

Kinde End User Licence Agreement

For most up to date copy, please refer to the online copy at

<https://kinde.com/docs/important-information/end-user-licence-agreement/>

1. Our Disclosures

Our complete terms and conditions are contained below, but some important points for you to know before you access the Platform

1. We may amend these Terms, or the features of the Platform at any time, by providing written notice to you;
2. We will handle your personal information in accordance with our privacy policy, available on our Website;
3. Our liability under these Terms is limited to us resupplying the Platform to you, and we will not be liable for Consequential Loss, any loss that is a result of a Third Party Service, or any loss or corruption of data; and
4. We may receive a benefit (which may include a referral fee or a commission) should you visit certain third-party websites via a link on the Platform or for featuring certain products or services on the Platform.

2. Introduction

1. These terms and conditions (**Terms**) are entered into between Kinde Australia Pty Ltd ABN 11 655 096 263 (**we, us or our**) and you, together the **Parties** and each a **Party**.
2. We provide a cloud-based, software as a service platform where we help our customers with user management, feature management, experimentation and other back-office features for running and managing their businesses (**Platform**).
3. In these Terms, **you** means the person or entity using the Platform. If you are agreeing to these Terms not as an individual but on behalf of your company, government, or other entity for which you are acting (for example, as an employee or governmental official), then you means your entity and you are binding your entity to these Terms.

3. Acceptance and Platform Licence

1. You accept these Terms by registering on the Platform, or using the Platform.
2. You must be at least 16 years old to use the Platform.
3. We may amend these Terms at any time, by providing written notice to you. By continuing to use the Platform after the notice or 30 days after notification (whichever date is earlier), you agree to the amended Terms. If you do not agree to the amendment, you may cease accessing the Platform.

4. Subject to your compliance with these Terms, we grant you a personal, non-exclusive, royalty-free, revocable, worldwide, non-transferable licence to use our Platform in accordance with these Terms. All other uses are prohibited without our prior written consent.
5. When using the Platform, you must not do or attempt to do anything that is unlawful or inappropriate, including:
 1. anything that would constitute a breach of an individual's privacy (including uploading private or personal information without an individual's consent) or any other legal rights;
 2. using the Platform to defame, harass, threaten, menace or offend any person, including using the Platform to send unsolicited electronic messages;
 3. tampering with or modifying the Platform (including by transmitting viruses and using trojan horses);
 4. using data mining, robots, screen scraping or similar data gathering and extraction tools on the Platform; or
 5. facilitating or assisting a third party to do any of the above acts.

4. Kinde Services

1. We agree to use our best endeavours to make the Platform available at all times. However, from time to time we may perform reasonable scheduled and emergency maintenance, and the Platform may be unavailable during the times we are performing such maintenance.
2. You acknowledge and agree that the Platform may be reliant on, or interface with third party systems that are not provided by us (for example, cloud storage providers, email clients, and internet providers) (**Third Party Services**). To the maximum extent permitted by law, we shall have no Liability for any Third Party Services, or any unavailability of the Platform due to a failure of the Third Party Services.
3. You acknowledge and agree that data loss is an unavoidable risk when using any software. To the extent you input any data into the Platform, you agree to maintain a backup copy of any data you input into the Platform.
4. To the maximum extent permitted by law, we shall have no Liability to you for any loss or corruption of data, or any scheduled or emergency maintenance that causes the Platform to be unavailable.

5. Access to the Platform

1. You must register on the Platform to access the Platform's features. You will be invited to access the Platform via an email with a link provided by the entity you are involved with or you may also sign up on the Platform.
2. You must provide basic information when registering for the Platform including your contact name and email address and you may be asked to choose a password.

3. All personal information you provide to us will be treated in accordance with our Privacy Policy.
4. You agree not to share your login details with any other person. Your login is personal and you must not transfer or provide it to others.
5. You are responsible for keeping your login details and your username and password confidential and you will be liable for all activity via your login. You agree to immediately notify us of any unauthorized use of your login.

6. **PCI DSS**

1. We acknowledge that we are responsible for complying with the Payment Card Industry Data Security Standards 4.0 (as amended and updated from time to time) (**PCI DSS**) when we store, process, transmit or access your credit card details. We confirm that we are compliant with the PCI DSS.
2. We will notify you of any actual or potential contravention by us of any PCI DSS as soon as possible.
3. If requested by you in writing, we will provide you with evidence of our compliance in the form of a current attestation of compliance.
4. We will create and maintain reasonably detailed and complete documentation which conforms with the PCI DSS, describing the systems, processes, security controls, etc. used by us to receive, transmit, store and secure credit card details that we hold. Such documentation and the persons responsible for implementing such processes, systems, etc. will be made available to you, your QSA and any other relevant third parties retained by you to assess our compliance.

7. **Our Intellectual Property**

1. You acknowledge and agree that any Intellectual Property or content (including copyright and trademarks) available on the Platform, the Platform itself, and any algorithms or machine learning models used on the Platform (**Our Intellectual Property**) will at all times vest, or remain vested, in us.
2. We authorize you to use Our Intellectual Property solely for your limited commercial use. You must not exploit Our Intellectual Property for any other purpose, nor allow, aid or facilitate such use by any third party.
3. You must not, without our prior written consent:
 1. copy, in whole or in part, any of Our Intellectual Property;
 2. reproduce, retransmit, distribute, disseminate, sell, publish, broadcast or circulate any of Our Intellectual Property to any third party; or
 3. breach any intellectual property rights connected with the Platform, including (without limitation) altering or modifying any of Our Intellectual Property, downloading Our Intellectual Property, causing any of Our Intellectual Property to be framed or embedded in another website, or creating derivative works from any of Our Intellectual Property.

8. **Warranties**

1. You represent, warrant and agree that:

1. you will not use our Platform, including Our Intellectual Property, in any way that competes with our business;
2. if you are agreeing to these Terms not as an individual but on behalf of your company, government, or other entity for which you are acting (for example, as an employee or governmental official), then you access and use the Platform on behalf of that entity;
3. there are no legal restrictions preventing you from entering into these Terms;
4. all information and documentation that you provide to us in connection with these Terms is true, correct and complete; and
5. you have not relied on any representations or warranties made by us in relation to the Platform (including as to whether the Platform is or will be fit or suitable for your particular purposes), unless expressly stipulated in these Terms.

9. Liability

1. Despite anything to the contrary, to the maximum extent permitted by law:
 1. you agree to indemnify us for any Liability we incur due to your breach of the Acceptance and Platform Licence clause and the Intellectual Property clause of these Terms;
 2. neither Party will be liable for Consequential Loss;
 3. each Party's liability for any Liability under these Terms will be reduced proportionately to the extent the relevant Liability was caused or contributed to by the acts or omissions of the other Party or any of that Party's personnel, including any failure by that Party to mitigate its losses; and
 4. our aggregate liability for any Liability arising from or in connection with these Terms will be limited to us resupplying the Platform to you.

10. Access

1. We may revoke your access to the Platform at any time by giving 15 days' written notice to you.
2. Should we suspect that you are in breach of these Terms, we may suspend your access to the Platform while we investigate the suspected breach. Should we determine that you are in breach of these Terms, your access to the Platform will be terminated immediately.

11. General

1. **Assignment:** You must not assign or deal with the whole or any part of your rights or obligations under these Terms without our prior written consent.
2. **Disputes:** A Party may not commence court proceedings relating to a dispute without first meeting with the other Party to seek (in good faith) to resolve the dispute, failing which the Parties agree to engage a mediator to attempt to resolve the dispute. The costs of the mediation will be shared equally between

the Parties. Nothing in this clause will operate to prevent a Party from seeking urgent injunctive or equitable relief from a court of appropriate jurisdiction.

3. **Entire Terms:** These Terms contains the entire understanding between the Parties and the Parties agree that no representation or statement has been made to, or relied upon by, either of the Parties, except as expressly stipulated in these Terms, and these Terms supersedes all previous discussions, communications, negotiations, understandings, representations, warranties, commitments and agreements, in respect of its subject matter.
4. **Force Majeure:** To the maximum extent permitted by law, we shall have no Liability for any event or circumstance outside of our reasonable control.
5. **Governing law:** This Agreement is governed by the laws of New South Wales, Australia. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in New South Wales, Australia and any courts entitled to hear appeals from those courts and waives any right to object to proceedings being brought in those courts.
6. **Notices:** Any notice given under these Terms must be in writing addressed to us at the details set out below or to you at the details provided when you sign up to the Platform. Any notice may be sent by standard post or email, and will be deemed to have been served on the expiry of 48 hours in the case of post, or at the time of transmission in the case of transmission by email.
7. **Privacy:** We agree to comply with the legal requirements of the Australian Privacy Principles as set out in the Privacy Act 1988 (Cth) and any other applicable legislation or privacy guidelines.
8. **Severance:** If a provision of these Terms is held to be void, invalid, illegal or unenforceable, that provision is to be read down as narrowly as necessary to allow it to be valid or enforceable, failing which, that provision (or that part of that provision) will be severed from these Terms without affecting the validity or enforceability of the remainder of that provision or the other provisions in these Terms.
9. **Third party sites:** The Platform may contain links to websites operated by third parties. Unless we tell you otherwise, we do not control, endorse or approve, and are not responsible for, the content on those websites. We recommend that you make your own investigations with respect to the suitability of those websites. If you purchase goods or services from a third party website linked from the Platform, such third party provides the goods and services to you, not us. We may receive a benefit (which may include a referral fee or a commission) should you visit certain third-party websites via a link on the Platform (Affiliate Link) or for featuring certain products or services on the Platform. We will make it clear by notice to you which (if any) products or services we receive a benefit to feature on the Platform, or which (if any) third party links are Affiliate Links.

12. Definitions

1. **Consequential Loss** includes any consequential loss, indirect loss, real or anticipated loss of profit, loss of benefit, loss of revenue, loss of business, loss of

goodwill, loss of opportunity, loss of savings, loss of reputation, loss of use and/or loss or corruption of data, whether under statute, contract, equity, tort (including negligence), indemnity or otherwise.

2. **Intellectual Property** means any domain names, know-how, inventions, processes, trade secrets or confidential information; or circuit layouts, software, computer programs, databases or source codes, including any application, or right to apply, for registration of, and any improvements, enhancements or modifications of, the foregoing.
3. **Liability** means any expense, cost, liability, loss, damage, claim, notice, entitlement, investigation, demand, proceeding or judgment (whether under statute, contract, equity, tort (including negligence), indemnity or otherwise), howsoever arising, whether direct or indirect and/or whether present, unascertained, future or contingent and whether involving a third party or a party to these Terms or otherwise.

Website is <https://kinde.com>.

For any questions or notices, please contact us at:

Kinde Australia Pty Ltd ABN 11 655 096 263

Email: support@kinde.com

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