

# MASTER PARTNER AGREEMENT

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This Agreement governs ReadiNow's relationship with the Partner and sets out the terms and conditions to the Partner's transactions with its End-Customers or ReadiNow-Customers and replaces any prior oral or written communications and agreements between the Partner and ReadiNow on this subject matter

The parties enter into this Agreement on the basis of the terms and conditions set out in the form of the Master Partner Agreement version published at <https://www.readinow.com/partner-terms> as of the execution date of the appointment agreement. Order Forms will be governed by the relevant Master Partner Agreement as per <https://www.readinow.com/partner-terms> at the date of signing the relevant new or varied Order Forms.

## 1 DEFINITIONS AND INTERPRETATION

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### 1.1 Definitions

In this Agreement, unless the context otherwise requires:

**"Affiliate"** means any person or body that directly or indirectly controls, is controlled by, or is under common control with the subject entity. A person has 'control' if they control the composition of entity's board or more than 50% of the voting rights in respect of that entity.

**"Agreement"** means this Master Partner Agreement, including its Annexures, any Order Form, Platform Support and Maintenance Plan, and the Documentation.

**"Annexure"** means any Annexure to this Agreement, including any such Annexure expressly incorporated in a relevant Order Form, that sets out the details, further terms, profile and scope of the Partner's Services to End-Customers.

**"Business Day" or "Business Hours"** means a day, between the local hours of 9am to 5pm AEST/ADST, that is not a Saturday or Sunday or a public holiday, in New South Wales, Australia.

**"Claim"** means any claim, demand, action, proceeding, suit or cause of action of any kind.

**"Competing Business"** means any business that is substantially similar to or competitive with the business carried on by ReadiNow.

**"Competitor"** means a person or entity that supplies products (including without limitation software) and/or services which are the same or equivalent to the Products and/or Services supplied by ReadiNow.

**"Confidential Information"** means in relation to either party ("**Disclosing Party**"), information (whether in oral, written or electronic or in any other form) of the Disclosing Party, including without limitation information relating to the Disclosing Party's business affairs, finance, technologies, personnel, know-how and processes, and confidential information of a third party held by the Disclosing Party, which;

- (a) the Disclosing Party has marked as confidential or proprietary;
- (b) the Disclosing Party orally or in writing has advised the other party ("**Receiving Party**") of its confidential nature; or
- (c) due to its character or nature, a reasonable person in a like position and under like circumstances would treat as confidential;

but does not include information which:

- (a) is or comes into the public domain other than as a result of a breach of confidentiality of the Receiving Party;
- (b) is lawfully disclosed by a third person to the Receiving Party without any obligation of confidence to the Disclosing Party at the time of disclosure; or

(c) is independently developed by the Receiving Party (as evidenced by written records).

Confidential Information includes but is not limited to:

- (a) Intellectual Property Rights;
- (b) all use of the Products under this Agreement including any evaluation results or other documentation;
- (c) Terms and conditions of this Agreement; and
- (d) Products, including software, code, technical information, know-how, ReadNow services (including Platform Support and Maintenance Services), processes, costs, sources of supply, marketing plans, strategic plans, designs, content, business relationships, research and development, sales, profits, pricing methods, discoveries, improvements and know-how.

**“Consulting and Services Partner”** means an entity that provides consulting and implementation services as specified in the relevant Annexure, and the relevant Order Form to ReadNow-Customers or End-Customers.

**“Content”** means all data, software and information, including, without limitation, data text, software, scripts, video, sound, graphics and images (excluding Third Party Content) that are created, uploaded or transferred in connection with the use of the Products by End-Customer or ReadNow-Customer.

**“Customer Data”** means all electronic data or information submitted by, uploaded or supplied by End-Customer or ReadNow-Customer for use with the Products excluding Third Party Content, including Personal Information, Content and Confidential Information.

**“Designated Representatives”** means the personnel nominated by the End-Customer or ReadNow-Customer who have completed administration training by ReadNow and who are responsible for:

- (a) overseeing the End-Customer’s or ReadNow-Customer’s ticket activity;
- (b) developing and deploying troubleshooting processes within the End-Customer’s or ReadNow-Customer’s organisation; and
- (c) resolving password reset, username, lockout issues and other similar first line support for the End-Customer’s or ReadNow-Customer’s Personnel.

**“Documentation”** means terms of use, specifications, capacities, any training manuals, user manuals, operating manuals, technical manuals, and guidelines supplied with the software and subsequent releases and upgrades, as updated from time to time and made available through the Portal.

**“End-Customer Licence Agreement”** or **“ECLA”** means the agreement governing the use of the Products and/ or Services by that End-Customer as specified in the relevant Annexure to this Agreement.

**“End-Customer”** means any person or entity that acquires Products or Services through the Partner, for use as an end-user and not for resale or distribution.

**“Feedback”** any Partner’s suggestion to ReadNow in any form, including enhancement requests, recommendations, or other feature requests, regarding the Partner Tenant, Non-Production Tenant Platform, Products and Services.

**“Fees”** means the consideration to be paid by the Partner to ReadNow for the relevant Products and/or Services as listed in the relevant Order Form (exclusive of any Taxes) pursuant to this Agreement.

**“Force Majeure Event”** means an event, or a series of related events, that are outside the reasonable control of the Party affected, including failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, Malicious Code, power failures, industrial disputes affecting any third party, changes to applicable law, disasters, explosions, fires, floods, riots, terrorist attacks and wars.

**“Further Term”** means an additional period as the previous term specified in the relevant Order Form.

**“GST”** has the same meaning given to that term by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**“Indirect Loss”** means any Loss other than a Loss which arises naturally and according to the usual course of things from the relevant breach of this Agreement or other event giving rise to the relevant

Claim, and specifically includes indirect, special, incidental, punitive, reliance or consequential damages of any kind, loss of reputation, loss of goodwill, lost profits, loss of data or use, lost revenue, loss of use by third parties, failure to realise anticipated savings and loss of opportunities, however caused, whether in contract, tort or under any other theory of liability, whether or not advised of the possibility of such damages.

**“Intellectual Property Rights”** means all present and future rights conferred by statute, common law, equity or any corresponding law, in or in relation to copyright, trademarks, designs, patents, circuit layouts, business and domain names, inventions, and other proprietary rights, whether created before or after the date of this Agreement, whether in Australia or otherwise, and whether or not registrable, registered or patentable.

**“Loss”** means any costs, expenses (including legal costs on a full indemnity basis), losses, damages, charges, compensation, amounts paid on advice of legal advisers to compromise or settle a Claim, taxes, outgoings or other payments.

**“Malicious Code”** means ‘back door’, ‘time bomb’, ‘logic bomb’, ‘Trojan horse’, ‘worm’, ‘drop dead device’, ‘virus’ or any other malware, spyware or computer software routine having the effect of: (a) permitting unauthorised access to or use of any Software; or (b) disabling, damaging, corrupting or erasing, or disrupting or impairing the normal operation of any part of the Software, or allowing any person to do so.

**“Non-Conformance”** means in respect of a failure to observe or a contravention to the terms and conditions outlined in this Agreement or (if applicable) the ECLA, or any associated Order Form or Documentation.

**“Non-Production Tenant”** means a non-production tenant hosted in Australia or as otherwise specified in an Order Form, which is not licenced for production use or general User access but is accessible for Partner’s internal development and/or testing, and/or for demos to End-Customers with up to 5 named Users and applicable Fees are payable as specified in the relevant Order Form.

**“Non-ReadiNow Applications”** means third party applications, products or Third-Party Content that may be interoperable with the Products.

**“Order Form”** means the document setting out the purchase of Products (including related terms and conditions) as executed between the parties and executed variation from time to time. Anything that is not specifically and expressly included in a fully executed Order Form is by default excluded.

**“Platform Support and Maintenance Services”** means the applicable ReadNow platform support and maintenance plan for the Products under the Platform Support and Maintenance Plan, as acquired by the Partner for an End-Customer and listed in the relevant Order Form.

**“Platform Support and Maintenance Plan”** means the applicable ReadNow platform support and maintenance plans the Partner purchases for the End-Customer, which are provided on the terms set out in this Agreement, the Documentation and in <http://readinow.com/support-plans>.

**“Partner”** means any of Consulting and Services Partner, Reseller Partner or Technology Partner, as appointed by ReadNow in the relevant Order Form under the terms and conditions of this Agreement.

**“Partner Portal”** means an online Portal for the partner accessed via the Tenant.

**“Partner Data”** means all electronic data or information submitted by or for the Partner for inclusion in the Partner Tenant, Non-Production Tenant, Products or Services.

**“Partner Developed Applications”** or **“PDA”** means applications which are developed on the ReadNow Platform by a Technology Partner as specified in the relevant Annexure and/or the relevant Order Form.

**“Partner Tenant”** means a demo tenant hosted in Australia or as specified in an Order Form as provided by ReadNow to the Partner under the terms of this Agreement, including without limitation the Tenant to demo to potential End-Customers, the Platform, Products, applications, and as designated by ReadNow as initial release, market test, pilot, beta, limited release, developer preview, development or test bed Partner tenants.

**“Partner Users”** means Personnel nominated by the Partner to use the Partner Tenant or the Non-Production Tenant, and have been supplied user identifications and passwords by the Partner (or by ReadNow at the Partner’s request).

**“Personal Information”** has the same meaning given to that term by the *Privacy Act 1988* (Cth).

**“Personnel”** means, in respect of a Party, the officers, employees, directors, contractors, agents, professional advisors and Affiliates of that Party (excluding the Other Party and its Personnel).

**“Portal”** means the ReadNow on-line site where the Documentation and other information relating to the Products (including Platform Support and Maintenance Services) resides.

**“Privacy Law”** means the Privacy Act 1988 (Cth).

**“Products”** means the ReadNow software, platform, applications, and services (including Platform Support and Maintenance Services, number of Users, Tenant, and Non-Production Tenant) that have been purchased in the relevant Order Form.

**“ReadNow Professional Services” or “ReadNow Expert Services”** means the professional or expert services to be provided by ReadNow as specified in a relevant executed Statement of Work.

**“ReadNow-Customer”** means a customer that purchases Products directly from ReadNow for use as an end user and not from a Partner.

**“ReadNow Platform”** means a cloud computing environment for the provision of Software.

**“Reseller Partner”** means an entity who partners with ReadNow for the purpose of reselling Products to End-Customers as specified in the Annexure and relevant Order Form.

**“Services”** means the services the Partner is to provide to End-Customers or ReadNow-Customers as specified in the relevant Order Form.

**Software** means the ReadNow Platform on which the Partner may purchase Products specified in the relevant Order Form, excluding Non-ReadNow Applications and Third-Party Content.

**“Statement of Work”** means the document which sets out the details, terms and conditions for work to be undertaken by ReadNow to provide ReadNow Professional Services or ReadNow Expert Services or other such services to End-Customer or ReadNow-Customer.

**“Taxes”** means taxes, levies, duties or similar governmental assessments of any nature, including but not limited to GST or other value added taxes, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction, but excluding taxes on a party’s income.

**“Technology Partner”** means a Partner who develops applications on the ReadNow Platform and sells PDA to End-Customers as specified in the relevant Annexure and the relevant Order Form.

**“Tenant”** means a shared environment which is the End-Customer’s or ReadNow-Customer’s portion of a multi-tenanted platform serving multiple customers or a dedicated environment as defined in the relevant Order Form with an uplift of Fees for dedicated as specified in the Order Form.

**“Term”** means the period set out in clause 10.1 of this agreement.

**“Territory”** means the jurisdiction or jurisdictions within which the Partner is entitled to provide Services or Products as set out in an Annexure and/or Order Form.

**“Third-Party Content”** means content, material or information used by the End-Customer or Readiness Customer not produced by Readiness, including material or information obtained by third party applications; content providers and information that is publicly available (as more fully described in the Documentation).

## 1.2 Interpretation

- (a) In this Agreement, a term or expression that is capitalised and is not defined in this agreement, but which is defined in (if applicable) an Order Form, Annexure, the ECLA, Platform Support and Maintenance Plan, or Documentation has the meaning given to it in those documents.
- (b) References to:
  - (i) one gender includes the others;
  - (ii) the singular includes the plural and the plural includes the singular;
  - (iii) a person includes a body corporate;
  - (iv) a party includes the party’s executors, administrators, successors and permitted assigns;
  - (v) a thing includes the whole and each part of it separately;
  - (vi) a statute, regulation, code or other law or a provision of any of them includes:
    - A. any amendment or replacement of it; and
    - B. another regulation or other statutory instrument made under it, as amended or replaced; and
  - (vii) dollars or \$ means Australian dollars unless otherwise stated.
- (c) “Including” and similar expressions are not words of limitation.
- (d) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (e) Headings and any table of contents or index are for convenience only and do not form part of this Agreement or affect its interpretation.
- (f) A provision of this Agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this Agreement or the inclusion of the provision in this Agreement .
- (g) If an act must be done on a specified day which is not a Business Day, it must instead be done on the next Business Day.

## 2 PRECEDENCE OF DOCUMENTS

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- (a) The provisions of this Agreement are to be read in the following order of precedence:
  - (i) the Special Terms of the Order Form;
  - (ii) the Order Form nominating the specific End-Customer;
  - (iii) the terms and conditions in the body of this agreement; and
  - (iv) the Annexures to this agreement, other than the relevant Order Form.
- (b) If a conflict or inconsistency occurs between any of these provisions then the document higher in the order of precedence will prevail, to the extent of the conflict or inconsistency.

## 3 APPOINTMENT AND AUTHORISATION

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### 3.1 Non-exclusive Appointment

- (a) the Partner is hereby appointed as a non-exclusive Partner of Readiness in the Territory pursuant to this Agreement and Partner accepts this appointment.
- (b) Nothing in this Agreement shall restrict Readiness from providing any Products or Services to anyone, including directly to End-Customers or Readiness-Customers, or from authorising others to sell, licence, market the Products or Services anywhere in the world.
- (c) the Partner will be required to maintain the status as a registered member of the Readiness Partner program during the Term as listed in the Partner Portal.

### 3.2 Authorisation

The parties agree that:

- (a) This Agreement gives the Partner the right to provide Services to End-Customers in the Territory as specified in the relevant Annexure and executed Order Form and in line with the Partner Portal during the Term.
- (b) The Partner's use of the Partner Tenant and/or the Non-Production Tenant is subject to clause 19 of this agreement.
- (c) the Partner will ensure that the Partner Tenant and/or the Non-Production Tenant is only accessed under the terms of this Agreement and that passwords are not shared with other individuals. The Partner will notify Readiness of any unauthorised access or use immediately upon becoming aware of it.
- (d) the Partner agree that the Partner and the Partner's Personnel are knowledgeable and experienced in the provision of Services for the type of Products offered by Readiness.
- (e) the Partner will not make the Products available to anyone other than its Personnel, End-Customers and Readiness Customers and agrees to be fully responsible for their compliance with the terms of this Agreement and applicable law;
- (f) The Partner will act in good faith in dealings with Readiness and at all times comply with applicable laws and in accordance with any reasonable instructions from Readiness from time to time.
- (g) Readiness reserves the right to add new features or functionality or modify or remove existing features or functionality from a Product or Readiness Platform, including to remove a whole Product or Service.
- (h) The Partner must not private label or brand Readiness Products with the Partner's name, trademark or logo or that of a third party without Readiness prior written consent.
- (i) In respect of any Services that the Partner is authorised to perform under this Agreement, including to provide Services to End-Customers, the Partner may not subcontract the performance of such Services to its Affiliates, unless an authorised representative of Readiness agreed to this in writing via a duly executed change request to the relevant Annexure and the Partner provided a list of the relevant Affiliates to Readiness. The Partner will be solely responsible for its Affiliates performance of this Agreement, and any acts and omissions by its Affiliates will be deemed to be the acts and omission of the Partner.
- (j) The Partner acknowledges and agrees that the Tenant, Partner Tenant, the Non-Production Tenant, Platform, Software, Products and any other Readiness services provided to Partner or its End-Customer, including Content and Customer Data, are hosted in Australia, unless expressly stated otherwise in the relevant Order Form.
- (k) The Partner acknowledges any failure to comply with the terms and conditions of this agreement, will constitute a breach of the Agreement subject to clause 10.3.
- (l) Readiness grants to the Partner a non-exclusive, non-sub licensable, revocable, non-transferable licence (except as expressly permitted under the Agreement), for the permitted use of the Software, Partner Tenant and the Non-Production Tenant as set out in the relevant Order Form, during the Term and any Further Term on the terms of the Agreement, solely for the Partner's business in the Territory for selling to End-Customer.

### 3.3 Notice of Non-Conformance

- (a) If End-Customer's use of the Products exceeds what is specified in the Partner Portal, this will be considered a Non-Conformance.
- (b) If Readiness or Partner becomes aware of an End-Customer's Non-Conformance, the Partner will notify End-Customer and rectify the Non-Conformance within ten (10) Business Days of delivering that notification, as follows:
  - (i) In the case of a User licence Non-Conformance, Partner will upgrade the End-Customer's User licence to bring the End-Customer's usage into line in accordance with Readiness's standard licencing terms and Partner will pay Readiness any adjusted fee for the period of Non-Conformance and future use;
  - (ii) In the case of any other Non-Conformance not covered by clause 3.3(a)(i) above, Partner will purchase the appropriate items from Readiness to ensure Conformance with the

- (iii) Partner may resolve an End-Customer's Non-Conformance by addressing the operational use of the Products in accordance with Readiness's standard terms and pay Fees.
- (c) If Partner fails to address the Non-Conformance in accordance with clause 3.3(a), Readiness may suspend the provision of Products and Platform Support and Maintenance Services to Partner and its End-customer, or terminate this Agreement relating to the Products, in its sole discretion.

## **4 ORDER FORM, FEES AND PAYMENT TERMS**

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### **4.1 Order Form**

An Order Form will be deemed accepted by the parties when if both parties executed it and it will be effective from its start date. The Fees for Products will be as listed in the relevant Order Form executed by the parties.

### **4.2 Invoice**

Readiness will issue a Tax invoice to the Partner upon receipt of the mutually signed Order Form.

### **4.3 Fees**

The Partner agrees:

- (a) To pay all Fees and Taxes for the Term in accordance with each Order Form and as invoiced, without any set-off, counterclaim or deduction; This includes returns, rebates, price adjustments, billing errors, shipping claims, handling fees, allowances, remittance costs or any other charges. Readiness will issue a credit where applicable.
- (b) Fees are not based on the actual usage by the End-Customer or Readiness-Customer. The Partner will pay the Fees annually in advance, and payment obligations are non-cancellable, and Fees paid are non-refundable. The Partner may not terminate an Order Form or request refunds due to non-payment or Non-Conformance by an End-Customer or Readiness-Customer. The number of Users purchased cannot be decreased during the term stated on the relevant Order Form.
- (c) Fees and Taxes as listed on the relevant Order Form must be paid in Australian dollar currency. Partner will bear the costs of any foreign currency conversion rates to pay Readiness the Fees.
- (d) All invoices must be paid within 30 days from the invoice date, unless otherwise stated in the Order Form.

### **4.4 CPI and Pricing Changes**

- (a) The Partner acknowledges and agrees that Fees will be subject to an annual increase by a sum in proportion to any increase in CPI over the preceding 12 months.
- (b) Readiness pricing for Products is available via the Partner Portal or via price lists.
- (c) Upon request, Readiness will notify the Partner of any proposed variations to its prices and Fees prior to the renewal of the Order Form.
- (d) For avoidance of doubt, Readiness may change its prices list at any time. Readiness will give the Partner one (1) month notice before implementing pricing changes. These changes will not affect any Order Forms already submitted or ongoing but will become effective upon renewal of existing Order Forms.

### **4.5 GST**

The Partner acknowledges and agrees that:

- (a) Fees and all other amounts payable by the Partner under the Agreement are exclusive of GST and other Taxes imposed or levied in Australia or overseas; and
- (b) the Partner is liable for any Taxes, imposed after the Start Date in respect of provision of the Services.

### **4.6 Invoice Dispute**

- (a) If the Partner disputes the whole or any portion of the amount claimed in an invoice submitted by Readiness, the Partner must:
  - (i) pay the portion of the amount stated in the invoice which is not in dispute; and

- (ii) notify ReadNow in writing within seven (7) days of receipt of the invoice of the reasons for disputing the remainder of the invoice. Once the Partner has given notice of a disputed amount, the parties must use all reasonable endeavours to resolve any such dispute within ten (10) days. Where any such dispute is determined by ReadNow to be unfounded, Partner must pay to ReadNow in full the amount withheld within seven (7) days of such determination. Where such dispute is determined by ReadNow to be founded and the Partner has already paid the disputed amount, ReadNow will repay the relevant amount within seven (7) days of such determination or issue a credit to the Partner on its next invoice, at ReadNow's discretion. If at the completion of this process, the Partner still disputes the invoice the provisions of clause 18 will apply.

#### 4.7 **Late Payment**

- (a) If Fees are not received by the due date of the invoice, then without limiting ReadNow's rights and remedies:
  - (i) ReadNow may charge interest on the outstanding balance at rate of 3% above the base rate per annum charges by the Commonwealth Bank of Australia, compounded daily, until the payment is received; and
  - (ii) The Partner must also pay any debt collection expenses incurred by ReadNow in the course of pursuing the outstanding payment and any interest.

#### 4.8 **Suspension of Use**

- (a) ReadNow may suspend access to the Products if any amount under the Agreement is overdue, provided ReadNow has given to the Partner at least ten (10) days' written notice of its intention to suspend access to the Products, until all outstanding amounts (including interest and debt recovery costs) are paid in full.
- (b) If requested by ReadNow, the Partner agrees to pay ReadNow's costs of suspending and reversing any suspension under this clause.

## **5 REPRESENTATION, WARRANTIES AND DISCLAIMERS**

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### 5.1 **Parties Representations and Warranties**

Each Party represents and warrants that:

- (a) it has full legal capacity and power to enter into the Agreement and to perform its obligations under the Agreement;
- (b) it has taken all corporate action that is necessary or desirable to authorise its entry into the Agreement and to perform its obligations under the Agreement;
- (c) the Agreement constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally).

### 5.2 **ReadNow Representations and Warranties**

ReadNow warrants that it has the authority to grant the rights granted to the Partner under the Agreement and each Order Form.

### 5.3 **Partner's Representations and Warranties**

The Partner represents and warrants to ReadNow that as at the Effective Date:

- (a) the Partner and the Partner's Personnel have the necessary skills required to perform the Services;
- (b) the Partner has the power and authority to enter into this Agreement and perform and observe the obligations imposed by this Agreement; and
- (c) the Partner's performance of its obligations under this Agreement, will not constitute a breach or contravention of any law, including any regulation or by-law, or any agreement binding the Partner.

### 5.4 **Partner's Obligations**

The Partner must at all times:

- (a) comply and ensure that all Affiliates comply, with all applicable laws, including regulations and codes of conduct binding the Partner, in all relevant jurisdictions in the provision of Services and in connection with the Partner's obligations under this Agreement; and
- (b) not engage in any deceptive or misleading behaviour, or unethical practices that may be detrimental to ReadNow.

- (c) not resell, sublicense, lease nor make the Products and Services available in any way to any third party including without limitation a Competitor, for any purpose without the prior written consent of ReadNow;
- (d) not reverse engineer, decompile or reverse compile, disassemble, list, modify, copy or create derivative works based on the Products, or other materials, or propagate any Malicious Code using the Products and Services;
- (e) print or display Products, Services or otherwise attempt to obtain the source code or other proprietary information from the Products and Services; and
- (f) not access the Products and Services for the purposes of building a competitive product or service or copying its features or functionality; or permit any person, other than ReadNow, to modify, copy or create a derivative work based on the Products and Services.
- (g) not use, copy or provide software, Third Party Content, Non-ReadNow Applications, Services or other materials in connection with its use of the ReadNow Software without the written permission of ReadNow and as agreed by the parties in the relevant Order Form. Partner warrants it has sufficient Intellectual Property Rights in respect of the material it uses or copies or provides, and that no royalties are payable by ReadNow.
- (h) ensure its Affiliates comply with the obligations and warranties in this clause 5.4 as if they were a named party in place of the Partner.
- (i) comply with the terms and conditions in clauses 2 (Licence to Use), 3.3 (Non-ReadNow Applications), 3.4 (Right to Audit), 3.5 (Notice of Non-Conformance), 4 (Services), 5 (Platform Support and Maintenance Products) of the ECLA and the terms of this Agreement in connection with its use of the Non-Production Tenant, Partner Tenant and Software.
- (j) use the Non-Production Tenant only for development and/or testing and/or the Partner Tenant for provision of demos to potential End-Customers, not for production.

## 5.5 Disclaimers

Except as expressly stated in this warranty clause, neither party makes any warranties of any kind, whether express, implied, statutory or otherwise, and specifically disclaims all implied warranties, including any warranties of merchantability or fitness for a particular purpose, to the maximum extent permitted by law.

## 6 PRIVACY

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- (a) Each party must comply with all applicable laws, including regulations, regarding privacy and data protection relating to the collection, storage and use of Personal Information of its Personnel, End-Customers and ReadNow-Customers in carrying out its obligations under this Agreement.
- (b) If Partner provides to ReadNow any Personal Information of the Partner's Personnel, its End-Customers ReadNow-Customers, or any other person, or Partner Authorises ReadNow to collect, store or process such Personal Information on the Partner's behalf, Partner must first ensure that it has informed those persons of the purpose for which their Personal Information will be used, in accordance with the requirements of the Privacy Law and any other relevant laws relating to collection, storage and use of Personal Information. Partner warrants to ReadNow that at the time of providing or otherwise making available such Personal Information, Partner has obtained the consent of those persons to provide that Personal Information to ReadNow and for ReadNow to process that Personal Information as contemplated by this Agreement.

## 7 LIABILITY

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### 7.1 Indemnities- Partner

- (a) The Partner agrees to indemnify and keep indemnified ReadNow, its Affiliates and their respective Personnel against any Loss (including Indirect Loss) suffered or incurred in relation to any Claims brought against ReadNow by a third party, however arising, relating to:
  - (i) the death of, or injury to, any person to the extent caused by the negligent acts or omissions of the Partner, its Affiliates or any other person for whom the Partner is vicariously liable;
  - (ii) damage to, loss of, or destruction of, any real or tangible property, to the extent caused by the negligent acts or omissions of the Partner, its Affiliates or any other person for

- whom the Partner is vicariously liable; and
    - (iii) the Partner's breach of this Agreement or a breach by Partner's Affiliates for which the Partner is responsible under the terms of this Agreement.
  - (b) Partner will indemnify ReadNow, its Affiliates and their respective Personnel, in respect of Loss (including Indirect Loss) suffered or incurred in connection with Partner's breach of clause 6(b).
  - (c) When seeking to rely on an indemnity under this Agreement, ReadNow will:
    - (i) promptly give the Partner a written notice of the Claim;
    - (ii) give the Partner sole control of the defence and settlement of the Claim, except the Partner may not settle any Claim unless the settlement unconditionally releases ReadNow from all liability in respect of the Claim; and
    - (iii) provide all assistance reasonably requested by the Partner, at the Partner's cost.
  - (d) The indemnities given under this clause 7.1, are independent of the Partner's other obligations arising out of the Agreement and survive termination or expiry of the Agreement.

## 7.2 Mitigation

Each party must take reasonable steps to mitigate any Loss it incurs in connection with this Agreement and breach of its terms.

## 7.3 Limitation of liability

- (a) The aggregate liability of ReadNow (whether under statute, in contract or in tort, including for negligence, or otherwise) for Loss suffered or incurred in connection with this Agreement or an Order Form is limited to AUD\$100,000.00 or, if applicable, an amount equal to the amount actually paid by the Partner to ReadNow as defined in the affected Order Form during the one-year period prior to the relevant Claim, whichever is the lesser.
- (b) Except where otherwise specified in this Agreement, neither party is liable for Indirect Loss sustained by the other party under this Agreement or Order Form.
- (c) Each party's liability for Loss (including loss or damage caused by negligence) is reduced to the extent that the other party caused or contributed to that Loss.
- (d) Except to the extent prevented by law, neither party may bring any action, regardless of the nature of the Claim more than 12 months after the cause of action arose and after such time limit, any legal action arising out of this Agreement or any transaction under it and all respective rights related to any such action lapse.

## 7.4 Exclusions from liability limits

The limitations and exclusions in clause 7.3 do not apply in respect of any amount payable to ReadNow in accordance with the terms of this Agreement, and a party's liability is unlimited in relation to Loss:

- (a) arising from any act or omission of fraud, dishonesty, misrepresentation or misleading and deceptive conduct of the party or its Personnel; and
- (b) for personal injury, sickness or death caused by negligent or wrongful acts or omissions of the party or its Personnel.

# 8 INTELLECTUAL PROPERTY

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## 8.1 Intellectual Property Rights

- (a) Nothing in this Agreement shall operate to assign or transfer any Intellectual Property Rights from ReadNow to the Partner, any ReadNow-Customer nor its End-Customers, except to the extent of the limited licenses and rights expressly set out in this Agreement.
- (b) The parties acknowledge that the word 'purchase', 'sale' or 'resale' or like terms used in this Agreement do not extend any ownership rights in the Products or Services, other than limited rights to the Partner to grant revocable, temporary, non-exclusive, non-sublicensable, non-transferable licences to End-Customers or ReadNow-Customers on the terms of this Agreement.

## 8.2 IP Claims

- (a) Partner must notify ReadNow immediately if it becomes aware of any claim or proceeding alleging

that the whole or a part of an item, or its use under this ECLA, infringes (or would infringe) a person's Intellectual Property Rights ("**IP Claim**") in relation to the Products or Services with details of such IP Claim.

- (b) Subject to clause 8.2(c) below, if there is, or in the reasonable opinion of Readiness is likely to be, an IP Claim in relation to the Products, Readiness will, at its expense, either:
  - (i) modify or replace the Products so that any infringement (or alleged infringement) is removed; or
  - (ii) make reasonable commercial efforts to procure the right for Partner to continue to offer the Services.
- (c) Readiness is not required to comply with clause 8.2(b) above if the IP Claim is caused or contributed to by:
  - (i) Partner, its Personnel, End-Customer or Readiness-Customer's breach of this Agreement;
  - (ii) without limiting sub-paragraph clause 8.2(b)(i) above, Partner, its Personnel, End-Customer or Readiness-Customer's use of Products other than the latest unaltered version of the Products provided to it by Readiness; or
  - (iii) any negligent acts or omissions of Partner, its Personnel, End-Customer or Readiness-Customer's.
- (d) If there is, or in the reasonable opinion of Readiness is likely to be, an IP Claim in relation to the Readiness Products, Readiness may take control of and deal with such IP Claim, and direct the Partner as required in relation to the IP Claim.
- (e) Without limiting any of Readiness's other remedies, including the right to terminate this Agreement under clause 10.3, if an IP Claim is caused by the Partner or its Personnel including under clause 8.2(c), Readiness may direct the Partner to remedy that action or omission and the Partner will promptly comply with such direction.

### 8.3 Use of Trademarks

- (a) The Agreement does not grant either party any right, title, interest, or license in or to any of the other party's trademarks, registered trademarks, or service marks including any associated logos.
- (b) the Partner may use Readiness's corporate name, technology names and trademarks to accurately identify and refer to Readiness and its technology, Products and services in the provision of Services in accordance any guidelines advised to the Partner by Readiness from time to time, including, but not limited to, Readiness's style guide and advertising policies.

## 9 CONFIDENTIAL INFORMATION

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### 9.1 Obligation to maintain confidentiality

Subject to clause 9.2, the Receiving Party must at all times, in respect of the Confidential Information of the Disclosing Party:

- (a) treat the Confidential Information as secret and confidential;
- (b) maintain proper and secure custody of the Confidential Information;
- (c) not use Confidential Information for any purpose other than the exercise of its rights or the performance of its obligations pursuant to this Agreement, without the prior written consent of the Disclosing Party; and
- (d) not directly or indirectly disclose, divulge or communicate any Confidential Information to any other person without the prior written approval of the Disclosing Party, other than to the Receiving Party's Personnel, professional adviser and suppliers ("**Recipients**") but only on a strictly confidential and "need to know" basis, where the Recipient is under similar confidentiality obligations to this Agreement, and only for the purpose of advising the Receiving Party in connection with its rights, obligations and performance under this Agreement. The Receiving Party must ensure that the Recipient complies with the requirements of this clause 9, and is responsible for any acts or omission committed by a Recipient in connection with the Confidential Information as if the Receiving Party committed those acts or omissions.

### 9.2 Exceptions to confidentiality

The Receiving Party is not in breach of clause 9.1 in respect of any disclosure of Confidential Information by the Receiving Party that is necessary to comply with any court order, Law, directions of any regulatory authority or the applicable rules of any securities exchange if, to the extent practicable and as soon as reasonably possible, the Receiving Party:

- (a) notifies the Disclosing Party of the proposed disclosure; and
- (b) uses reasonable endeavours to comply with any reasonable request by the Disclosing Party concerning the proposed disclosure.

### 9.3 **Return of Confidential Information**

- (a) Subject to this clause 9.3, immediately on the written request of the Disclosing Party or on the completion or termination of the relevant Order Form or the expiry or the termination of this Agreement, a Receiving Party must (at the election of the Disclosing Party) return or securely destroy the Confidential Information of the Disclosing Party.
- (b) Provided the Receiving Party continues to comply with other provisions of this clause 9, the Receiving Party may retain any Confidential Information that:
  - (i) is included in any board papers of the Receiving Party, or in back up tapes made in the ordinary course of its business which are not reasonably capable of search and deletion; or
  - (ii) the Receiving Party is required by Law to retain or needs to retain to defend itself in any proceeding being brought or threatened against it at the time the Confidential Information must be returned or destroyed.

### 9.4 **Acknowledgements**

Each party acknowledges that a breach of this clause 9 would be harmful to the business interests of the other party and monetary damages alone would not be a sufficient remedy, and that a party is entitled to interim, interlocutory and permanent injunctions to prevent breach of this clause 9 and to compel specific performance of it.

## 10 **TERM AND TERMINATION**

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### 10.1 **Agreement Term**

- (a) This Agreement commences on the Effective Date and continues until it is terminated in accordance with its terms. Subject to clause 10.3, the Parties agree that this Agreement may not be terminated whilst there are open Order Forms on foot.
- (b) Subject to clause 10.3, Order Forms may renew for a Further Term on commercial terms to be agreed, unless no later than 90 days prior to the expiration of the initial Order Form Term (or the expiration of any Further Term) either party provides written notice to the other that it does not wish to renew the relevant Order Form for a further period.

### 10.2 **Termination Without Cause**

Subject to clause 10.4, either party may terminate an Order Form at any time before the expiration of the Order Form term by providing 90 days' written notice to the other party.

### 10.3 **Termination for Cause**

- (c) In addition to any other rights and remedies at law, a party (**First Party**) may terminate this Agreement or any Order Form immediately by written notice if the other Party ("**Defaulting Party**"):
  - i. becomes insolvent, is subject to external administration, or ceases or indicates an intention to cease to carry on its business;
  - ii. commits a breach of this Agreement, any Order Form that is capable of being remedied and fails to remedy the breach within 30 days after receiving the First Party's written notice specifying the breach and requiring it to be remedied; or
  - iii. commits a breach of this Agreement, any Order Form which is not capable of being remedied.
- (d) In addition, ReadNow may on written notice immediately terminate this Agreement or any Order Form if any of the following occurs:

- iv. the Partner fails to pay to ReadNow any applicable fees within the payment terms specified in this Agreement or any Order Form;
- v. the Partner, any ReadNow Customer or any End-Customer engage in fraudulent, illegal or unauthorised use of the Products or causes or permits the Products to be affected by Malicious Code; or
- vi. ReadNow becomes aware or is advised by any regulatory authority that applicable laws, or any decision of a court or government authority, prohibits the provision of the Products to the Partner, any ReadNow Customer or any End-Customer.

#### 10.4 **Effect of Termination**

- (a) Following termination of this Agreement, the Partner must immediately and at the Partner's own expense cease:
  - (i) identifying itself as a ReadNow Partner or as having any other relationship with ReadNow;
  - (ii) using any ReadNow 's Intellectual Property Rights;
  - (iii) marketing, promoting, selling and supporting the ReadNow Products;
- (b) Following termination of any Order Form (except for a termination by ReadNow under clause 10.2, or by the Partner under clause 10.3), the Partner must immediately pay the Fees or any other amounts the Partner owes to ReadNow, including the balance of the Fees that would have been payable for the remainder of term of the relevant Order Form. The Partner agrees that this is a genuine pre-estimate of the loss likely to be suffered by ReadNow in performing its obligations.
- (c) The Partner expressly agrees that ReadNow will have no obligation or liability to the Partner resulting from the termination or expiration of this Agreement, or an Order Form
- (d) ReadNow will have no liability to End-Customers or ReadNow-Customer as a result of ReadNow's termination, other discontinuance of this Agreement or an Order Form under clause 10.3 or any breach of this Agreement by Partner. The Partner releases ReadNow from any Claim it might otherwise have had in respect of a Claim brought by any End-Customer arising from such circumstances or giving rise to it, and the Partner will indemnify and hold ReadNow harmless against any Loss arising from or in relation to any such End-Customer Claims that may be brought against ReadNow.
- (e) Any termination or expiration of this Agreement will be without prejudice to the rights of each party against the other party in respect of an act or omission under this Agreement prior to such termination or expiration.
- (f) If the Partner terminates under clause 10.2 or if ReadNow terminates under clause 10.3, ReadNow reserves the right to provide Products and/or services directly to End Customers.

#### 10.5 **Disengagement**

- (a) If Partner requests in writing within 30 days of the termination date of the Agreement, ReadNow will make available to the Partner for download a file of the Partner Data within 30 days from this request;
- (b) After the period set out in clause 10.5(a), ReadNow shall have no obligation to maintain or provide any Partner Data and may delete all Partner Data in ReadNow's systems, its possession or under its control, except to the extent that it is unlawful to do so;
- (c) If Partner does not remove the Partner Data before the termination notice period expires or requests it as specified in clause 10.5(a), the Partner acknowledges and accepts Partner Data may not be retrieved and will be lost.
- (d) For the avoidance of doubt, ReadNow will not be liable for any Loss nor Indirect Loss for the Partner's failure to retrieve the Partner Data under this clause 10.5.
- (e) ReadNow and the Partner may set out a disengagement plan in the relevant Order Form.

## 11 **PLATFORM SUPPORT AND MAINTENANCE**

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### 11.1 **Platform Support and Maintenance**

- (a) ReadNow will provide Platform Support and Maintenance Services for Products as purchased and defined in the relevant Order Form and on the terms set out in the relevant Platform Support and Maintenance Plan (available at <http://readinow.com/support-plans>), as updated from time to time.
- (b) An upgraded level of Platform Support and Maintenance Plan may be purchased in accordance

with the relevant Order Form and only one type of Platform Support and Maintenance Plan will apply per Tenant.

#### 11.2 Designated Representatives

- (a) The Partner agree to provide from the End-Customer or Readiness-Customer at least two (2) and up to four (4) Designated Representatives. Details must include names and contact details which will be maintained on the Partner Portal. The Partner must promptly notify Readiness of any change to these details (including transfer of Designated Representatives' responsibilities to other individuals), by updating the Partner Portal.
- (b) The Partner agree to ensure that the Designated Representatives are knowledgeable about the applicable Products to help analyse, and assist Readiness in resolving any issues; and
- (c) The Partner agree to ensure that the Designated Representatives are empowered to act on behalf of the End-Customer or Readiness-Customer to make decisions to facilitate speedy resolution.

## 12 INSURANCES

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Each party will maintain their own respective relevant insurances including without limitation professional indemnity, public liability insurances and work cover, to ensure all work being performed directly to the End-Customer or Readiness-Customer in connection with this Agreement.

## 13 NOTICES

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#### 13.1 Notice

A notice or other communication connected with this Agreement ("**Notice**") has no legal effect unless it is in writing.

#### 13.2 Method of service

- (a) In addition to any other method of service provided by law, the Notice may be:
  - (i) delivered or sent by prepaid post to the address of the addressee; or
  - (ii) sent by email to the email address of the addressee.
- (b) The notice details of each party are:

**Readiness Corporation Pty Ltd**

Attn: Sandra Farrow | Director

PO Box 6844

BAULKHAM HILLS NSW, AUSTRALIA, 2153

Email: [Sandra.farrow@readiness.com](mailto:Sandra.farrow@readiness.com)

CC: [contracts@readiness.com](mailto:contracts@readiness.com)

**The Partner**

The Partner contact details in the relevant Order Form

#### 13.3 Receipt of notice

- (a) If the Notice is sent or delivered in a manner provided by clause 13.2, it must be treated as given to and received by the party to which it is addressed:
  - (i) if sent by post: (a) on the third Business Day after posting if it is posted within Australia or (b) the seventh Business Day if posted to or from an address outside of Australia;
  - (ii) if sent by email: (a) before 5 p.m. on a Business Day, on the same day, (b) otherwise, on the next Business Day at the place of receipt; or
  - (iii) if otherwise delivered before 5pm on a Business Day at the place of delivery, upon delivery, and otherwise on the next Business Day at the place of delivery.
- (b) Despite clause 13.2(a)(ii):
  - (i) an email message is not treated as given or received if within 2 hours after the time sent, the sender receives an automated message that the email has not been delivered;
  - (ii) an email message is not treated as given or received if the sender receives an automated out of office message from the addressee of the email message at any time on the day on which the email message was sent; and

- (iii) an email is not treated as given or received if the addressee notifies the sender that the email was not received in full and in legible form within 3 hours after receipt of the email or by 12 noon on the Business Day on which it would otherwise be treated as given and received, whichever is later.

## 14 NO SOLICITATION

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Neither the Partner nor the Partner's Affiliates will, directly or indirectly, solicit or otherwise engage any staff of ReadNow, during the Term and for further 18-month period after it ends, without the prior written consent of ReadNow.

## 15 RIGHT TO AUDIT

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The Partner agree to provide ReadNow with the right to conduct an audit to ensure compliance of the Partner's obligations under this Agreement, any Order Form, the ECLA or any other documents that are referenced by this Agreement, at any reasonable time during Business Hours upon notice from ReadNow.

## 16 PUBLICITY

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- (a) Except as provided under clauses 16(b) and 16(c), or as required by law, neither party may make or authorise a press release or other public statement relating to this Agreement or the relationship between ReadNow and the Partner without the other party's prior written consent.
- (b) The Partner acknowledges and agrees that ReadNow may refer to the Partner and use the Partner's name, brands and trademarks in ReadNow's physical marketing materials and on ReadNow's website, and ReadNow may include links to the Partner's website on the ReadNow website.
- (c) Notwithstanding the above the Partner acknowledges and agrees that ReadNow may add the Partner's logo on ReadNow's website with no obligation by the Partner to provide any further links or details.

## 17 SURVIVAL

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Any clauses specifically stated as surviving termination of this Agreement, all other provisions that by their nature are intended to survive termination of this Agreement including clauses 3.2(g) (authorisation), 6 (privacy), 7 (liability including indemnities), 8 (intellectual property), 9 (confidential information), 10.4 (effect of termination), 10.5 (disengagement), 16 (publicity), 14 (non-solicitation), 18 (dispute resolution) and 20.10 (governing law and jurisdiction) in this agreement shall survive termination of this Agreement, or an Order Form.

## 18 DISPUTE RESOLUTION

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- (a) If a dispute arises in connection with this Agreement, or an Order Form, a party to the dispute may give to the other party a notice specifying the dispute and requiring its resolution under this clause 18 ("**Notice of Dispute**").
- (b) The Chief Executive Officer or such other authorised representative of a similar authority of each party must confer within 5 Business Days after the Notice of Dispute is given to try to resolve the dispute through good-faith negotiations. If the Chief Executive Officers or such other authorised representative of the parties have not agreed on the dispute's resolution within 10 Business Days of their first conference, either party may commence legal proceedings in a court of law under clause 20.10 of this agreement.

## **19 PARTNER TENANT USAGE**

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19.1 ReadiNow will make a Partner Tenant and/or the Non-Production Tenant available to the Partner as specified in the relevant Order Form. The Partner's use of the Partner Tenant and/or the Non-Production Tenant is subject to the terms of this Agreement, the relevant Order Form, the relevant clauses of the ECLA, Documentation and any additional terms as notified to the Partner by ReadNow from time to time. The Partner shall allow only Partner Users to access the Partner Tenant and/or the Non-Production Tenant and only to perform this Agreement. The Partner must not give access to the Partner Tenant nor the Non-Production Tenant to any person, including any person within the Partner's organisation, who may be a Competitor unless agreed to in writing by ReadNow, or for the purposes that compete with ReadNow's business, including to monitor performance, functionality or for any other benchmarking activity or competitive purposes. The Partner must not use the Partner Tenant nor the Non-Production Tenant for any external-facing websites or other services, including hosting or posting content websites, unless Partner obtained ReadNow's written consent in advance.

### **19.2 Training**

ReadNow will provide training to the Partner as specified in the relevant Order Form.

### **19.3 Feedback**

The Partner agrees to provide to ReadNow ongoing Feedback. ReadNow will have unlimited rights to use and incorporate Feedback into the Platform, Products and Services. Any Intellectual Property Rights in any Feedback will vest in ReadNow. These rights will be at no cost to ReadNow. ReadNow has absolute discretion to decide on the implementation and timing of such Feedback, if any.

### **19.4 No Warranty or Liability**

ReadNow provides the Partner Tenant and/or the Non-Production Tenant on an 'as is' basis and subject to the terms of this Agreement including, without limitation clause 5.3. The Partner acknowledges that the Partner Tenant or the Non-Production Tenant may contain bugs or errors and any production use of the Partner Tenant or the Non-Production Tenant is at the Partner's sole risk. The Partner acknowledges that the Partner Tenant or the Non-Production Tenant may not be a full release of the Products and that ReadNow makes no commitment for support or turnaround levels of availability. In no circumstances shall ReadNow have any liability hereunder to the Partner or the Partner's Personnel for any Loss or Indirect Loss arising from the use of any Tenant.

### **19.5 Proprietary Rights**

Subject to the limited rights expressly granted in this Agreement, ReadNow reserves all rights, title and interest in the Partner Tenant, the Non-Production Tenant, Products, Services and anything provided to the Partner by ReadNow under this Agreement including all related Intellectual Property Rights.

### **19.6 Partner's Data**

The following terms apply to Partner's Data:

- (a) the Partner has the sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, Intellectual Property Right or ownership to use the Partner's Data in accordance with the relevant jurisdiction;
- (b) ReadNow shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store or restore any of Partner's Data. ReadNow reserves the right to withhold, remove and/or discard the Partner's Data without notice to comply with relevant laws;
- (c) Subject to clause 10.5, upon termination of this Agreement, Partner Data including any other information such as customisations made to the Products may be permanently deleted by ReadNow;
- (d) ReadNow may need access to the Partner Data and Tenant for the purpose of diagnosing and/or fixing any issues as required. ReadNow may disclose anonymous data about the Partner's use of the Products for the purpose of improving user experience with the Products, or as required by law; and
- (e) ReadNow may remove or request that the Partner removes any Products, content or Partner Data from the Partner Tenant and/or the Non-Production Tenant due to a breach of this Agreement by the Partner or a Partner Users, at the request of a third-party provider, or due to illegality.

- (f) ReadNow does not provide any guarantees as to the availability of the Partner's Data or other information including customisations made to the Products after the expiry or termination of this Agreement.
  - (g) The Partner grants ReadNow a non-exclusive licence to the Partner Data solely for performing its obligations under this Agreement. Any Partner Data that the Partner Users provide to ReadNow is and will remain the Partner's or its licensors property.
- 19.7 ReadNow will provide to the Partner one (1) Partner Tenant free of charge for a period of 6 months or as otherwise provided in the relevant Order Form (**Free of Charge Period**) subject to the execution of the appointment agreement.
- 19.8 If the Partner executes an Order Form for the provision of Services for the Partner's End-Customer within the Free of Charge Period, the Free of Charge Period will be extended for a further 12 months period or as otherwise defined in the relevant Order Form.
- 19.9 If the Partner has not executed an Order Form for the provision of Services for the Partner's End-Customer within the Free of Charge Period, the Partner agrees to pay ReadNow a discounted rate for the use of the Partner Tenant at a rate defined in the relevant Order Form after the Free of Charge Period.
- 19.10 The Partner will allocate designated Personnel to undertake training as listed in the relevant Order Form.
- 19.11 The Partner will receive separate User Licences as set out in the Order Form for named Users to obtain access and use the Partner Tenant only for demos to potential End-Customers, not for production.
- 19.12 The Partner Tenant and the Non-Production Tenant are subject to the terms and conditions in clauses 2 (Licence to Use), 3.3 (Non-ReadNow Applications), 3.4 (Right to Audit), 3.5 (Notice of Non-Conformance), 4 (Services), 5 (Platform Support and Maintenance Products) of the ECLA and the terms of this Agreement. For avoidance of doubt, in the context of the ECLA, "Product" will be read as the Non-Production Tenant or the Partner Tenant and "End-Customer", "You" and similar references will be read as referring to the Partner.

## **20 GENERAL**

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### **20.1 Further assurance**

Each party must promptly at its own cost do all things (including executing and if necessary, delivering all documents) necessary or desirable to give full effect to this Agreement and each Order Form.

### **20.2 Force Majeure**

- (a) Except for any payment obligations, neither Party is liable for failure to perform its obligations under this Agreement due to a Force Majeure Event.
- (b) A Party that becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in that Party performing any obligation under the Agreement, must:
  - (i) promptly notify the other Party; and
  - (ii) inform the other Party of the period for which it is estimated that such failure or delay will continue.
- (c) If a Force Majeure Event prevents the delivery of, or access to and use of the Software by ReadNow, the Partner may not suspend the applicable Fees charged by ReadNow for the applicable Software for the period of the Force Majeure event. The Partner acknowledges that as this is a platform as a service, and that ReadNow will be required to maintain the Tenant (to the extent that it is able to do so) during any period of suspension if due to a Force Majeure Event until it is resolved or terminated.
- (d) If a Force Majeure Event continues for a period exceeding 30 days, either Party may terminate the applicable Order Form immediately by giving the other Party written notice.
- (e) If termination proceeds, then:

- (i) all Fees due up to the time of the event will be due and payable and all Fees paid to date at the time of the event will be non-refundable.
- (ii) In the event of a Partner termination due to a Force Majeure Event by ReadNow, then any pre-paid Fees made for the period after the Force Majeure event, will be refundable.

### 20.3 **Severability**

If anything in this Agreement or an Order Form is unenforceable, illegal or void then it is severed and the rest of this Agreement or the Order Form remains on foot.

### 20.4 **Assignment**

- (a) the Partner may not assign, transfer, novate or otherwise deal with the Partner's rights and obligations under this Agreement or any Order Form without the prior written consent of ReadNow. ReadNow will not be obliged or required to provide its consent in the event the Partner proposes to assign any or all of the Partner's rights and/or obligations under this Agreement or any Order Form to anyone who is in ReadNow's sole opinion a Competitor. ReadNow may impose any additional conditions on its consent to an assignment, novation or other dealing in relation to this Agreement that it deems appropriate.
- (b) The Partner may assign or novate this Agreement and any Order Form or any rights or obligations under them to an Affiliate by providing 30 days' prior written notice to ReadNow.
- (c) ReadNow may assign, transfer, novate or otherwise deal with this Agreement or any of its rights and obligations under it by providing 30 days' prior written notice to the Partner.

### 20.5 **Entire understanding**

This Agreement and any Order Form constitutes the entire agreement and understanding between the parties on everything connected with the subject matter of this Agreement and Order Form and supersedes any prior agreement or understanding on anything connected with that subject matter.

### 20.6 **Relationship**

The parties acknowledge and agree that each is an independent contracting parties. Except as expressly provided in this Agreement, neither this Agreement nor any activity of the parties under it:

- (a) constitutes a joint venture, agency, partnership or other similar relationships under which a party may be liable for any act or omission of the other party;
- (b) constitutes a relationship of employer and staff;
- (c) any employee or subcontractor of the Partner is solely an employee or subcontractor of the Partner and will not be considered an employee or subcontractor of ReadNow;
- (d) authorises a party to:
  - (i) bind or pledge the credit of the other party;
  - (ii) sign, draw, accept or endorse any negotiable instrument on behalf of the other party;
  - (iii) compound, release or discharge any debt due or owing to the other party without receiving the full amount of the debt;
  - (iv) incur any liabilities on behalf of the other party or use any money or assets of the other party; or
  - (v) procure any borrowings or other financial accommodation on behalf of the other party;
- (e) impairs the individual status of a party; or
- (f) creates a trust.

### 20.7 **Waiver**

A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right. The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right. A waiver is not effective unless it is in writing by an authorised representative of the party. Waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

### 20.8 **Costs and outlays**

Each party must pay its own costs and outlays connected with the negotiation, preparation and execution or their agreement to be bound by this Agreement and each Order Form.

#### 20.9 **Consents and approvals**

If anything in this Agreement or an Order Form is subject to the consent or approval of a party then, unless expressly stated otherwise, that consent or approval may, to a reasonable extent, be given or withheld at the absolute discretion of that party.

#### 20.10 **Governing law and jurisdiction**

- (a) This Agreement shall be governed by and construed in accordance with the laws of the State of New South Wales, Australia.
- (b) The Parties each irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of the State of New South Wales, Australia, whether state or federal, and the courts of appeal from them, and each waives any right it might otherwise have to object to the jurisdiction on the basis that it is an inconvenient forum.
- (c) In addition to the laws of Australia, Partners must also comply with the laws and regulations of each jurisdiction in which they are providing Services.

#### 20.11 **No Third Party Benefit**

The parties acknowledge and agree that the provisions of this agreement and Annexures and the relevant executed Order Form are for the sole benefit of ReadiNow and Partner, and are not for the benefit, directly or indirectly, of any other person or entity. No other person may seek to enforce or rely upon any provision of this Agreement.

#### 20.12 **Cumulative Remedies**

Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

#### 20.13 **Agreement Acceptance**

By executing an Order Form and offering the Services to End-Customers or ReadiNow-Customer (subject to ReadiNow's consent) or by clicking on the "Agree" or "Accept" or similar button or continued use of the Services by Partner's End-Customers or ReadiNow-Customer, or authorising any other person to do so, with access to the Tenant, Partner agrees to the terms and conditions of this Agreement at <https://www.readinow.com/partner-terms>. The individual who binds the Partner to this Agreement, including by clicking on the "Agree" or "Accept" or similar button, or continuing accessing or using the Software and the Tenant, represents that he or she is authorised to bind the Partner to this Agreement and agrees on behalf of the Partner that the terms of this Agreement shall govern the relationship of the Parties with regard to the subject matter in this Agreement