

## **Website Terms of Use**

The agreement governs access to and use of the website at clubup.com.au (“**Website**”). The agreement is made between **Club-Up Pty Ltd ABN 662 679 709** of Level 4, 29 Kiora Rd Miranda NSW 2228 (referred to as “**Club-Up**”, “**we**”, “**us**”) and you the person accessing and using the Website (referred to as “**you**” and “**your**”). This agreement does not alter in any way the terms or conditions of any other agreement you may have with us.

By visiting or using the Website, you agree to be bound by the terms and conditions of this agreement and by all terms, policies and guidelines incorporated by reference. Please read this agreement carefully. If you do not agree to all of these terms, do not use the Website. If you have any questions contact us at [info@mmd.com.au](mailto:info@mmd.com.au).

By using this Website, you represent and warrant that you are over the age of 18 or the majority age in the country in which you live and are lawfully able to accept the terms of this agreement or have the consent of a parent or guardian.

## **Privacy Policy**

We are committed to protecting your privacy. Please refer to our Privacy Policy for information on how we collect, use and disclose your personal information. See [HERE](#) for our Privacy Policy.

## **Ownership of the Website and its Contents**

We own the Website and its contents. Unless otherwise indicated, we own or have a licence to use all of the content featured or displayed on the Website, including, but not limited to, text, graphics, artworks and images (**Website Content**). All elements of the Website, including the Website Content, are protected by laws relating to the protection of intellectual property such as copyright and trade mark.

## **Your Use of the Website**

You must only use this Website or the Website Content for the purpose of doing business with us, including evaluating and ordering our products or services. You may download a copy of the information on this Website to your computer or personal mobile device for your personal use but you must not delete or change any copyright symbol, trade mark or other proprietary notice. Your use of the Website Content in any other way infringes our intellectual property rights.

You must comply with all applicable laws and regulations, including, without limitation, those relating to the Internet, data, e-mail, privacy, and the transmission of technical data exported from Australia or the country from which you are accessing this Website.

You must not:

- a. contact anyone who has asked not to be contacted;

- b. collect personal data about other users;
- c. infringe other user's privacy rights;
- d. violate the intellectual property rights of others;
- e. post anything that contains software viruses, worms or any other harmful code; or
- f. use manual or automated software, devices, script robots, other means or processes to access our Website or any related data or information

### **Access to the Website**

We try to ensure that all aspects of the Website are available at all times. However, we will not be liable if for any reason the Website or any part of it is unavailable at any time or for any period. Access to the Website may be suspended temporarily and without notice in the case of system failure, maintenance or repair or for reasons beyond our control.

### **Intellectual Property Rights**

We are the owner or licensee of registered and unregistered trade marks used in relation to our business on the Website. You must not copy, imitate or use, in whole or in part, any of our trade marks without our prior written permission. In addition, we own the look and feel of the Website and you must not be copy, imitate or use it, in whole or in part, without our prior written permission. All other trade marks, product names and company names or logos used on the Website are the property of their respective owners. Our reference to any third party's products or services is not an endorsement, sponsorship or recommendation of its products or services.

**Copyright takedown policy:** we may, in appropriate circumstances and at our sole discretion, terminate your right to access the Website if you infringe our intellectual property rights or the rights of any third party.

If you believe that any content on the Website infringes your intellectual property rights, please send an email us at [info@mmd.com.au](mailto:info@mmd.com.au) and include details of the intellectual property rights involved, confirmation that you are the owner of the intellectual property rights and information on how you claim your rights have been infringed. If the claim is made against a third party who has used the Website, we may give notice of a claim of copyright infringement by means of a general notice on the Website or electronic mail to that user's e-mail address.

### **Links**

You must not use our trade marks or other proprietary graphics to link to this Website without our express written permission. You may not frame any of our trade marks, logos or other proprietary information, including the Content, without our express written permission.

This Website may contain links to third party websites which are not under our control and we are not responsible for the content of these websites. We don't make any claims or representations regarding, and accept no responsibility for, directly or indirectly, the quality, content, nature or reliability of third-party websites accessible by link from the Website, or website linking to the Website. Links to other websites are provided for convenience only, and do not imply any affiliation, endorsement or adoption of the products or services offered by the website.

If you use a link on this Website and navigate to another website, you should review the applicable terms and policies, including privacy and data gathering practices, of that website. You agree that we are not responsible or liable for any loss, damage or other matters of any sort incurred as the result of your dealings with third parties via their websites.

### **Forums & Other Interactive Services or Areas**

When using our services or accessing this Website, you may be given access to discussion or other interactive areas such as blogs ("**Interactive Areas**") in which you and third parties can create, post or store content, messages, comments, materials or other items on the Website, for example, our social media pages ("**Your Content**"). When posting Your Content, you agree that you will not post or otherwise publish through this in which you and third parties can create, post or store content, messages, comments, materials or other items on the Website including any of the following:

- a. content that is unlawful, fraudulent, misleading, deceitful, threatening, abusive, libellous, defamatory, obscene, pornographic, indecent, lewd, harassing, threatening, abusive, offensive, inflammatory or otherwise objectionable;
- b. content that harasses, degrades, intimidates or is hateful to an individual or group of individuals on the basis of religion, gender, sexual orientation, race, ethnicity, age or disability;
- c. information that includes personal or identifying information about another person without that person's consent;
- d. information that constitutes promotion or advertisement for groups, events or activities organised through competing social clubs, activity sites and internet platforms, except as otherwise expressly permitted by us;
- e. any information or content that impersonates any person or entity;
- f. any material, non-public information about companies without authorisation to do so;
- g. any advertisements, solicitations, chain letters, pyramid schemes, investment opportunities or other unsolicited commercial communication (except as otherwise expressly permitted by us).

By posting or otherwise publishing Your Content on our Interactive Areas, you:

- a. grant us a non-exclusive, worldwide, royalty-free, perpetual, irrevocable and sub-licensable licence to use, reproduce, edit and exploit Your Content throughout the world in any media and for any purpose;
- b. warrant that you have the right to grant the above licences;
- c. warrant that Your Content does not breach this agreement; and
- d. consent to any act or omission which would otherwise constitute an infringement of your moral rights, and if you add any content in which any third party has moral rights, you must also ensure that the third party also consents in the same manner.

We reserve the right (but have no obligation) to:

- a. review, modify, reformat, reject or remove Your Content that, in our opinion, violates this agreement or otherwise has the potential to harm, endanger or violate the rights of any person; and
- b. monitor use of the in which you and third parties can create, post or store content, messages, comments, materials or other items on the Website, and store or disclose any information that we collect, including in order to investigate compliance with this agreement or for the purposes of any police investigation or governmental request; or
- c. reproduce, distribute, transmit, adapt, alter or modify, and publicly display any feedback you give on the in which you and third parties can create, post or store content, messages, comments, materials or other items on the Website or our social media accounts and we are not liable for any loss, damage or injury arising from, directly or indirectly, the reproduction or use of your feedback.

We are not liable for any statements, representations or content posted by us or provided by users of the Interactive Areas. Any content is of a general nature and is not intended to provide legal, medical or other advice. We may remove, screen or edit any of Your Content at any time and for any reason without notice. You are solely responsible for creating backup copies of Your Content.

Any use of the Website in breach of this agreement may result in, among other things, termination or suspension of your rights to use the Website. You agree that we may access, use or disclose any information about you or your use of this Website, including without limitation any of Your Content to comply with the law or any legal process; protect and defend our rights or property; or to protect the safety of our employees, customers or the public.

## **Registration Data and Account Security**

In consideration of your use of the Website, you agree to: (a) provide accurate, current and complete information about you as may be prompted by any registration forms on the Website (**Registration Data**); (b) maintain and promptly update the Registration Data, and any other information you provide to us, to keep it accurate, current and complete; (c) maintain the security of your password and identification; (d) notify us immediately of any unauthorised use of your account or other breach of security; (e) accept all responsibility for any and all activities that occur under your account; and (f) accept all risks of unauthorised access to the Registration Data and any other information you provide to us.

## **Indemnity**

You agree to defend, indemnify and hold harmless, us, our subsidiaries, affiliates, licensors, employees, agents, third party information providers and independent contractors against any claims, damages, costs, liabilities and expenses (including, but not limited to, reasonable legal costs) arising out of or related to any of Your Content that you post, store or otherwise transmit on or through the Website, your conduct, use of or inability to use the Website, your breach or alleged breach of this agreement or of any representation or warranty contained herein, your unauthorised use of the Website Content, or your violation of any rights of another.

## **Website provided “as is”**

To the maximum extent permitted by applicable law, the Website and the Website Content, including any recommendations or advertisements for products or services, are provided "as is" without guarantee or warranty, express or implied, of any kind including but not limited to guarantees or warranties of acceptable quality or fitness for a particular purpose or non-infringement. You agree that the functions embodied on or in the materials of the Website are not warranted to be uninterrupted or without error or that defects will be corrected. We make no warranty that the Website or the Website Content are free from infection by viruses or anything else that has contaminating or destructive properties.

## **Limitation of Liability**

To the extent that we can limit your remedy for breach, then our liability is limited to one or more of the following at our option:

- A. in the case of goods, the replacement of the goods or the supply of equivalent goods, the repair of the goods, the payment of the cost of replacing the goods or of acquiring equivalent goods, or the payment of the cost of having the goods repaired; or
- B. in the case of services, the supplying of the services again, or the payment of the cost of having the services supplied again.

To the maximum extent permitted by applicable law, in no event shall we or our directors, employees, content providers, agents and affiliates be liable for any direct, special,

indirect or consequential damages, or any other damages of any kind, including but not limited to loss of use, loss of profits or loss of data, whether in an action in contract, tort (including but not limited to negligence) or otherwise, arising out of or in any way connected with the use of the Website, the services or products, the Website Content or the materials contained in or accessed through the Website, including without limitation any damages caused by or resulting from reliance by user on any information obtained from us, or that result from mistakes, omissions, interruptions, deletion of files or email, errors, defects, viruses, delays in operation or transmission or any failure of performance, whether or not resulting from acts of god, communications failure, theft, destruction or unauthorised access to our records, programs or services.

To the maximum extent permitted by applicable law, in no event shall our aggregate liability, whether in contract, guarantee, warranty, tort (including negligence), product liability, strict liability or otherwise, arising out of or relating to the use of the Website exceed the fees you pay, if any, to us for access to or use of the Website.

### **Termination**

We reserve the right to terminate your use of the Website or our services generally if you breach these terms, as determined by us in our sole discretion.

Except to the extent required by law, refunds are not provided for services that have been rendered by us, including where you have been given access to Website Content, whether accessed by you or not.

### **Changes to Website Terms**

We reserve the right to change any of the terms and conditions contained in this agreement or any policy or guideline of the Website, at any time and in its sole discretion. Any changes will be effective immediately upon posting on the Website. Your continued use of the Website following the posting of changes will constitute your acceptance of such changes. We encourage you to review these Website Terms of Use whenever you visit one Website.

### **Miscellaneous Provisions**

Any waiver of any provision of this agreement will be effective only if in writing and signed by us.

The Website Terms of Use are governed by the laws of New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of New South Wales.

If part or all of any of this agreement is illegal or unenforceable it will be severed from the agreement and will not affect the continued operation of the remaining provisions of this agreement.

The failure of either party to enforce, or the delay by either party in enforcing, any of its rights shall not be deemed a continuing waiver or a modification of this agreement.

### **Questions and Contact Information**

Questions or comments about the Website or the terms of this agreement may be directed to us at [info@clubup.com.au](mailto:info@clubup.com.au)

Last update: September 2023