

These terms constitute the entire agreement between BusinessHub Pty Ltd ABN 31 106 092 068 (**BusinessHub, Us or Our**) of Suite 203, 838 Collins Street, Docklands, VIC, 3008 and the customer (**You or Your**) described in the invoice issued by BusinessHub for the annual employer support plan fee (**Invoice**). If You pay the Support Fee or request BusinessHub to provide Support Services after receiving the Invoice, You will be deemed to have accepted these terms to the exclusion of any other terms.

1. Definitions

In these terms, unless the contrary intention appears:

Additional Charge means a charge in accordance with BusinessHub's standard rates in effect from time to time.

Business Hours means the normal hours during which BusinessHub is open for business which are 9am to 5pm on weekdays on which banks are open in Melbourne, Victoria (unless We otherwise notify You in writing).

Force Majeure Event means a circumstance beyond Our reasonable control which results in Us being unable to observe or perform on time an obligation under these terms, including but not limited to:

- (a) acts of God, lightning strikes, earthquakes, floods, storms, explosions, fires and any natural disaster;
- (b) acts of war, acts of public enemies, terrorism, riots, civil commotion, malicious damage, sabotage and revolution; and
- (c) strikes, power outage, disruption to internet connection or the unavailability or scheduled down-time of third party email servers or services.

Software Owner means the owner of intellectual property rights in the Supported Software, where such owner is a person other than BusinessHub.

Support Fee means the annual employer support plan fee as specified in the Invoice, which is payable by You to BusinessHub in respect of the Support Services for the Term.

Support Services means an entitlement for You to access technical information and advice on the basic usability and functionality of the Supported Software as described in the product user guides and related documentation for the Supported Software issued by the Software Owner, but specifically excluding those matters set out in clause 2(c) of these terms.

Supported Software means the modules of the MYOB Exo Employer Services Software that You are duly licensed by the Software Owner to use during the Term.

Term means the one (1) year period specified in the Invoice, or if no such period is specified, the one (1) year period beginning on the date that the Software Owner issues licence codes or registration files to enable You to access and use the Supported Software.

1. Term

Subject to You paying the annual Support Fee to BusinessHub in accordance with clause 3(a), You will be entitled to access the Support Services during the Term.

2. Support Services

- (a) Support Services will be provided by BusinessHub in response to a request by You, where Your request is made in a manner approved by BusinessHub from time to time. At the date of these terms, We require such requests to be emailed to support@businesshub.com.au.
- (b) Support Services will be provided by BusinessHub by means of telephone advice, email, the internet or such other means as determined by BusinessHub from time to time.
- (c) Support Services specifically exclude:
 - (i) on-site support;
 - (ii) accounting, financial, taxation, industrial relations or human resource management advice;
 - (iii) correction of bugs, errors or defects in the Supported Software;
 - (iv) the provision of updates, new releases or documentation in respect of the Supported Software;
 - (v) training of Your operators or programming staff;

- (vi) furnishing or maintaining of accessories, hardware, equipment, supplies, consumables or associated items, whether or not manufactured or distributed by BusinessHub or the Software Owner;
- (vii) correction of errors or defects which are the subject of a warranty or guarantee made (expressly or impliedly) under another agreement, including an agreement between You and the Software Owner;
- (viii) the rectification of or advice on the rectification of issues, errors or defects caused (whether wholly or partially, directly or indirectly) by:
 1. incorrect or unauthorised use of the Supported Software;
 2. the installation, configuration, modification, revision, variation, translation or alteration of the Supported Software in a manner not authorised by BusinessHub or the Software Owner;
 3. the use of the Supported Software by a person not authorised by BusinessHub or the Software Owner;
 4. computer programs other than the Supported Software (or integration with such programs);
 5. You failing to provide suitably qualified and adequately trained staff to use, maintain or operate the Supported Software or the hardware on which the Supported Software is installed or used;
 6. Your operator errors or other service providers;
 7. hardware or equipment maintenance or fault;
 8. networking or connectivity problems;
 9. Your operating environment or a change in Your operating environment;
 10. any viruses, corrupted data or incorrect data associated with the Supported Software;
 11. faults not associated with the Supported Software; or
 12. Your failure to comply with these terms or any other agreement between You and BusinessHub or the Software Owner,
 and You acknowledge and agree that if BusinessHub provides any services of the nature described in this clause 2(c) at Your request, You must pay an Additional Charge for the provision of such services.

3. Customer Obligations and Warranties

- (a) You must pay the Support Fee and all applicable software or annual licence fees in respect of the Supported Software to BusinessHub within 14 days of receiving an invoice from BusinessHub for such fees without set-off or deduction.
- (b) To enable BusinessHub to provide Support Services to You, You must provide BusinessHub with access to:
 - (i) Your suitably qualified or informed personnel;
 - (ii) the Supported Software and all hardware on which it is installed or operated in Your business, with such access to be provided in a manner requested by Us; and
 - (iii) complete and accurate information on the way in which You use an operate the Supported Software.
- (c) You acknowledge and agree that the Support Fee was calculated on the basis of the number of Your employees at the commencement of the Term, and if the number of Your employees increase during the Term, You must pay an Additional Charge to BusinessHub in respect of the Support Services for the balance of the Term.

- (d) You agree to provide BusinessHub with a registration report generated by the Supported Software within 7 days of receiving such a request.
- (e) You warrant that You have not relied on any representation made by BusinessHub which has not been stated expressly in these terms.
- (f) You acknowledge and agree that BusinessHub makes no warranties in relation to the Supported Software or any documentation or software owned by the Software Owner.
- (g) You acknowledge and agree that You are responsible for Your own data back-up policies and procedures.

4. Exclusions and Limitations

- (a) If You refuse to accept an update or new release from the Software Owner in respect of the Supported Software, BusinessHub may decline to continue Support Services.
- (b) For Support Services provided by telephone, BusinessHub reserves the right to limit each telephone call to half an hour and to limit each call to a single support request or question. We may also limit or terminate Your entitlement to Support Services if You use the Support Services in an excessive, abusive or fraudulent manner.
- (c) Support Services may be unavailable during Business Hours due to downtime for systems or server maintenance. You may also experience longer than expected delays in having one of Our support consultants answer Your query, especially during peak demand times such as at the end of the financial year.
- (d) You acknowledge and agree that BusinessHub accepts no liability in relation to the Supported Software or any agreement between You and the Software Owner.

5. Limitation of Liability and Indemnity

- (a) These terms do not exclude, restrict or modify:
 - (i) The application of any provision of the Australian Consumer Law (whether applied as a law of the Commonwealth or any State or Territory of Australia);
 - (ii) the exercise of any right or remedy conferred by the Australian Consumer Law; or
 - (iii) the liability of BusinessHub for a failure to comply with any applicable consumer guarantees where to do so would:
 1. contravene the Australian Consumer Law; or
 2. cause any part of this agreement to be void.
- (b) To the extent permitted by law and subject to the other provisions of these terms:
 - (i) All guarantees, conditions or warranties, express or implied, including, but not limited to, any implied guarantees, conditions or warranties of due care and skill or fitness for a particular purpose are excluded.
 - (ii) BusinessHub makes no representation that the Support Services are fit for Your intended business purpose, and by accepting these terms, You acknowledge and accept that You have exercised Your own judgment in selecting the Support Services as being fit for Your business purpose.
 - (iii) BusinessHub shall not be liable for any damages whatsoever (including, without limitation, damages for loss of business profits, business interruption, loss of business information or other pecuniary loss) arising out of the Support Services or Your inability to use the Support Services, even if BusinessHub has been advised of the possibility of such damages.
 - (iv) BusinessHub's maximum aggregate liability to You:
 1. for failure to comply with a consumer guarantee (where applicable) in respect of the supply of the Support Services which are not of a kind ordinarily acquired for personal, domestic or household use or consumption; and
 2. for loss or damage suffered by You as a result of any breach of these terms or other default by BusinessHub,

is limited, at BusinessHub's option in its sole discretion to:

3. supplying the services (or the relevant part of the services which caused the failure) again; or
4. payment of the cost of having the services (or the relevant part of the services which caused the failure) supplied again.

6. Termination

- (a) Without limiting the generality of any other clause in these terms, BusinessHub may terminate this agreement with You immediately by notice in writing if:
 - (i) BusinessHub gives You thirty (30) days' notice of its intention to terminate these terms;
 - (ii) You are in breach of any term of these terms and such breach is not remedied within seven (7) days of You receiving a notice of default from BusinessHub;
 - (iii) Your licence to use the Supported Software is terminated or ceases for any reason;
 - (iv) You become, threaten or resolve to become or are in jeopardy of becoming insolvent or subject to any form of insolvency administration;
 - (v) You, being a partnership, dissolve, threaten or resolve to dissolve or are in jeopardy of dissolving;
 - (vi) You, being a natural person, die; or
 - (vii) You cease or threaten to cease conducting Your business in the normal manner.
- (b) If notice is given to You pursuant to clause 6(a), BusinessHub, in addition to terminating this agreement with You, may:
 - (i) retain any moneys paid pursuant to these terms;
 - (ii) charge You an Additional Charge to the extent permitted by these terms for work performed by BusinessHub in respect of which no sum has been previously charged;
 - (iii) be regarded as discharged from any further obligations under these terms; and
 - (iv) pursue any additional or alternative remedies provided by law.

7. Miscellaneous

- (a) If a delay or failure of BusinessHub to perform its obligations under these terms is caused or anticipated due to a Force Majeure Event, the performance of BusinessHub's obligations will be suspended. If the Force Majeure Event exceeds sixty (60) days, either You or BusinessHub may immediately terminate these terms on providing written notice to the other party.
- (b) BusinessHub may sub-contract the performance of all or part of any of its obligations under these terms without Your consent.
- (c) These terms constitute the entire agreement between the parties and supersede all prior representations, agreements, statements and understandings, whether verbal or in writing.
- (d) The benefit of these terms must not be assigned by You without BusinessHub's written consent.
- (e) BusinessHub may assign these terms at its sole discretion and without Your consent. BusinessHub must provide You with written notice of any such assignment.
- (f) Any variation to these terms must be agreed by the parties and recorded in writing (which may include by email correspondence).
- (g) Any express statement of a right of BusinessHub under these terms is without prejudice to any other right of BusinessHub expressly stated in these terms or existing at law.
- (h) These terms are governed by the laws of Victoria, Australia and the parties irrevocably submit to the exclusive jurisdiction of the courts of that State.
- (i) If any provision of these terms is held invalid, unenforceable or illegal for any reason, these terms shall remain otherwise in full force apart from such provisions which shall at the election of BusinessHub, be read down to the extent necessary to remove such invalidity, unenforceability or illegality or be deemed deleted.