

## iluminr

### Terms of Use

*Last updated on February, 2024*

These Terms of Use (the “**Terms of Use**”) constitute a legally binding agreement made between you, whether personally or on behalf of an entity (“**you**”), and the Catalyst Group including, but not limited to, Catalyst Technologies Pty. Ltd., iluminr Inc. and other related affiliates and subsidiaries (together “**we**”, “**our**” or “**us**”), concerning your access to and use of the iluminr platform (“**iluminr**” or “**Platform**”) as well as our website located at [www.iluminr.io](http://www.iluminr.io) and any other media form, media channel, mobile website or mobile application related, linked, or otherwise connected thereto (collectively, the “**Site**”).

By accessing or using the Site you agree to these Terms of Use and our Privacy Policy, and by accessing or using our Platform, you agree to be bound by these Terms of Use together with our Privacy Policy and any applicable Schedule of Services (collectively, the “**Agreement**”). If you do not agree with these Terms of Use, you must not access or use either our Platform or Site.

By accepting these Terms of Use and continuing to use our Platform and/or Site, you represent that you are at least the age of majority in your state or province of residence.

#### 1. **Interpretation**

##### 1.1. In this Agreement:

“**Access Fee**” means our fee for the Platform payable by you in accordance with the fee schedule set out on the Schedule of Services (which we may change from time to time);

“**Account**” means your account with us that facilitates your use of the Platform and/or Site;

“**Agreement**” has the meaning as set forth in the introductory paragraph;

“**Applicable Laws**” means all laws, statutes, ordinances, regulations, rules, or orders relevant to the activities contemplated by this Agreement, including, where applicable, the Privacy Act 1988 (Cth) of Australia, the General Data Protection Regulation (EU) 2016/679 (“GDPR”) and any applicable national data protection laws of European Union member states, the UK Data Protection Act 2018, the California Consumer Privacy Act (“CCPA”) and any amendments thereof, as well as other relevant privacy and data protection laws and regulations;

“**Authorized User**” means those of your employees, agents and contractors who are authorized by you to use the Platform;

**“Charges”** means the charges for the Services and Deliverables, as described in these Terms of Use and set forth in the Schedule of Services;

**“Confidential Information”** shall mean all information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, (iv) was independently developed by the Receiving Party, or (v) is required to be disclosed by court order or applicable law; provided that Receiving Party first gives the Disclosing Party reasonable notice of such order or law and an opportunity to oppose and/or attempt to limit such disclosure;

**“Consultants”** means any employees, contractors, agents or consultants that we engage to provide the Platform, Site, and/or perform the Services;

**“Customer”** means the person or legal entity listed on the Schedule of Services and includes anyone acting on their behalf or with their express or implied authority;

**“Customer Data”** means all information that you submit or we collect via your use of the Platform, the Site, through our Services, including personal data;

**“Deliverables”** has the meaning set out in clause 5.1;

**“Developed IP”** is defined in clause 10.2;

**“Schedule of Services”** has the meaning set out in clause 3.1;

**“Freemium”** has the meaning in clause 6.1;

**“Intellectual Property Rights”** means all present and future intellectual and industrial property rights throughout the world of whatever nature (whether or not registered or registrable) including but not limited to all rights in respect of technical information, know-how, copyright, trademarks, designs, patents, domain names, business names, logos, drawings, trade secrets, the right to have Confidential Information kept confidential or other proprietary rights, or any rights to registration of such rights;

**“Material”** means any information, data, source codes, drawings, content, text or images in any form (whether visible or not), audio recordings, video recordings, lists, sound, video, links, layout, look and feel, control features and interfaces

contained on the Site, or otherwise displayed, uploaded or published on, or via, the Site;

“**Premium**” has the meaning in clause 6.2;

“**Privacy Policy**” means our privacy policy available at <https://iluminr.io/privacy-policy/>;

“**Provider IP**” is defined in clause 10.1;

“**Services**” means the services that we may provide you, as listed in clause 5.1;

“**Support Services**” means those services described in clause 7; and

“**Term**” means the term of this Agreement beginning when you accept the Schedule of Services and create an Account and continuing through and until your Account is terminated in accordance with clause 16.

- 1.2. Any reference in this Agreement to the singular includes the plural, to any gender includes all genders, to any act or statute includes any act or statute which supersedes, replaces or modifies any earlier act or statute, to persons includes all bodies and associations both corporate and incorporated and vice versa. Paragraph headings are for reference purposes only and all references to clauses are to clauses in this Agreement unless otherwise specified.

## 2. Licenses

- 2.1. Subject to the terms and conditions of this Agreement, we grant you a limited, non-exclusive, non-transferable, revocable, and non-assignable license to remotely access the Platform and to permit Authorized Users to access and use the Platform (including the Intellectual Property Rights contained therein) during the Term.
- 2.2. By uploading, posting, transmitting or otherwise making available any Customer Data or Content to the Platform, you:
  - 2.2.1. acknowledge and agree that your Customer Data or Content may be used by us for the following purposes: (i) delivering Services to you via the Platform; (ii) to provide Service Service-related communications; (ii) for security and fraud prevention; (iii) for marketing and promotional purposes; and (iv) to perform website analytics. You hereby also waive any moral rights that you might have in respect of Your Content; and
  - 2.2.2. represent and warrant that you either own the Intellectual Property Rights in Your Content or have the necessary permission to upload, post, transmit or otherwise make available Your Content via the Site.

### 3. Platform Set Up and Account

3.1. Prior to enabling Platform access, we will outline a schedule of services (the “**Schedule of Services**”) for each prospective Customer that sets out:

- 3.1.1. the Services we will provide you;
- 3.1.2. the applicable Charges;
- 3.1.3. your subscription and/or payment model; and
- 3.1.4. any implementation and/or advisory services.

3.2. To access a Platform, you must first:

- 3.2.1. Accept the Schedule of Services or other similar definitive document; and
- 3.2.2. Set up an account with us (“**Account**”) by providing your company name, contact name, address, telephone number, a valid company email address and nominate a password (“**Password**”).

3.3. If you do not provide accurate and complete details, we may not be able to activate your Account, provide you with relevant access to the Platform, Site, or the Services. You agree to keep your Account details current at all times by updating these details via your Account on the Site or by contacting us at [info@iluminr.io](mailto:info@iluminr.io).

3.4. You will receive an email confirming registration with us shortly after you have created your Account.

3.5. You may determine who is an Authorized User and the level of access they have to the Platform. You can revoke or change the access of an Authorized User at any time via the Platform.

3.6. Your access to, or use of, the Platform shall not be unlawful or prohibited by any laws which apply to you. You understand and agree that any suspected fraudulent, abusive or illegal activity may be referred to appropriate law enforcement authorities.

3.7. You agree that you have sole responsibility for any activity that occurs on or using your Account. You agree to notify us immediately if you become aware of any security breach or any unauthorized use of your Password or Account.

3.8. We may, in our absolute discretion, terminate your Account, disable your Account, or restrict your access to the Platform or Site (temporarily or permanently) where you have breached the Agreement or for any reasonable reason and at any time. Under these circumstances, you may be prevented from accessing all or parts of the Platform, Site, your Account details or any other content associated with your Account. We will not be liable to you or any third party if this occurs. We may impose limits or restrictions on the use you may make of the Site. Further, we may,

for any reason, at any time and without notice to you, withdraw the Site, or change or remove Site functionality.

#### **4. Use of the Platform**

- 4.1.** You may not use the Platform other than for its intended purpose or otherwise communicated to you.
- 4.2.** You will not, and you will ensure the Authorized Users and other users of your Account will not:
  - 4.2.1.** modify the Platform or merge any aspect of the Platform with another program other than as expressly provided under this Agreement;
  - 4.2.2.** record, reverse engineer, copy, duplicate, reproduce, create derivate works from, frame, download, display, transmit or distribute any of the Platform, the source code of the Platform or any documents, manuals or setup instructions provided with the Platform or in relation to the Services;
  - 4.2.3.** license, sell, rent, lease, transfer, assign or otherwise commercially exploit the Platform, Site, or the Services;
  - 4.2.4.** copy, adapt, distribute, display, reproduce or transmit any content displayed or published on the Platform and/or Site, unless required for the intended purpose of the Platform and/or Site or otherwise expressly authorized by us;
  - 4.2.5.** engage in unlawful behavior, including unauthorized access to or use of data, services, systems or networks, including any attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures;
  - 4.2.6.** engage in any activity that interferes with or disrupts the Platform or the servers and networks that host the Site;
  - 4.2.7.** access, store, distribute or transmit:
    - 4.2.7.1.** viruses, worm, trojan or other malicious code that corrupts, degrades or disrupts the operation of the Platform;
    - 4.2.7.2.** material that is unlawful, unethical, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive or a contravention of the rights of any third party;
    - 4.2.7.3.** material that facilitates illegal activity; or
    - 4.2.7.4.** material that abuses or causes damage or injury to any person or property;
  - 4.2.8.** circumvent, disable or otherwise interfere with security-related features of the Platform and/or the Site or attempt to do so or otherwise interfere with, or restrict, any person or visitor from accessing or using the Platform or Site;
  - 4.2.9.** provide Platform Account details or Passwords, or otherwise provide access to the Platform, to any unauthorized third party and you will take all

reasonable steps to prevent unauthorized access to, or use of, the Platform;

4.2.10. share any features of the Platform that are not publicly available with any unauthorized third party; and

4.2.11. engage in any conduct on the Platform that is in breach of this Agreement (or any agreements mentioned therein).

You will be responsible for all activity on your Account.

4.3. If you use any communication tools available through the Platform (such as any forum, chat room, SMS or message function), you agree only to use such communication tools for lawful and legitimate purposes. You must not use any such communication tool for posting or disseminating any material unrelated to the purpose of the Platform, including (but not limited to):

4.3.1. offers of goods or services for sale;

4.3.2. unsolicited commercial communications;

4.3.3. files that may damage any other person's computing devices or software;

4.3.4. content that may be offensive to any other users of the Platform or third parties; and

4.3.5. material in violation of any law (including Intellectual Property Rights which you do not have the right to use).

4.4. When you make any communication via the Platform, you represent that you and/or your Authorized Users are permitted to make such communication. We are under no obligation to ensure that the communications on or via the Platform are legitimate or that they relate only to the use of the Services. As with any other web-based system, you must exercise caution when using the communication tools available on the Platform.

4.5. While we have no obligation to moderate any communications made via the Platform, we reserve the right to remove any communication from the Platform that violates these Terms of Use, our Privacy Policy or any applicable law or regulation, at any time and in our sole discretion.

4.6. Any breach of this clause 4 constitutes a breach of this Agreement and we may, at our absolute discretion, immediately terminate or suspend your access to, and/or use of, the Platform or the Services, and/or take further actions against you for breach of this Agreement.

## 5. Services

5.1. Once your Account is set up, we will provide you with the services ("**Services**") and deliverables ("**Deliverables**") as set forth in your Schedule of Services. These Services and Deliverables may include:

| Services                                              | Deliverables                                                                                                                                              |
|-------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Platform Maintenance (including hosting and security) | Access to and use of the Platform.                                                                                                                        |
| Onboarding                                            | As set out in the Schedule of Services.                                                                                                                   |
| Training                                              | As set out in the Schedule of Services.                                                                                                                   |
| SMS Services                                          | As set out in the Schedule of Services.                                                                                                                   |
| Support Services                                      | As set out in the Schedule of Services.                                                                                                                   |
| APIs                                                  | As set out in the Schedule of Services.                                                                                                                   |
| Customization                                         | You may contact us to request specific customized functionality. Such customization will be provided at our discretion and will incur additional charges. |

This is a non-exhaustive list of Services and Deliverables intended for illustrative purposes only.

- 5.2.** All Services will be performed online. At our discretion, onboarding and training may be conducted at a site as agreed in the Schedule of Services.



- 5.3. We will perform the Services and deliver the Deliverables in return for payment of the applicable Charges as detailed in the Schedule of Services.
- 5.4. All Services and Deliverables will be provided based on the information and specifications supplied by you. All information that we provide is supplied in good faith, but we do not warrant or guarantee the accuracy or completeness of any information provided by us or any third party. It is not within the scope of our obligations to enquire as to, or to verify, the accuracy or completeness of information that we receive from you or any third parties.
- 5.5. We are not obliged to provide any Services or Deliverables under this Agreement that are not described in this Agreement.
- 5.6. We will use reasonable endeavors to provide the Services and Deliverables promptly or in accordance with the agreed timeframe.
- 5.7. We may engage Consultants to perform our obligations under this Agreement at our discretion.
- 5.8. We intend for the Services (other than training and onboarding) to be available twenty-four (24) hours a day, seven (7) days a week. However, on occasions the Services or the Platform may be unavailable due to permit maintenance or other development activity to take place. We will use reasonable endeavors to publish details of any significant interruptions (as determined by us in our discretion) in advance on the Site. You agree that we have no liability whatsoever for any loss, damage, or inconvenience caused by your inability to access or use the Platform or Site during any scheduled downtime.

## 6. Freemium and Premium Access

- 6.1. At our discretion, we may offer you free access to components of certain Platforms Services ("**Freemium**").
- 6.2. Freemium access will be subject to limited functionality and volume thresholds. Once the requisite volume thresholds are reached for Freemium access, you will need to upgrade to the paid version of the Platform ("**Premium**") to continue your use of the Platform.
- 6.3. Premium versions will provide access to key features of the Platform and include an additional volume capacity. Details of the features, volume thresholds and Charges of the Premium access will be set out in your Schedule of Services.
- 6.4. We may amend, vary, or cancel any Freemium access at any time.



## **7. Support Services**

- 7.1.** In the case of technical problems, you must make all reasonable efforts to investigate and diagnose problems before contacting us. If you still need technical help, please check the support provided online at the Site or failing that email us at [info@iluminr.io](mailto:info@iluminr.io)
- 7.2.** Subject to clause 18 and clause 5.8, we will make commercially reasonable efforts to keep the Support Services operational twenty-four (24) hours a day and seven (7) days a week.
- 7.3.** We will investigate all problems or errors in any Services or Deliverables, provided that you notify us via email to [info@iluminr.io](mailto:info@iluminr.io) within three (3) days following discovery of the problem and you give us all necessary access and information to conduct an investigation into the matter.

## **8. Your obligations**

- 8.1.** You acknowledge that our ability to be able to provide the Platform and the Services to you without delay or interruption is dependent on your full and timely cooperation. You will (and will ensure that the Authorized Users and any other user of your account will):
  - 8.1.1.** cooperate with and assist us in the supply of the Platform and the Services;
  - 8.1.2.** promptly provide us with full and accurate information, data and explanations as and when required;
  - 8.1.3.** comply with all applicable laws, regulations and industry standards with respect to your activities and obligations under this Agreement;
  - 8.1.4.** ensure that your network and systems comply with the relevant specifications and guidelines provided by us from time to time; and
  - 8.1.5.** comply with all reasonable directions and guidelines from us as advised from time to time.
- 8.2.** You must procure or aid us in procuring all necessary rights from third parties, which are from time to time required in order for us to be able to provide the Platform or the Services to you.
- 8.3.** It is your responsibility to ensure that the Schedule of Services, invoice or any other written communications we send to you set out the correct information in relation to your business and that you notify us of any changes to this information during the Term.

## **9. Charges and Payment**

- 9.1.** You will pay us the Charges to access and use the Platform and the Services in accordance with this Agreement and the Schedule of Services.

**9.2.** The Charges will be set out in the Schedule of Services and may include:

- 9.2.1.** the Access Fee;
- 9.2.2.** set up and training fees; and
- 9.2.3.** SMS or other Platform use charges.

**9.3.** Charges would typically be presented in either U.S. Dollars (USD), Australian Dollars (AUD), or British Pounds (GBP), and shall be exclusive of applicable taxes, including GST. We reserve the right to determine the appropriate currency for Charges based on the location, and this information will be clearly set out in the Schedule of Services.

**9.4.** If payment of the Charges is not received within 30 (thirty) days of the invoice issue date, we will be entitled (without prejudice to any other right or remedy available to us under this Agreement or at law) to do one or more of the following:

- 9.4.1.** withhold provision of the Services, or suspend your access to any or all of the Platform or the Services, until payment of the outstanding invoice (including interest) is received by us in full;
- 9.4.2.** charge interest on the outstanding amount at the rate of eight per cent (8%) per annum, and the parties acknowledge and agree that this rate has been calculated to reflect a genuine pre-estimate of our loss and costs in the event of a payment default; and
- 9.4.3.** terminate this Agreement pursuant to clause 16.

**9.5.** You will make all payments for the Charges without any deduction for tax unless a tax deduction is required by law. If you are required to make a tax deduction by law, the amount due will be increased to the amount that (after making the tax deduction) upon deduction of the amount attributable to tax equals the amount which would have been due if no tax deduction had been required.

**9.6.** We may, sixty (60) days before the expiry of the current Term, inform you of any upcoming changes in the Charges for your renewal Term.

**9.7.** Invoices and subscription payments may be managed through our external billing subscription service. Such payments are subject to the service provider's Terms of Service. By using our Services, you agree to be bound by the service provider's Terms of Service, which may be modified by them from time to time. As a condition of enabling subscription services through them, you agree to provide us with accurate and complete information about you and your business, and you authorize us to share with them your limited identification and transaction information pertinent to your use of the services provided by them.

- 9.8. Payments may be processed by Stripe and such payments are subject to the Stripe Connected Account Agreement, which includes the Stripe Terms of Service (collectively, the “**Stripe Services Agreement**”). By using our Services, you agree to be bound by the Stripe Services Agreement, which may be modified by Stripe from time to time. As a condition of enabling payment processing services through Stripe, you agree to provide us with accurate and complete information about you and your business, and you authorize us to share with Stripe your identification and transaction information related to your use of the payment processing services provided by Stripe.

## 10. Intellectual Property

- 10.1. All rights, title or interest in and to the Platform and Site, and any information or technology that may be provided to, or accessed by, you in connection with your use of the Platform, Site, or Services is owned, and will remain owned, by us or our licensors (“**Provider IP**”). Using the Platform, Site, or the Services does not transfer any ownership or rights, title or interest in and to the Provider IP.
- 10.2. All Intellectual Property Rights discovered, developed or otherwise coming into existence as a result of, for the purposes of, or in connection with, the Platform or the provision of any Services will automatically vest in, and are assigned to, us, including any enhancements, improvements and modifications to the Provider IP (collectively, the “**Developed IP**”).
- 10.3. You must not represent to anyone or in any manner whatsoever that you are the proprietor of the Platform, The Site, the Provider IP and/or the Developed IP.
- 10.4. You retain ownership rights to the Customer Data and Content that you provide to us, whether by uploading to the Platform or otherwise.
- 10.5. By uploading, posting, transmitting or otherwise making available any Customer Data and Content to the Platform, you represent and warrant that you either own the Intellectual Property Rights in your Content or have the necessary permission to upload, post, transmit or otherwise make available your Content via the Site.
- 10.6. We reserve the right to terminate any license granted to you under the Agreement and/or remove any of Customer Data or Content from the Platform, at any time, if you are found to have violated the terms of this Agreement, including the Schedule of Services.
- 10.7. You must maintain copies of all Customer Data and Content you input into the Platform. We adhere to best practice policies and procedures to prevent data loss, including a daily system data back-up regime, but we do not make any guarantees that there will be no loss of the Customer Data or Content. We expressly exclude liability for any loss of Customer Data or Content no matter how caused.

- 10.8. If you enable third-party applications for use in conjunction with the Platform, you acknowledge that we may allow the providers of those third-party applications to access your Customer Data or Content as required for the interpretation of such third-party applications with the Platform. We are not responsible for any disclosure, modification or deletion of your Customer Data or Content resulting from any such access by your authorized third-party application providers.
- 10.9. You agree that we may refer to you, your business name, publish your logo and/or trademark and make reference to you as a customer of ours in any communications or publications for the purposes of marketing or promoting our business.

## 11. Warranties

- 11.1. You warrant that where you have registered an Account and to use the Platform on behalf of another entity, you have the authority to agree to this Agreement and make the warranties contained in this Agreement on behalf of that entity and can do so without the consent of any other entity.
- 11.2. We will use reasonable endeavors to provide constant, uninterrupted access to the Platform and the Services, but with any Platform based product, this cannot be guaranteed. We will not be responsible or liable for any direct or indirect losses or damages suffered or sustained by you as a result of, or in connection with, any interruption or delay in accessing and using the Platform, Site, or the Services.
- 11.3. To the maximum extent permitted by law, no further warranty, condition, undertaking or term, express or implied, statutory or otherwise as to the condition, quality, performance or fitness for purpose of the Platform provided hereunder is given or assumed by us other than as required at law. You acknowledge and agree that the Platform, the Site, and the Services are provided on 'as is' basis and that you will make your own investigations into whether or not the Platform, the Site, and the Services are fit for your purposes.
- 11.4. We make no representations, warranties, or guarantees:
  - 11.4.1. that content available on, or produced by or via, the Platform is accurate, complete, reliable, current, error-free or suitable for any particular purpose. This content is provided on an 'as is' basis and you acknowledge and agree that you exercise absolute discretion in choosing how to use this content; or
  - 11.4.2. as to the availability of the Platform or that the Platform and/or the Services are or will be free from viruses, worm, trojan or other malicious code. You are responsible for taking your own precautions in this respect.

## 12. Limitation of Liability and Exclusions

- 12.1.** To the maximum extent permitted by law, we exclude all conditions, guarantees or warranties expressed or implied by law arising out of, or in connection with, access and/or use of the Platform, the Site, or any Services performed under this Agreement.
- 12.2.** In no event will we be liable to you or any third party for any:
- 12.2.1.** loss of profits, revenue, goodwill or business, business interruption, corruption, loss or alteration of data, downtime costs, loss of use, failure to realize anticipated savings or for any indirect or consequential loss or damage of whatsoever nature, however caused;
  - 12.2.2.** breach by you, any Authorized User or any third party of the Intellectual Property Rights of a third party or any laws, regulations or any relevant industry codes;
  - 12.2.3.** viruses, worm, trojan or other malicious code introduced into, or transmitted to, you or any third party during the course of using the Platform or the Services; or
  - 12.2.4.** loss of or damage to any property belonging to you, any Authorized User or any third party or any personal injury or death arising out of or in connection with this Agreement.
- 12.3.** Without limiting the generality of the foregoing, our total liability to you or any third party (whether based on warranty, contract, tort, statute, misrepresentation or otherwise) arising out of, or in connection with, this Agreement, for any one event or a series of related events, will be limited to the total Charges paid (excluding GST and expenses) by you to access and use the Platform and the Services (as applicable) in the twelve (12) months immediately prior to the event(s).
- 12.4.** You assume sole responsibility for your use of the Platform, the Site and the Services (including any content contained therein) and for any reliance on, and use of, conclusions drawn from such use.
- 12.5.** We will have no liability for any losses suffered or any damage caused by errors or omissions in any information or instructions provided to us by you in connection with the Platform, the Site, the Services or any actions taken by us at your direction.
- 12.6.** To the maximum extent permitted by law, all typographical, clerical or other errors or omissions in sales literature, quotations, price lists, acceptances or offers, invoices or other documents or information issued by us will be subject to correction without any liability on our part.
- 12.7.** The parties acknowledge that the limitations of liability contained in this clause 12 are a fair and reasonable allocation of the commercial risk between the parties.

## **13. Indemnity**

**13.1. By You.** You agree to indemnify and hold us, our officers, directors, employees and contractors (collectively, the “**Indemnified**”) harmless from and against any and all claims, actions, demands, proceedings, liabilities, losses, damages, expenses and costs that may be brought against the Indemnified or which the Indemnified must pay, sustain or incur as a direct or indirect result of or arising out of:

- 13.1.1.** breach by you, by an Authorized User, or by any user of your account of any of your obligations under the Agreement;
- 13.1.2.** loss of, or damage to, any property belonging to you, any Authorized User or any third party or any personal injury or death arising out of or in connection with this Agreement;
- 13.1.3.** breach of any third party’s Intellectual Property Rights; or
- 13.1.4.** breach by you, by an Authorized User, or by any user of your account of any Applicable Law.

## **14. Confidentiality**

- 14.1.** Each party agrees not to use or disclose Confidential Information received or disclosed to it by the other party in the negotiation or operation of this Agreement, save for such use or disclosure necessary and required to perform their respective obligations under this Agreement. Disclosure will be, in any event, only made to the receiving party’s employees, officers, agents or contractors to whom it is necessary to do so and who are directly involved in performing the receiving party’s obligations.
- 14.2.** In making disclosure to persons as permitted under this clause, the receiving party will ensure that persons receiving the disclosing party’s Confidential Information will comply with the same obligations regarding confidentiality as that of the receiving party.
- 14.3.** Information is not to be regarded as confidential, and the receiving party will have no obligation regarding confidentiality, where that information is already in the public domain or enters the public domain through no fault of the receiving party, is received from a third party without any obligations of confidentiality, is used or disclosed with the prior written consent of the disclosing party, is disclosed in compliance with a legal requirement or is independently developed by the receiving party.
- 14.4.** Any Confidential Information held by a receiving party will be returned to the disclosing party or destroyed at the written request of the disclosing party.

## **15. Privacy**



- 15.1.** Compliance. You shall comply with all Applicable Laws and take reasonable steps to assist us to comply with our obligations under Applicable Laws.
- 15.2.** Privacy Policy. We are committed to protecting your privacy and personal information. Please see our Privacy Policy for further details about our practices relating to the collection, use, disclosure and storage of your personal information or email us at [info@iluminr.io](mailto:info@iluminr.io).
- 15.3.** Data Subject Requests. You shall comply with all valid data subject and/or consumer requests as required under Applicable Law.
- 15.4.** Data Protection Addendum. Where necessary, the Parties shall enter into a Data Protection Addendum (the "DPA"). Where the terms and conditions of this Terms of Use conflict with the DPA, the DPA shall prevail.
- 15.5.** Your Employee Training. You shall ensure that you and your employees, contractors, and agents are aware of and trained on your obligations under all Applicable Laws, including any laws related to the use of sensitive data that may be utilized with the Services.

## **16. Term and Termination**

- 16.1.** This Agreement will commence on the date you sign the Schedule of Services and will continue in force until your Account is terminated in accordance with this clause 16 or the terms of any express written agreement between the Parties ("**Term**").
- 16.2.** Unless either party provides the other with written notice of its intention not to renew at least sixty (60) days before the end of the current Term, this Agreement shall automatically renew for successive Terms of equal length to the expiring Term. This automatic renewal will continue on the same terms and conditions of this Agreement, unless otherwise agreed upon by both parties in writing.
- 16.3.** Notwithstanding the foregoing, we may terminate this Agreement (or at our discretion, the supply to you of the Services or access to the Platform) immediately if you fail to pay any invoice and such sum remains unpaid for thirty (30) days;
- 16.4.** Subject to clause 18, either party may terminate this Agreement immediately by giving written notice to the other party if:
  - 16.4.1.** the other party is in breach of this Agreement to a material extent and fails to remedy the breach within fourteen (14) days of being notified of the breach (if it is capable of being remedied); or
  - 16.4.2.** the other party is bankrupt, in a voluntary arrangement, in liquidation or receivership or has ceased business or threatened to cease business or is otherwise insolvent.



- 16.5.** In the event of termination of this Agreement for any reason, we shall be entitled to immediate payment for any and all unpaid Charges properly incurred up to the date of termination and during any applicable notice period. Access Fees will be accrued on a pro rata basis until the termination date. However, if termination occurs before the expiry of the Term, no pre-paid fees or advance fees paid will be repaid or refunded to you.
- 16.6.** On the termination or expiry of this Agreement, you will return all of our Confidential Information, Provider IP, Developed IP and any other property belonging to us in your possession, control or custody.

## **17. Non-Solicitation**

- 17.1.** You will not attempt to employ, either directly or indirectly or as consultants, any of our employees or Consultants during the term of this Agreement without our prior written consent. If you are in breach of this clause, we will be entitled to terminate this Agreement in accordance with clause 16.

## **18. Situations or events outside our reasonable control**

- 18.1.** Certain situations or events may occur that prevent or hinder our performance of these Terms of Use and which will not be within our reasonable control. Where this occurs, we will notify you of these circumstances, suspend our performance of all affected obligations and attempt to recommence providing the Platform and/or the Services (as applicable) as soon as we are able. In such circumstances there may be a delay (sometimes a substantial delay) before we can start or continue performing the Services and/or providing access to the Platform.
- 18.2.** If we are prevented from or hindered in performing our obligations under this Agreement due to an event outside our control,
- 18.2.1.** performance of those obligations is suspended to the extent that performance is prevented or hindered by the event; and
  - 18.2.2.** the non-performance or delay in performance of this Agreement resulting from the event will not be deemed to be a breach of the Agreement.
- 18.3.** Situations or events referred to in clause 18.1 include, but are not limited to:
- 18.3.1.** fire, explosion, flood, earthquake, cyclone, epidemic, pandemics or natural disaster;
  - 18.3.2.** war, revolution, outbreak of hostilities, riot, civil disturbance, acts of terrorism or any other unlawful act against public order or authority, governmental shutdown;
  - 18.3.3.** theft, malicious damage, strikes, lock-outs, or industry action of any kind;

- 18.3.4. power failure, failure of telecommunications lines, failure or breakdown of plant machinery or vehicles;
- 18.3.5. the death or disablement of an employee essential to the performance of the Services.

18.4. If non-performance or delay in performance of this Agreement persists in accordance with this clause 18 for three (3) or more months, then you may terminate this Agreement by giving fourteen (14) days' prior written notice to us.

## 19. Notices

- 19.1. Any notice required to be given pursuant to this Agreement will, unless otherwise stated, be in writing and be sent to the other party either through the Platform or at the email address specified in this Agreement (or to such other address as either party may from time to time notify the other in accordance with this clause).
- 19.2. A notice given under clause 19.1 will be deemed to have been delivered twenty-four (24) hours after the message or email is sent.

## 20. Dispute Resolution

- 20.1. The parties must, before resorting to court proceedings (except for interlocutory or interim relief), initially refer any dispute under or relating to this Agreement to a nominated representative of each party to make good faith efforts to resolve the dispute within twenty (20) days. If the dispute is not resolved within twenty (20) days, then either party may, in its absolute discretion, initiate court proceedings.

## 21. General

- 21.1. We reserve the right to change, modify, or revise these Terms of Use at any time. If we make material changes, we will post the updated Terms of Use on this page with a "Last Updated" effective date of the revisions. Any such changes will be effective immediately upon posting on the Site. Your continued use of the Site after any changes to these Terms constitutes acceptance of those changes.
- 21.2. We shall notify you of any modifications to the Agreement, including the Schedule of Services. If you no longer wish to be bound by any modified Agreement and would like to discontinue your use of the Platform, Site, or the Service, please notify us by sending an email to [info@iluminr.io](mailto:info@iluminr.io) within four (4) weeks following notice of the modified Agreement, failing which you would be deemed to have accepted the modified terms of the updated Agreement.
- 21.3. Although we do our best to provide the most up-to-date information on the Site as this becomes available, we cannot warrant the accuracy or completeness of the information provided.

- 21.4.** The provisions of this Agreement that are capable of having effect after the termination or expiry of this Agreement will remain in full force and effect following the termination or expiry of this Agreement.
- 21.5.** Any provision of this Agreement which is void or unenforceable may be severed from this Agreement without affecting the enforceability of other provisions.
- 21.6.** A failure or delay by us to exercise a power or right under this Agreement does not operate as a waiver of that power or right, and the exercise of a power or right by us does not preclude our future ability to exercise that or any other power or right.
- 21.7.** This Agreement is governed by, and must be construed according to, the laws of New South Wales, Australia and the parties submit to the exclusive jurisdiction of the courts exercising jurisdiction there.
- 21.8.** All rights granted to you under this Agreement are unique to you and must not be leased, assigned, sold, licensed, resold or transferred to any third party without our express consent. You must not in any way encumber or allow the creation of any mortgage, charge, lien or other security interest in respect of the Platform.
- 21.9.** The Site may contain links to third party websites. Any links to such websites provided on the Site or Website are for convenience only. We do not represent that we have any relationship with any linked websites nor recommend or endorse any goods, services or third party content appearing on, or via, other websites linked to this Site or Website. We are not responsible for any loss or damage that may arise from your access to, and/or use of, third party websites, products and services. Additionally, we are not responsible for the content or privacy practices associated with linked websites. You should make your own enquiries before using and/or accessing third party websites.

## Contact Information

If you have any questions about these Terms of Use, please contact us at [info@iluminr.io](mailto:info@iluminr.io).