION OR ATTACK; OR THAT CUSTOMER SPECIFIC REQUIREMENTS WILL BE SATISFIED. CUSTOMER ASSUMES RESPONSIBILITY FOR THE USE OF, AND RESULTS OBTAINED FROM THE SERVICES.

13) Indemnification. The Customer will indemnify, defend and hold Flexkeeping, its owners, officers, employees, agents, successors and assigns harmless from and against any and all third-party claims, actions, proceedings, judgments, losses, liabilities, costs and expenses (including attorneys' fees) arising from claims by an Authorised User or any third party that

(i) relate to a use of the Results;

(ii) are based on or caused by unauthorized access to the SaaS Services using a Customer password or account obtained from Customer or a User;

(iii) result from any failure to obtain any Required Consent;

(iv) the Customer Data, Customer-Provided Materials or other materials provided Customer or an Authorised User, or Flexkeeping's use thereof in connection with the Agreement, infringes or misappropriates the intellectual property rights of such third party;

(v) are caused by Customer's or an Authorized User's gross negligence or wilful misconduct, except to the extent that such claims are caused, or contributed to, by Flexkeeping or Flexkeeping's owners, officers, employees, agents, equipment, technology or software, Documentation or other materials.

Flexkeeping will indemnify, defend and hold the Customer, its owners, officers, employees, Authorized Users, agents, successors and assigns harmless from and against any and all third-party claims, actions, proceedings, judgments, losses, liabilities, costs and expenses (including attorneys' fees) (including in respect of injury, illness or death to any persons, or loss, destruction or damage to real or personal property of any person) arising wholly or partly from:

(i) any act or omission (including negligent acts or omissions) of Flexkeeping or its owners, officers, employees, agents, sub-contractors or employees of sub-contractors;

(b) any breach of the obligations under this Agreement by Flexkeeping or its owners, officers, employees, agents, sub-contractors or employees of sub-contractors; or

(c) any warranty in this Agreement being or becoming untrue,

except to the extent caused or contributed by the negligent act or omission or breach of this Agreement by, the Customer or its owners, officers, employees or agents.

The Party providing the indemnity under this section (the Indemnifying Party") will be notified in writing by the party having the benefit of the indemnity under this section (the "Indemnified Party") of any such claim or demand (provided that the Indemnifying Party will only be relieved of its obligations if and to the extent that it has been actually prejudiced by the Indemnified Party's failure to give notice as required); the Indemnifying Party will have sole control of the defence of any action or such claim or demand and of all negotiations for its settlement or compromise provided that any settlement or compromise which requires any admission of liability, affirmative obligation or any contribution from the Indemnified Party must be expressly approved in

advance in writing by the Indemnified Party; and the Indemnified Party will use all commercially reasonable efforts to cooperate with the Indemnifying Party in a reasonable way and at the Indemnifying Party's expense to facilitate the settlement or defence of such claim or demand. The Indemnified Party may, at its expense and option, use counsel of its choosing in connection with the defence of any such claim.

14) Limitations on Damages.

14.1) Disclaimer of certain damages. Neither party shall have any liability under the agreement for consequential, exemplary, indirect, special, incidental, or punitive damages, including for any lost data, regardless of the form of action, whether in contract, tort (including negligence), strict liability, or otherwise, even if a party has been advised of the possibility of such damages and whether or not any remedy provided should fail of its essential purposes, or for any claim by any third party. These limitations will survive the expiration or termination of the agreement.

14.2) LIMITATION OF LIABILITY. THE TOTAL AGGREGATE LIABILITY OF FLEXKEEPING FOR ANY REASON AND UPON ANY CAUSE OF ACTION BROUGHT UNDER OR ASSOCIATED WITH THE AGREEMENT, WILL BE LIMITED TO THE AMOUNT PAID BY CUSTOMER FOR THE MOST RECENT ONE YEAR PERIOD OF THE AGREEMENT UP TO THE DATE SUCH LIABILITY AROSE. NONE OF THE LIMITATIONS IN THIS SECTION APPLY TO ANY LIABILITY OF FLEXKEEPING IN RESPECT OF THE FOLLOWING MATTERS:

- A. LOSS OF OR DAMAGE TO TANGIBLE PROPERTY;
- B. AN INTENTIONAL TORT;
- C. FRAUD OR DISHONESTY;
- D. ANY LIABILITY OF THE CUSTOMER TO A THIRD PARTY ARISING FROM:
 - I. A NEGLIGENT OR WRONGFUL ACT OR OMISSION OF FLEXKEEPING OR ITS OWNERS, OFFICERS, EMPLOYEES, AGENTS OR SUBCONTRACTORS;
 - II. INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS;
 - III. BREACHES OF THE PRIVACY ACT 1988 (CTH) OR OTHER APPLICABLE PRIVACY LAWS OR FROM UNAUTHORISED DISCLOSURE OF PERSONAL INFORMATION; OR
 - IV. ANY MATERIAL BREACH OF FLEXKEEPING'S CONTRACTUAL OBLIGATIONS TO THE CUSTOMER.

THESE LIMITATIONS WILL SURVIVE THE TERMINATION OF THE AGREEMENT.

14.3) Applicability of Disclaimers and Limitations. The Parties agree that Flexkeeping has set the fees and entered into the Agreement in reliance upon the disclaimers and limitations set forth herein, that the same reflect an allocation of risk between the Parties (including the risk that a contract remedy may fail of its essential purpose and cause consequential loss), and that the same form an essential basis of the bargain between the Parties.

15) General.

15.1) Non-Exclusive. The relationship created by the Agreement is non-exclusive in all respects.

15.2) Rights and Survival. Except where specifically provided, termination of the Agreement will be without prejudice to any other rights that either Party may have at law or in equity. The following Sections of the Agreement will survive termination: 4, 7.2.4, 7.3, 8.1, 8.2, 8.3, 9.1, 9.3, 10, 12, and 13 through 15 (inclusive).

15.3) Notices. Notices will be given in writing and may be delivered by mail, overnight delivery service, email or personal delivery to the intended recipient of the notice at the address noted in the Order Form. Notice will be delivered; (a) when received, with respect to personal delivery; (b) five business days (in relation to the State of New South Wales, Australia), with respect to delivery by mail; (c) one business day (in relation to the State of New South, Australia), after deposit with an overnight delivery service for next day delivery; and (d) at the time and on the day shown in the senders 'sent items folder', if it shows that the whole notice was sent to the recipients email address and no automatically generated message is received by the sender that the email was undeliverable or undelivered, with respect to delivery via email. A Party may change a contact upon 10 days' written notice to the other Party, which notice will contain the new contact information as set forth above.

15.4) Force Majeure. If the performance of any part of the Agreement by either Party is prevented, hindered, delayed or otherwise made impracticable by reason of such events as, but not limited to, flood or other natural disaster, riot, fire, judicial or governmental action, labour disputes, actions or failures of the hosting or internet service provider or of any telecommunications service providers or facilities in the chain of communication to and from Flexkeeping's server, sabotage or criminal interference with the server or SaaS Services or any other causes beyond the control of either Party (a "Force Majeure Event"), the Party experiencing the Force Majeure Event will be excused from performance to the extent that it is prevented, hindered or delayed by such causes,

except with respect to Customer's obligations to pay the fees. Each Party agrees to give the other notice as soon as possible of the existence of a Force Majeure Event affecting the Party's performance and to give notice of the termination of the Force Majeure Event and the ability to continue performance under the Agreement.

15.5) Separate Parties; No Third-Party Beneficiaries. The Parties agree that nothing in the Agreement will be construed to create a partnership, joint venture, franchise, or employee-employer relationship among Flexkeeping, Customer or any User. Flexkeeping will perform the Services as an independent contractor. Neither Flexkeeping nor Customer is an agent of the other, and neither is authorized to make any representation, contract or commitment on behalf of the other unless specifically requested or authorized to do so in writing by the other. No person not a party to the Agreement is an intended beneficiary of the Agreement, and no User or any other person not a party to the Agreement will have any right to enforce any term of the Agreement.

15.6) Right to Update. Flexkeeping reserves the right to make visual or functional modifications to the SaaS Services from time to time for the purpose of maintaining or improving security, ensuring optimal performance, meeting standard industry business requirements, and adding or improving functionality. Flexkeeping reserves the right to make such changes without prior notification to Customer.

15.7) Entire Agreement. The Agreement, including the Exhibits and any document incorporated herein by reference, states the entire agreement between the Parties with respect to the subject matter hereof and supersedes all previous proposals, negotiations and other written or oral communications between the Parties with respect thereto. Terms in Customer's pre-printed purchase orders or order forms will have no force or effect.

15.8) Dispute Resolution. The Parties agree that if one of them believes that the other has breached or is about to breach the Agreement or Customer disputes an Flexkeeping charge appearing on a bill, the complaining Party will give immediate written notice to the other of the complaint. The Parties will enter into good faith negotiations for a reasonable resolution of the complaint within 10 business days of the Party's receipt of the complaining Party's notice. If the alleged breaching Party is unable to cure the alleged breach or billing dispute to the complaining Party's reasonable satisfaction, the complaining Party will give the alleged breaching Party a clear and complete written statement of the reasons for such lack of satisfaction, and will provide such Party with 15 days to cure such issue. After such cure period, either Party may then resort to whatever remedy is available at law or equity, subject to the limitations on remedy provided for in the Agreement.

15.9) Severability. If any provision of the Agreement is held by a court of competent jurisdiction to be contrary to any applicable law or regulation, the Parties agree that such provision will be construed so that it can be found lawful to the fullest extent possible and the remaining provisions of the Agreement will remain in full force and effect. If such provision cannot be construed in a fashion that is lawful or is otherwise found void, then the Parties agree that the remaining provisions of the Agreement will continue in full force and effect as if said void provision never existed and as long as the removal of such void provision does not alter the intent of the Parties, including the economics of the Agreement.

15.10) Assignment. Neither Party may assign its rights and obligations under the Agreement without the prior written permission of the other Party. The Agreement will be binding on each Party's permitted successors and permitted assigns.

15.11) Governing Law and Venue. This Agreement is governed by the laws of New South Wales. The parties irrevocably submit to the exclusive jurisdiction of the courts of New South Wales and the division of the Federal Court of Australia in that jurisdiction, and the courts of appeal from them to settle any dispute arising out of or in connection with the Agreement (including a dispute relating to the existence, validity or termination of this Agreement) (a "Dispute").

The parties agree that those courts are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.

15.12) Counterparts. The Order Form(s) may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. Electronic signatures or signature in the form of handwritten signatures in a facsimile transmittal or scanned and digitized images of a handwritten signature (e.g., scanned document in PDF format) will have the same force and effect as original manual signatures.

15.13) Headings. The section headings used in the Agreement are for reference and convenience only and will not enter into the interpretation of the Agreement

16. Modern Slavery

16.1 Flexkeeping represents and warrants that:

(a) it does not, and will not, engage in any activity that constitutes or involves Modern Slavery in the performance of its obligations under this Agreement or otherwise; and

(b) it has investigated its practices and those of its sub-contractors, supply chain and related entities and is satisfied that there are no activities that constitute or could constitute or involve Modern Slavery anywhere in its (and each of its sub-contractors, supply chain and related entities') business, operations or supply chains.

16.2 Flexkeeping must, on the receipt of a written request from the Customer, provide the requestor with all information reasonably requested by them to assist the Customer to comply with their requirements under the Modern Slavery Legislation.

16.3 Flexkeeping must notify the Customer if it becomes aware of:

(a) or has reason to believe that it, or any of its sub-contractors, supply chain and related entities, has breached or potentially breached any of its obligations under this section or Modern Slavery Legislation.

(b) any audit, inquiry, investigation or compliance action (including the issue of penalty or infringement notices, compliance notices, enforceable undertakings, proactive compliance deeds or court orders) taken by any relevant authority; or

(c) any other court orders or legal proceedings, arising from any actual or alleged non-compliance by Flexkeeping or its sub-contractors, supply chain and related entities with Modern Slavery Legislation and any remedial action that the Customer is required to take, have taken or the Customer proposes to take as a result of the compliance action, court order or legal proceedings.

16.4 Flexkeeping agrees that the Customer may take any reasonable actions to monitor, assess, audit and verify Flexkeeping's compliance with its obligations under this section.

16.5 If Flexkeeping or any of its sub-contractors, supply chain and related entities is in breach of any part of this section, or the Customer reasonably suspects a breach, without prejudice to any other remedy which the Customer may have, the Customer may immediately terminate this Agreement by providing written notice to Flexkeeping and will not be subject to any penalties (including, without limitation, any cancellation charges or other costs) for such termination under this clause 16.5.

16.6 In this clause 16:

Modern Slavery has the meaning given to it in the Modern Slavery Act 2018 (Cth) and the Modern Slavery Act 2018 (NSW).

Modern Slavery Legislation means all laws, statutes, regulations and codes relating to Modern Slavery and in force from time to time in the jurisdiction in which Flexkeeping is registered or conducts business or in which activities relevant to this Contract are to be performed, including without limitation the Modern Slavery Act 2018 (Cth) and the Modern Slavery Act 2018 (NSW).