

Opypro Trade Customer Terms & Conditions

Opypro Holding Pty Ltd (ABN 39 668 298 217) (Opypro Holding, we, us, our) is a payment solution provider which, amongst other things, provides software and credit solutions to enable its clients to manage trade credit accounts (such solutions being referred to as Opypro).

By ticking the “I agree to the Terms & Conditions” box or registering your details with us or submitting an Application, accessing or using Opypro and any Modules or components you access or use, or acquiring any other goods or services under this Agreement, you acknowledge that (i) you have read and understood this Agreement, (ii) you are an Authorised Representative of the Trade Customer and capable of binding the Trade Customer, and (iii) you agree to this Agreement on behalf of yourself and the Trade Customer. If you do not agree then you must immediately cease using Opypro and we will terminate your access and use of the Opypro and cease providing goods or services.

1. Your Application.

- 1.1 You may apply for a Trade Account with a Supplier via the Application Portal.
- 1.2 You authorise us to undertake any and all required due diligence on you, which may include:
 - (a) credit, probity, police, AML-CTF and other checks;
 - (b) know your customer assessments; and
 - (c) verification of your identity.
- 1.3 You will co-operate with us and answer all questions and supply all information we require in undertaking our due diligence.
- 1.4 Your Application will be assessed on the basis of our due diligence and against the relevant Approval Criteria.
- 1.5 We or the Supplier may accept or decline your Application and set Credit Limits in the Supplier’s or our absolute discretion and we will advise you accordingly.

2. Trade Account.

- 2.1 If your Application for a Trade Account is successful, the relevant Supplier will establish your Trade Account in their accounts.
- 2.2 If the relevant Supplier uses Opypro to manage your Trade Account then you too will be entitled to access and use certain elements of Opypro, including the Trade Customer Portal, in accordance with this Agreement. If so, then:
 - (a) We will debit your Trade Account for the purchase price of the goods or services you or your Personnel acquire from the relevant Supplier using your Trade Account;
 - (b) If authorised by a relevant Supplier, we will credit your Trade Account for the refund amount of any goods or services you or your Personnel return to the relevant Supplier;
 - (c) When you make a payment in connection with your Trade Account to the relevant Supplier or us we will credit your Trade Account for the amount that you pay;
 - (d) We may undertake other backend processes and operations in respect of your Trade Account, including the handling of data, processing transactions, processing payments/direct debits, reporting and reconciling;

- (e) You can access the Trade Customer Portal to view your transaction history and current balance; and
 - (f) We may send you periodic statements, reminders, notices of default and other communications from time to time.
- 2.3 You and your Personnel may not be able to use your Trade Account with a relevant Supplier to acquire further goods or services if you exceed or will exceed the Credit Limit under clause 23.11(a). If so, you or your Personnel will need to use an alternative means of payment acceptable to the relevant Supplier so as not to exceed or until such time as you no longer exceed that Credit Limit.
- 2.4 You may be required to agree to terms and conditions or a contract issued by each relevant Supplier from time to time (“Supplier T&Cs”). Except as otherwise provided in this Agreement, the Supplier T&Cs are between you and the Supplier and do not bind us.
- 2.5 You will be responsible for complying with and, if applicable, paying the Supplier in accordance with the Supplier T&Cs.

3. Supplier Subrogation.

- 3.1 Certain Suppliers may assign, novate or subrogate to Opypro Holding the administration, collection, debt recovery, enforcement and management of your Trade Account, if so:
- (a) Your Trade Account with and amounts you owe to that particular Supplier may be administered, collected, enforced, managed and recovered by Opypro Holding;
 - (b) Within the agreed days as provided on your invoice or statement you must pay us the balance of your Trade Account;
 - (c) We may send you periodic statements, reminders, notices of default and other communications from time to time;
 - (d) You must pay us, not the Supplier, the full amount of your Trade Account balance and other monies you owe the Supplier on time and without deduction, set-off or withholding including any interest or late payment charges; and
 - (e) We or the Supplier may institute debt recovery or legal proceedings against you to recover amounts that you owe to us, the Supplier, under this Agreement or your Trade Account.
- 3.2 You and your Personnel may not be able to acquire further goods or services from a particular Supplier if you exceed or will exceed your Credit Limit under clause 23.11(a). If so, you or your Personnel will need to use an alternative means of payment acceptable to the relevant Supplier so as not to exceed or until such time as you no longer exceed that Credit Limit.
- 3.3 You and your Personnel may not be able to acquire further goods or services from all Suppliers that have chosen to use Opypro Credit if you exceed your Credit Limit under clause 23.11(b). If so, you or your Personnel will need to use an alternative means of payment acceptable to the relevant Supplier/s so as not to exceed or until such time as you no longer exceed that Credit Limit.

4. Your Rights to use Opypro.

- 4.1 Subject to the approval of your Application/s, your prompt payment of monies and your compliance with and observation of any limitations imposed under this Agreement or your Trade Account or the Supplier T&Cs, we grant you a non-exclusive, non-transferable, revocable, limited right to access and use Opypro (in part or full) for the sole purpose of you applying for and if granted using a Trade Account.

- 4.2 References in these terms to 'access' to or 'use' of Opypro means, in the case of software, including the Application Portal and Trade Customer Portal, accessing or using its functionality remotely over the internet.
- 4.3 We do not deliver or install, and you are not entitled to receive or install physical copies of software, source code, object code or other components of Opypro other than downloadable 'app' style versions that we may make available from time to time.
- 4.4 Certain software or their features and functions might be subject to usage, time, bandwidth or other restrictions or limitations.
- 4.5 You are required to obtain and maintain the devices, equipment, hardware, software, telecommunications services, third-party services and the like needed for you and your Personnel to access or use the Opypro.
- 4.6 You are also responsible at your cost for maintaining the integration and data exchange (if any) between your computer system and Opypro.
- 4.7 Access to and use of Opypro may be impaired or prevented by a variety of factors that are beyond our control e.g. environmental or site conditions, user error, problems with your equipment or internet connectivity. Such factors do not constitute defects in Opypro.
- 4.8 Notwithstanding anything else in this Agreement, we may customise, modify, enhance, adapt, update or replace Opypro in our discretion, and references in these terms to 'Opypro' includes such customisation, modification, enhancement, adaptation, update or replacement.
- 4.9 We may provide you with technical support (via phone, email or trouble ticket) from time to time as indicated on our website.
- 4.10 Notwithstanding clause 4.5, if we agree to perform work at your direction that is not specified in this Agreement, then the work will be considered services and you agree to pay us for those services at our then current time and materials rates until such time as alternate payment arrangements are mutually agreed.

5. Your Obligations & Restrictions.

You agree to:

- 5.1 only use or attempt to use Opypro in accordance with this Agreement;
- 5.2 only use or attempt to use Opypro in your own right and not on behalf of or in imitation of a third-party;
- 5.3 comply with the current editions of Documentation we provide or make available to you and reasonable directions that we may issue from time to time regarding your use of Opypro, including any Acceptable Use Policy;
- 5.4 promptly inspect and report to us any errors, defects or malfunctions that you experience or observe;
- 5.5 not use Opypro or any of our know-how or information you obtain for outsourcing, service bureau, resale or other commercialisation purposes;
- 5.6 not do or refrain from doing anything calculated to damage, disrupt, impair or jeopardise Opypro or related systems or our ability to provide you or others with access to Opypro or our services;
- 5.7 not to attempt to gain unauthorised access to Opypro, related systems or another customer's data;
- 5.8 not purport to grant any interest in, sub-licence of or derivative right to use Opypro, except as permitted by clause 4.1;
- 5.9 complete the necessary steps and processes, including the Application process and Handling of Customer Data, necessary to access and use Opypro and your various Trade Accounts;

- 5.10 cooperate with us in good faith and provide commercially reasonable assistance and timely access to materials that we reasonably require;
- 5.11 provide timely instructions, decisions and approvals;
- 5.12 comply with all applicable laws, including intellectual property laws;
- 5.13 be responsible (that is, we are not responsible) for Customer Data, including where you request us to Handle such Customer Data on or via Opypro for you or on your behalf or Integrate the Customer Data to third-party platforms including your Suppliers. You are also responsible for your Personnel's or any third-party's creation (in part or full) of or reliance on Customer Data;
- 5.14 ensure that your Application and Customer Data is:
 - (a) accurate, complete and honest; and
 - (b) not defamatory, discriminatory, harassing, insulting, libellous, obscene, racists, slanderous or otherwise offensive, harmful or unlawful;
- 5.15 maintain and action:
 - (a) the accuracy, completeness, correction and deletion of; and
 - (b) any required permissions and opt-in or opt-out requests from; your users, members or third parties whose details or personal information might be Handled with, via, on, to or from Opypro; and
- 5.16 be responsible and liable for the use of Opypro by your Personnel and ensure that your Personnel do not do, or fail to do, anything that would breach this Agreement if you did, or failed to do, that thing.

6. Third Party Integrations.

- 6.1 Opypro is a B2B system to be accessed and used by you on the one hand, your Suppliers on the other hand and us as an intermediary between the two of you.
- 6.2 You authorise us to communicate your Customer Data with Suppliers and third-parties for the purpose of assessing your Application, enabling you to use and access Opypro and enable us to perform this Agreement, including to undertake due diligence on you, verify your identity and establish your credit worthiness and any Credit Limit.
- 6.3 If necessary, you must maintain your Trade Account with Suppliers and ensure that you understand and comply with any usage policies, restrictions and limitations or terms and conditions imposed by those Suppliers.

7. Documentation.

- 7.1 We may provide you with access to Documentation.
- 7.2 You must use Opypro in accordance with the Documentation, failing which your access and use of Opypro may be impaired.
- 7.3 You may make a reasonable number of copies of the Documentation to support your permitted use of Opypro.
- 7.4 Documentation is our confidential information and intellectual property and is provided to you by way of loan for the Term. You agree to dispose of any such Documentation provided once your use of Opypro ceases.

8. Administrative Credentials.

- 8.1 We will issue you and your Personnel with "Administrative Credentials" (i.e. user names and passwords) to allow you to set up user permissions for your Personnel within Opypro and if applicable, to access certain data about the use of Opypro by your Personnel.
- 8.2 You are responsible for keeping your Administrative Credentials confidential and may only disclose them to your Personnel on a need-to-know-basis. You are responsible for the

activities performed by you, your Personnel and third parties using your Administrative Credentials.

8.3 You agree to promptly notify us if you become aware that an unauthorised third-party has become aware of your Administrative Credentials, so that they can be de-activated and replacements issued.

8.4 Without limiting clause 5.16 or this clause 8 you agree that the acts and omissions of your Personnel are taken to be your acts and omissions and you will be liable accordingly.

9. Pricing, Payment & Fulfillment.

9.1 Our Fees may be made available to you on our website, at the time you make an Application, request access to Opypro or an Opypro Module.

9.2 Your access and use of Opypro, or its features, might be subject to Credit Limits or other restrictions or limitations and we may charge you additional Fees to overcome or comply with such restrictions or limitations.

9.3 We will email invoices to you to your Authorised Representative for payment by the payment methods shown on such invoices or request payment via credit card or other payment method within Opypro or on our website at time of purchase.

9.4 Unless indicated otherwise, Fees are ordinarily expressed exclusive of relevant GST and such Fees may change in line with changes in the rate of the relevant GST. If, whether expressly or due to error, we have applied the wrong GST law or rate (including 0%) then we reserve the right to charge you and you must pay us the relevant and correct GST applicable to such Fee.

9.5 Upon our request, including when you register to use Opypro or sign up to an Opypro Module or place an order, you must provide us with a valid and current credit card and/or direct debit request and update the credit card / direct debit details from time to time so that they remain current.

9.6 You authorise us to charge or debit our Fees and other monies owing to us against the then current credit card or bank account on file.

9.7 You must pay our Fees and any other monies in full and without set-off, withholding or deduction on or before the due date as provided for on the invoice.

9.8 We may charge you and you must pay interest on any amount which remains unpaid, at the Interest Rate, calculated daily, compounded at the end of each calendar month, from the date the amount was first due until the date we receive payment in full.

9.9 We may charge you and you indemnify us for any:

(a) fees or charges we incur in respect of any of your dishonoured or returned payments; and

(b) debt recovery or legal fees, on a full indemnity basis, related to the recovery of any unpaid monies from you, including monies owed under this clause 9.9.

9.10 We can amend our Fees at any time and our then current Fees will either appear on our website or otherwise be provided or quoted to you, including upon renewal, from time to time.

10. Goods & Services Tax (GST).

10.1 Words or expressions used in this clause that are defined in the GST Act have the same meaning in this clause as given to them in the GST Act.

10.2 Unless otherwise stated, any amount specified in this agreement as the consideration payable for any taxable supply does not include any GST payable in respect of that supply.

10.3 If a party makes a taxable supply under this agreement (Supplier), then the recipient of the taxable supply (Recipient) must also pay, in addition to the consideration for that supply, the

amount of GST payable in respect of the taxable supply at the time the consideration for the taxable supply is payable.

- 10.4 Notwithstanding the foregoing, the Recipient is not obliged under this agreement to pay the amount of any GST payable until the Supplier provides it with a valid tax invoice for the taxable supply.
- 10.5 If an adjustment event arises in relation to a taxable supply made by a Supplier under this agreement, the amount paid or payable by the Recipient pursuant to clause 10.3 will be amended to reflect this and a payment will be made by the Recipient to the Supplier or vice versa as the case may be.
- 10.6 If a third party makes a taxable supply and this agreement requires a party to this agreement (the payer) to pay for, reimburse or contribute to (pay) any expense or liability incurred by the other party to that third party for that taxable supply, the amount the payer must pay will be the amount of the expense or liability plus the amount of any GST payable in respect thereof but reduced by the amount of any input tax credit to which the other party is entitled in respect of the expense or liability.
- 10.7 This clause does not merge on completion and will continue to apply after expiration or termination of this agreement.

11. Disputed Amounts.

- 11.1 If you have a good faith dispute regarding an invoice, you authorise the payment or agree to pay the undisputed amount by its due date and provide us with written notice of the reason for any disputed amount prior to the due date for payment of the invoice so that you and we can seek to promptly resolve the issue.
- 11.2 In addition, and without limiting any other rights, we may suspend your use of and access to OPYPRO following at least 7 days' prior written notice to you if:
- (a) you have failed to make payment of an undisputed amount by its due date; or
 - (b) the amounts in dispute under this Agreement in aggregate, reach more than 10% of Fees you have paid us in the past twelve (12) months.

12. Security.

- 12.1 In this clause, unless the context requires otherwise, the following terms have the meanings given to them in the PPSA:
- (a) amendment demand;
 - (b) financing change statement;
 - (c) financing statement;
 - (d) personal property;
 - (e) proceeds;
 - (f) registration;
 - (g) security agreement;
 - (h) security interest;
 - (i) serial number;
 - (j) verification statement.
- 12.2 The Trade Customer acknowledges that if clause 3 applies then this Agreement is a security agreement and creates a security interest in:
- (a) the Products; and
 - (b) all present and after acquired property of the Trade Customer,

and, if so, is granted by the Trade Customer to secure the punctual payment of all amounts owing by the Trade Customer under the terms of this Agreement and the performance of all the Trade Customer's other obligations under this Agreement.

- 12.3 If applicable, the Trade Customer agrees that the security interest created by this Agreement attaches or otherwise takes effect immediately upon the Trade Customer obtaining possession of the Products and attaches to all Products previously supplied to the Trade Customer.
- 12.4 Any security interest created by this Agreement extends not only to the Products but also to any and all proceeds arising from any dealings with the Products.
- 12.5 Despite anything in this Agreement, Opypro Holding does not agree to subordinate any security interest that Opypro Holding has in the Products.
- 12.6 The Trade Customer indemnifies Opypro Holding against, and must therefore pay Opypro Holding for, any liability, loss, costs, charges or expenses (including liability, loss, costs, charges or expenses on account of funds borrowed, contracted for or used to fund any amount payable by Opypro Holding) in connection with Opypro Holding's supply of, arising from or incurred in connection with any action taken by Opypro Holding under or in relation to the PPSA, including any registration, or any response to an amendment notice or demand under Part 5.6 of the PPSA or any demand or request under section 275 of the PPSA.
- 12.7 Without affecting the Trade Customer's obligations under the Agreement, if, in Opypro Holding's opinion a PPS Law applies, or will in the future apply to the Agreement or any of the transactions provided for or contemplated by it and that PPS Law:
 - (a) adversely affects or would adversely affect Opypro Holding's security position or Opypro Holding's rights or obligations under or in connection with the Agreement ("Adverse Affectation"); or
 - (b) enables or would enable Opypro Holding's security position to be improved without adversely affecting the Trade Customer in a material respect ("Improvement"), then Opypro Holding may by notice to the Trade Customer require the Trade Customer to do anything (including amending the Agreement or executing any new document) that in Opypro Holding's opinion is necessary or desirable to ensure that, to the maximum possible extent, Opypro Holding's security position, and Opypro Holding's rights and obligations, are not subject to an Adverse Affectation or are improved by an Improvement. The Trade Customer must comply with the requirements of that notice within the time stipulated in the notice.
- 12.8 To the extent that Chapter 4 of the PPSA would otherwise apply to an enforcement of the security interest created by this Agreement Opypro Holding need not comply with any provision of the PPSA that the parties may contract out of in relation to the Products or this Security Interest.
- 12.9 The Trade Customer acknowledges that RSEA may register one or more financing statements in relation to Opypro Holding's Security Interests under this Agreement and that each such financing statement may be registered at any time.
- 12.10 The Trade Customer undertakes to:
 - (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Opypro Holding may reasonably require to:
 - (i) register a financing statement or financing change statement in relation to a security interest on the PPSR;
 - (ii) register any other document required to be registered by the PPSA; or

- (iii) correct a defect in a statement referred to in paragraphs (i) or (ii);
 - (b) indemnify, and upon demand reimburse, Opypro Holding for all expenses incurred in registering a financing statement or financing change statement on the PPSR or releasing any Products charged thereby;
 - (c) not register a financing change statement in respect of a security interest without the prior written consent of Opypro Holding;
 - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Products in favour of a third party without the prior written consent of Opypro Holding; and
 - (e) immediately advise Opypro Holding of any material change in its business practices which would result in a change in the nature of proceeds derived from the sale of Products.
- 12.11 Opypro Holding and the Trade Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 12.12 To the extent permitted by the PPSA the Trade Customer hereby waives its right:
- (a) to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
 - (b) as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
 - (c) to receive a verification statement in accordance with section 157 of the PPSA.
- 12.13 The Trade Customer and Opypro Holding agree not to disclose information of the kind mentioned in section 275(1) of the PPSA, except in the circumstances required by sections 275(7)(b) to (e) of the PPSA or unless such disclosure is required by law, the listing rules of any recognised stock exchange or for legal, financial, insurance or audit purposes. The Trade Customer agrees that the Trade Customer will only authorise the disclosure of information under section 275(7)(c) or request information under section 275(7)(d), if Opypro Holding approve it. Nothing in this provision will prevent any disclosure by Opypro Holding that Opypro Holding believe is necessary to comply with Opypro Holding's other obligations under the PPSA.
- 12.14 Upon request by Opypro Holding the Trade Customer will unconditionally ratify any actions taken by Opypro Holding under this clause 12.
- 12.15 This clause 12 survives the termination or expiry of this Agreement.

13. Ownership.

- 13.1 We acknowledge and agree that as between the parties, you are the exclusive owner of and entirely responsible and liable for Customer Data.
- 13.2 You grant us, and our related entities, Personnel and subcontractors, and any Supplier with which we have entered a contract, an irrevocable, perpetual, royalty free, transferable, sub-licensable and non-exclusive license and right to communicate, copy, distribute, edit, host, integrate, modify, store, summarise and use Customer Data to the extent reasonably required to perform this Agreement, make Opypro available for your access or use, fulfil a Trade Account, fulfil any duty or obligation your or we owe to a Supplier, or as required by law.
- 13.3 Subject to clause 13.1, you acknowledge and agree that as between the parties, we are the exclusive owner of all right, title and interest (including intellectual property rights) and know how in Opypro. This includes all components used to access and use Opypro, such as Documentation, training materials, design libraries, APIs, website development tools, technical documentation, support technologies, methodologies and similar materials.

13.4 Our ownership of Opypro extends to Updates, suggestions for Updates (whether or not requested by or specifically developed for you) and new material developed while you access or use Opypro, but excludes Customer Data.

13.5 You must not yourself, or directly or indirectly allow or cause a third-party to, reverse disassemble, decompile or reverse engineer the whole or any part of Opypro or any locking or security device used or supplied with Opypro or otherwise attempt or allow any other party to attempt to decode or obtain the algorithms by which Opypro perform functions.

14. Security.

14.1 We use commercially reasonable efforts to keep Opypro secure so that your use of and the data you transfer to or from Opypro is not accessible by unauthorised third parties. You are responsible for the security, care and safekeeping of your use and access to Opypro or any aspect of it loaded onto or accessed via your, your Personnel's or your third-party provider's hardware, devices, equipment or servers.

14.2 We endeavour to protect our equipment and Opypro against viruses, malware, ransomware, cyber-attacks, trojan horses, worms, time bombs and other similar harmful code or actions which may affect Opypro, as well as vulnerabilities which may expose our equipment and Opypro to the risk of intrusion or attack ("Attacks"). We do not, however, guarantee such protection.

14.3 You agree to take reasonable steps to prevent Attacks or unauthorised access to Opypro, for example, by keeping your Administrative Credentials confidential and installing & maintaining anti-virus software on your hardware, devices or equipment.

15. Confidentiality & Privacy.

15.1 Each party ("recipient") will, and agrees to ensure that its Personnel, Related Entities, agents, sub-contractors and advisers:

- (a) keep confidential, all Confidential Information provided by the other party ("discloser") in connection with this Agreement or which the recipient otherwise obtains access to in connection with this Agreement;
- (b) only use Confidential Information for the purposes of performing its obligations and exercising its rights under this Agreement;
- (c) only disclose Confidential Information to Suppliers, the recipient's Personnel, Related Entities, agents, sub-contractors and advisers on a 'need to know' basis to the extent required to perform its obligations and exercise its rights under this Agreement; and
- (d) except as set out in this clause, or as required by law or in order to comply with the requirements of any stock exchange, not disclose Confidential Information without the prior written consent of the discloser acting in its absolute discretion.

15.2 We will comply with our privacy policy. Each party must comply with its respective obligations under any privacy laws or regulations that apply to such party, including (if applicable) the Privacy Act 1988. Without limiting the foregoing, You must provide all required disclosures to and obtain all required consents from each person in respect of any personal data or information of that person ("PI") that you Handle or provide to us or upload to or enter into Opypro or that's contained in Customer Data and you hereby authorise us and our Affiliates, on your own behalf and on behalf of each of those persons, to handle and deal with that PI as we see fit in the performance of this Agreement, including in the exercise of our rights and fulfilment of our obligations under this Agreement.

- 15.3 Subject to clauses 15.4 and 15.5, on termination or expiration of this Agreement for any reason, the recipient will, upon request of the discloser, return to the discloser or destroy all Confidential Information of the discloser in the recipient's possession.
- 15.4 The recipient may retain a copy of the discloser's Confidential Information to the extent required to comply with its legal obligations and record keeping requirements. If the recipient does so, it must continue to protect the Confidential Information in accordance with these terms.
- 15.5 In certain circumstances:
- (a) we might not be able to return, destroy or maintain copies of all Confidential Information, particularly if stored in databases or provided to Suppliers and if so then we are not obliged to comply with clause 15.3; and
 - (b) returning Confidential Information, particularly if stored in databases, is time consuming and technically challenging, if so then at your request we might, but we're not obliged to do so.
- 15.6 You consent to us using outside of this Agreement aggregated information regarding use of Opypro by you and your Personnel including for statistical, reporting and benchmarking purposes. This information will only be used on an aggregated basis and must not include personal information through which you or your Personnel could be identified, subject to any other:
- (a) agreement entered into by us with; or
 - (b) consent directly or indirectly granted to us from;

16. Communication & Promotion.

- 16.1 Despite clause 15, You grant us a royalty-free, perpetual right to use your Marks in any medium to promote your current and prior use of Opypro.

17. Warranties.

- 17.1 Each party warrants to the other that it has the power to enter into this Agreement and perform its obligations under this Agreement.
- 17.2 The Authorised Representative warrants that he or she has the power to enter into this Agreement on behalf of the Trade Customer and contractually bind the Trade Customer to this Agreement.
- 17.3 Subject to clause 6.1, we warrant to you that Opypro and your use of it in accordance with this Agreement will not infringe the intellectual property of any third-party. You warrant to us that the Customer Data, or parts thereof, and our use of it in accordance with this Agreement does not infringe the intellectual property, confidential information or trade secret of any third-party.
- 17.4 To the extent permitted by law, all warranties not expressly stated in this Agreement, including any implied warranties of merchantability and fitness for a particular purpose are excluded from this Agreement.
- 17.5 We do not warrant that the operation of Opypro will be uninterrupted or error-free.
- 17.6 If any legislation implies a guarantee, condition or warranty (a "non-excludable term") into this Agreement in respect of goods or services supplied, and our liability for breach of that non-excludable term may not be lawfully excluded but may be limited, clauses 17.4 and 17.5 do not apply to that liability and instead our liability for any breach of that non-excludable term is limited to:
- (a) in the case of a supply of goods, us doing any one or more of the following (at our election): (i) replacing the goods or supplying equivalent goods; (ii) repairing the

- goods; (iii) paying the cost of replacing the goods or of acquiring equivalent goods; paying the cost of having the goods repaired; or
- (b) in the case of a supply of services, us doing either or both of the following (at our election): (i) supplying the services again; (ii) paying the cost of having the services supplied again.

18. Liability.

18.1 To the extent permitted by law and otherwise notwithstanding anything else in this Agreement, we are not liable for:

- (a) indirect or consequential loss; or
- (b) loss of revenue, profits, goodwill, or data, howsoever caused which arises out of or in connection with Opypro or this Agreement, whether or not we have been advised or ought to have known of the possibility of such loss.

18.2 To the extent permitted by law, we limit our aggregate liability to you (whether in contract, under an indemnity, in tort (including for negligence), under statute, in equity or otherwise) for all losses arising under or in connection with this Agreement to an amount equal to the Fees paid under this Agreement during the 12 months immediately preceding the date of the event giving rise to the first loss under consideration.

18.3 The limitation of liability in clause 18.2 does not apply to a breach of clause 15 (Confidentiality and Privacy), which will be capped in the aggregate to AU\$200,000.

18.4 To the extent permitted by law you agree to release, indemnify and hold harmless our directors, officers, employees, agents, contractors, licensors or suppliers and us, from and against all actions, causes of action, claims, costs, damage, demands, fines, liability, penalties whatsoever arising out of any Customer Data and yours or your Personnel's:

- (a) use of Opypro;
- (b) acts or omissions; and
- (c) breach of this Agreement, whether arising under statute or in contract, tort (including negligence) or any other legal doctrine.

18.5 Each party's liability to the other party under this Agreement is reduced to the extent that the liability was caused or contributed to by the other party or any of its Personnel.

19. Term.

19.1 The Agreement and your usage of Opypro begins on the date your Authorised Representative first accessed, registered or subscribed to use Opypro on your behalf and will continue until the earlier of:

- (a) the expiry or termination of all your Trade Accounts; or
- (b) termination of this Agreement in accordance with these terms, (the Term).

20. Suspension & Termination.

20.1 We may immediately suspend your use of and access to Opypro or part of it without liability if:

- (a) we are so directed by a Supplier; or
- (b) we reasonably believe that you or any of your Personnel are in breach of this Agreement.

20.2 Either you or we may terminate this Agreement with immediate effect by giving written notice to the other party if the other party:

- (a) is in breach of this Agreement and fails to remedy the breach within 30 days after receiving notice requiring it to do so; or

- (b) becomes insolvent or made an externally-administered body corporate within the meaning of the Corporations Act 2001 (Cth).
- 20.3 In addition, either you or we may terminate this Agreement at any time for convenience by giving the other party at least 90 days' prior written notice.
- 20.4 Without any liability and in our absolute discretion, we may immediately suspend your use of Opypro or terminate this Agreement at any time with immediate effect if we decide that you or your undertaking:
- (a) might bring us or our business into disrepute; or
 - (b) has or will suffer reputational damage or has engaged in conduct, including the conduct of your Personnel, that brings you, your business or Personnel into disrepute, including, without limitation, the committing of crimes, the underpayment of staff, being party to bribes or corruption.
- 20.5 If this Agreement is terminated by you under clause 20.2 or 22.6 or by us under clause 20.3, then we will promptly repay to you any prepaid fees in respect of any goods or services that were to have been provided after the effective date of termination.
- 20.6 Upon
- (a) the termination of this Agreement; or
 - (b) to the extent that your use of and access to Opypro (or part of it) has been suspended, then you must immediately cease using or accessing Opypro and your access and use will be prevented.
- 20.7 We may, although we're not obliged to, archive, backup or delete Customer Data in our possession after the termination of your access and use of Opypro. To the extent possible, we recommend that you backup your data in a secure manner onto your own computer system on a regular basis as we are not responsible for backing up your data onto your systems. If you require access to or copies of your Customer Data, including historical transaction data, then we may or may not provide it to you at your request and your cost.
- 20.8 Clauses 7, 9, 13, 15, 16, 17, 18, 21, 22 and this clause 20 survive the expiration or termination of this Agreement.
- 20.9 The expiration or termination of this Agreement does not affect any right or cause of action which has accrued to a party at or prior to the date of termination, including the right to be paid for services rendered.

21. Dispute Resolution.

A party claiming that a dispute has arisen under or in connection with this Agreement (dispute) must notify the other party giving written details of the dispute. The parties agree to negotiate in good faith on a commercially reasonable basis to resolve the dispute within 30 days of initial notification, before commencing any legal proceedings in relation to the dispute. Nothing in this clause will prevent a party from seeking interlocutory relief or debt collection of unpaid Fees.

22. General.

- 22.1 Relationship. No employment, partnership or joint venture relationship is created or exists between the parties or between us and any Supplier
- 22.2 Affiliates. Our Related Entities and/or subcontractors may provide portions of the services to facilitate your usage of Opypro, however, we will remain responsible for their performance or non-performance.
- 22.3 Law. The laws of the State of Victoria, Australia govern this Agreement and each party submits to the exclusive jurisdiction of the courts of that State and any courts which may hear appeals from those courts.

- 22.4 Currency. Unless indicated otherwise or due to manifest error, all references to money in this Agreement, Opypro or our website are references to Australian dollars.
- 22.5 Entire Agreement. The Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.
- 22.6 Amendment. We may vary these terms (other than the Fees) from time to time by providing prior notice to you. If there is an amendment which has a material detrimental impact to you, you may terminate this Agreement upon 30 days written notice to us. We may vary the Fees from time to time by providing written notice to you. If you are unwilling to pay the varied Fees, you may terminate this Agreement upon 30 days written notice to us.
- 22.7 Severance. A term or part of a term of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining terms or parts of the term of this Agreement continue in force.
- 22.8 Force Majeure. Neither party is liable to the other for the consequences of any delays or failures of its performance which are caused by any event beyond the first party's reasonable control, including without limitation acts of God, fire, flood, accident, terrorism, strike and riots. Either party may terminate this Agreement upon at least 14 days' prior written notice to the other party if such an event occurs and continues for a period of 30 days or more.

23. Glossary.

In these terms, the following words have the following meanings:

- 23.1 "Acceptable Use Policy" or "AUP" means the guidelines regulating the proper and permitted use of the Apps (if any) published by us from time to time and made available to you as part of the Documentation.
- 23.2 "Affiliates" are defined in clause 22.2
- 23.3 "Agreement" means this document.
- 23.4 "AML-CTF" means anti-money laundering and counter terrorism financing.
- 23.5 "Application" means an application or re-application (as the case may be) for a Trade Account or increased Credit Limit. Apply will be similarly construed.
- 23.6 "Application Portal" means the proprietary website or application owned and operated by Opypro Holding in which you may submit an Application.
- 23.7 "Approval Criteria" means the criteria for approval of an Application and the issue of a Trade Account as determined by Supplier or us from time to time].
- 23.8 "Authorised Representative" means the individual who enters this Agreement or orders Opypro on behalf of the Trade Customer.
- 23.9 "Business Day" means a day on which banks are open for business in Melbourne, Australia excluding a Saturday, Sunday or public holiday in Melbourne, Australia.
- 23.10 "Confidential Information" means information that:
- (a) is by its nature confidential;
 - (b) is designated by the discloser as confidential; or
 - (c) the recipient knows or ought to know is confidential; and includes commercial and technical information related to this Agreement, Opypro or the discloser, but does not include:
 - (d) information which is in the public domain (otherwise than through a breach of this Agreement or any other obligation of confidentiality); or
 - (e) which is independently developed or acquired by or previously known to the recipient, without access to the discloser's Confidential Information.
- 23.11 "Credit Limit" means, respectively:

- (a) the maximum balance that a Trade Account with a relevant Supplier can reach at any particular point in time; or
 - (b) the aggregate maximum balance that all your Trade Accounts can reach with respect to all Suppliers with whom you have a Trade Account.
- 23.12 “Customer Data” means your content, data, information and intellectual property that you Handle with, via, on, to or from Opypro or third-party platforms, including Supplier platforms, in connection with or via Opypro, including, but not limited to, logos, text, images, financial information and details of the transactions you enter with Suppliers.
- 23.13 “Documentation” means user guides, manuals and release notes related to the performance, function and use of Opypro, including any AUP or manufacturer documents.
- 23.14 “Opypro” means Opypro Holding’s various services, proprietary technologies, softwares, applications, websites and materials provided by it and made available to you and Suppliers that contract with us, including the Application Portal, Trade Customer Portal, the Modules and all other online solutions and platforms.
- 23.15 “Fees” mean the fees we charge from time to time to access and use Opypro, acquire goods or services, including delivery or pick-up charges, as amended from time to time, plus any applicable GST.
- 23.16 “Goods” mean any goods, products or property acquired by you via a Trade Account from a particular Supplier that is linked to your Opypro Credit Account.
- 23.17 “GST” means goods and services tax or similar value added tax levied or imposed in Australia pursuant to the GST Law or otherwise on a supply.
- 23.18 “GST Act” means A New Tax System (Goods and Services Tax) Act 1999 (Cth).
- 23.19 “GST Law” has the same meaning as in the GST Act.
- 23.20 “Handle” means record, provide, upload, host or store.
- 23.21 “Includes”: the words “includes”, “include”, “including”, “for example” or “such as” will be read to mean “includes, but is not limited to”.
- 23.22 “Interest Rate” means the rate for the time being fixed under the Penalty Interest Rates Act 1983 (Vic).
- 23.23 “Marks” means a party’s name, registered or unregistered trademarks, trade names, logos or similar identifiers.
- 23.24 “Modules” mean those elements of Opypro that you are granted access to or use from time to time.
- 23.25 “Personnel” means a party’s administrators, employees, contractors, directors, officers, members, partners, trustees, agents or any other third-party that acts on your behalf.
- 23.26 “PPSA” means the Personal Property Securities Act 2009 (Aust).
- 23.27 “PPSR” means the Personal Property Securities Register established under the PPSA.
- 23.28 “Related Entity” has the same meaning as defined in the Corporations Act 2001 (Aust).
- 23.29 “Supplier” means a business that supplies goods and services to you from time to time.
- 23.30 “Term” has the meaning given by clause 19 of this Agreement.
- 23.31 “Trade Account” means an account in the name of the Trade Customer for the purchase of goods and services from a Supplier.
- 23.32 “Trade Customer”, “you”, “your” means the entity on whose behalf the Authorised Representative has submitted an Application, registered with or ordered from us to provide Opypro or any other goods or services. The types of entities that might register include, without limitation, companies, partnerships, firms, trusts, associations, clubs, unions, government agencies or departments.
- 23.33 “Trade Customer Portal” means the internet or app based service through which you log in to securely view your transaction history and current balance of each Trade Account on a

supplier-by-supplier basis. You might also be able to submit Applications in the Trade Customer Portal.

23.34 "Update" means changes to the Apps features, new versions of, upgrades to and the correction of errors in the Apps that we may make or release from time to time. "Updates" shall be similarly construed.

Terms last updated on 13 July 2023