

# TERMS & CONDITIONS

**Read and Agree.** Please read through Human Synergistics terms and conditions.

1. **DEFINITIONS AND INTERPRETATION**
  - 1.1. Definitions
  - 1.2. Agreement means the Scope of Works incorporating by reference these Standard Terms and Conditions.
  - 1.3. Commencement Date means the effective date set out in the Scope of Works.
  - 1.4. Company has the same meaning as it does in the Scope of Works.
  - 1.5. Fee means the fees set out in the Scope of Works.
  - 1.6. Deliverables means the deliverables set in the Scope of Works.
  - 1.7. Premises means HSA's business premises.
  - 1.8. Applicable insurance means Professional Indemnity insurance.
  - 1.9. HSA means Human Synergistics Australia Pty Limited.
2. **REMUNERATION AND PAYMENT**
  - 2.1. The Fee shall be paid within 30 days from the date of issue of each invoice or otherwise as agreed in writing between HSA and the Company.
  - 2.2. In the event that invoices are not paid within the time provided HSA may:
    - 2.2.a. terminate its agreement to provide credit following which all outstanding invoices become immediately due and payable; and
    - 2.2.b. suspend the provision of any or all goods and services until all invoices in arrears are paid.
  - 2.3. If the Company disputes any part of an invoice the Company must notify HSA within 7 days of its receipt and pay that part which is not in dispute.
3. **GST**
  - 3.1. The Company must pay and indemnify HSA against all taxes and duties payable in respect of this Agreement, and any supply made under the Agreement and the Fees (excluding any income tax payable by HSA) upon submission of a valid tax invoice.
  - 3.2. If GST is imposed on any supply made by HSA under this Agreement the Company must pay in addition to the Fee (unless the Fee already includes GST), an additional amount equivalent to the GST payable.
4. **TERMINATION**
  - 4.1. Termination with cause
  - 4.2. HSA may terminate this Agreement by giving 7 days' notice in writing to the Company if any of the following events occur:
    - 4.2.a. If the Company commits a breach of any of the terms or conditions of this Agreement and such breach is not rectified within 7 days after the Company receives notice from HSA directing rectification of that default; or
    - 4.2.b. If the Company enters into liquidation, administration or receivership.
  - 4.3. If such notice is given, this Agreement ends at midnight on the day on which that Notice expires.
  - 4.4. The Company may terminate this Agreement by giving 7 days notice in writing to HSA if any of the following events occurs:
    - 4.4.a. HSA commits a breach of any of the terms or conditions of this Agreement and such breach is not rectified within 7 days after HSA receives notice from the Company directing rectification of that default; or
    - 4.4.b. If HSA enters into liquidation, administration or receivership.
5. **INTELLECTUAL PROPERTY**
  - 5.1. The property in all documents produced under this Agreement in relation to the Services (the Deliverables) including title and all Intellectual Property Rights will vest upon their creation in the Company except HSA Materials as defined in this clause.
- 5.2. Notwithstanding anything to the contrary in this clause or this Agreement, the Deliverables will not include any of HSA's intellectual property and/or any information or materials developed, copyrighted or marketed by HSA or its affiliated companies (including but not limited to all surveys, simulations, feedback reports, support materials, methods, formulas, inventions, trade secrets and know-how) developed prior to the date of this Agreement or which are not exclusively developed for the Company under this Agreement ("HSA Materials"), whether or not used in conjunction with the Company's Information, or Intellectual Property, all of which shall remain the sole and exclusive property of HSA.
- 5.3. The Company will both during and after the period of this Agreement do all such acts and things, and sign all such documents, as HSA or its lawyers may reasonably request to secure HSA's ownership or rights in the HSA Materials.
- 5.4. By way of example, following the administration of HSA survey to Company employees, all of the testing materials, basic scoring and feedback materials, as well as the scoring methodology and feedback methodology, and all underlying and ancillary materials and information, shall be HSA Materials and remain the property of HSA; the survey responses, scoring results, and feedback reports generated in response to the survey, as well as Company employee information collected or revealed in the administration of the survey, shall form part of the Deliverables and remain the property of the Company. The Company shall have no right to use or reuse HSA Materials, whether or not incorporated into the Deliverables, without the express written consent of HSA.
- 5.5. The Company agrees that the Deliverables shall only be used for the limited purpose for which HSA was engaged.
- 5.6. The Company agrees that the Deliverables shall not be used for the purpose of employee recruitment, promotion or termination.
6. **COPYRIGHT**
  - 6.1. Copyright applies to HSA Materials.
  - 6.2. HSA Materials shall not be reproduced or copied without the written approval of HSA and in those instances only where proper attribution is made by use of a Copyright Notice attributing authorship to HSA. Where the reproduction is in a non-English language publication the Copyright Notice shall be in both English and the non-English language.
7. **CONFIDENTIALITY**
  - 7.1. The parties agree that during the term of this Agreement they may become acquainted with or have access to each other's Confidential Information. Each party agrees to keep the other's Confidential Information confidential and use it only for the purposes of this Agreement. Each party agrees that both during and after the term to maintain the Confidential Information and to prevent its unauthorised disclosure to or use by any other person, firm or company, unless or until authorised in writing by the other party to disclose any Confidential Information.
    - 7.2. The parties agree that they will not:
      - 7.2.a. use the Confidential Information for any purpose other than for the benefit of the party who holds such Confidential Information either during or after the term;
      - 7.2.b. remove the Confidential Information from any premises without the written consent of the other party;

- 7.2.c. for whatever reason, either for itself or any third party, appropriate, copy, memorise or in any manner reproduce any of the Confidential Information.
- 7.3. The parties agree to return any or all of Confidential Information howsoever embodied on the request of the other party.
- 7.4. The parties agree that they will not, both during or after the term for whatever reason, make improper use of the Confidential Information acquired by virtue of this Agreement, to gain directly or indirectly, an advantage for itself or for any other person or to cause detriment to the other party.
- 7.5. Nothing in this Agreement will impose an obligation on either party with respect to maintaining confidence regarding information which is generally known or available by publication, commercial use or otherwise than as a result of a breach by a party of its obligation in this section.
- 7.6. The terms of this Agreement are confidential and will not be disclosed to any person for any reason other than to the parties' professional advisers or as required by law.
- 8. DELEGATION, INDEMNITY AND INSURANCE**
- 8.1. Delegation
- 8.2. HSA may delegate the performance of any obligation under this Agreement without the consent of the Company. HSA is solely responsible for all acts or omissions of any delegate of HSA.
- 8.3. Insurance
- 8.4. The Company must, during the term of this Agreement and for a period of 6 years thereafter maintain, at its own cost, insurance policies. Exempting HSA of any and all liability of HSA to the company pursuant to this agreement. The Company must produce the policy or policies of insurance and certificates of currency to the Company on request.
- 9. GENERAL**
- 9.1. Entire Agreement
- 9.2. This Agreement and the documents referred to in it supersedes all previous Agreements and embodies the entire Agreement between the parties in relation to their subject matter. Accordingly, anything (such as correspondence, negotiations or representations before this Agreement is signed or an arrangement or understanding) not reflected in this Agreement (or a document referred to in it) does not bind the parties and may not be relied on by them. In the event that the parties enter into any subsequent agreement or service level agreement these terms and conditions shall prevail to the extent that there is any inconsistency or overlap.
- 9.3. Severance
- 9.4. If a clause in this Agreement is void, illegal or unenforceable, it may be varied to give effect to the intention of this Agreement or severed without affecting the enforceability of the other provisions in this Agreement.
- 9.5. Variation and waiver
- 9.6. Unless this Agreement expressly states otherwise, this Agreement may only be amended in writing signed by all the parties.
- 9.7. A provision of this Agreement may only be waived in writing signed by the person who has the benefit of the provision and who is therefore to be bound by the waiver.
- 9.8. A waiver by one party under any clause of this Agreement does not prejudice its rights in respect of any subsequent breach of this Agreement by the other party.
- 9.9. A party does not waive its right under this Agreement because it grants an extension or forbearance to the other party.
- 9.10. Governing law and jurisdiction
- 9.11. This Agreement and the transactions contemplated by this Agreement are governed by the law enforced by New South Wales.
- 9.12. Each of the parties irrevocably submits to the jurisdiction of the Courts of New South Wales and all
- 9.13. Courts called to hear appeals from the Courts of New South Wales in respect of this Agreement or its subject matter.
- 9.14. Survival of terms
- 9.15. The terms of this Agreement survive its termination and the parties remain bound in perpetuity.
- 9.16. Counterparts
- 9.17. This Agreement may be made up of counterparts. Once signed, all of the counterparts, taken together, will constitute the one document.