

Prepared on 29 November 2023



## **SUMMARY OF AMENDMENTS TO EDUCATION HORIZONS' MASTER SUBSCRIPTION AGREEMENT**

Education Horizons

The following table lists updates incorporated into Education Horizons' Master Subscription Agreement (MSA), effective 01 January 2024.

<b>Amendments to the MSA generally</b>	
<b>Clause 1: introduction of extra definitions</b>	<p>Small Business means a business registered within Australia of the kind described in in subsection 23(4) of the <i>Competition and Consumer Act 2010 (Cth)</i>.</p> <p>Small Business Terms means the additional terms and conditions that apply if the Agreement is a Small Business Contract as amended from time to time and available at <a href="https://go.educationhorizons.com/rs/885-BKN-687/images/SMALL_BUSINESS_TERMS - NOV 2023.pdf?version=0">https://go.educationhorizons.com/rs/885-BKN-687/images/SMALL BUSINESS TERMS - NOV 2023.pdf?version=0</a></p> <p>Small Business Contract has the same meaning as in subsection 23(4) of the <i>Competition and Consumer Act 2010 (Cth)</i>.</p>
<b>Clause 3.4 and 3.5: amending clause numbering error in existing agreement and giving effect to Small Business Terms.</b>	<p>The Agreement is comprised of the following documents:</p> <p>3.4.1 if the Agreement is a Small Business Contracts, the Small Business Terms;</p> <p>3.4.2 clauses 1 to 27 of these terms and conditions;</p> <p>3.4.3 the Product Agreement;</p> <p>3.4.4 Schedules 1 and 2 of these terms and conditions.</p> <p>3.5 In the event and to the extent of any inconsistency between the documents listed in clause 3.4, the provisions or documents higher in the list will prevail to the extent of any inconsistency.</p>
<b>Clause 10.1.2: consent to incur expenses will be obtained where reasonable,</b>	<p>Any out-of-pocket expenses incurred by Education Horizons with the prior approval of the Client unless it was unreasonable in the circumstances to obtain the prior approval of the Client, including travel and travel-related expenses and any identified pass-through expenses, in connection with Education Horizons' performance of its obligations under the Agreement. Education Horizons will include all such reimbursable expenses on its invoices.</p>
<b>Clause 10.5 and 10.8: Penalty Interest to be made reciprocal.</b>	<p>If either party owes a debt to the other party, the debtor must pay to the other party:</p> <p>(a) Interest on the amount of the debt at the Late Payment Interest Rate with such interest accruing on a daily basis from the due date of the relevant debts until the debtor makes payment of the debt whether before or after judgment.</p> <p>(b) an amount equal to all reasonable expenses (including contingent expenses such as debt collection commission (on a full indemnity basis) incurred as a result of or in connection with a failure by the debtor to comply with its payment obligations under the Agreement. The debtor is not entitled to raise a set off or counterclaim in respect of any amount it owes to the other party and all amounts to be paid by the debtor under the Agreement will be paid in full without deduction or withholding. An amount owed includes any amount owed, whether actually, contingently or prospectively</p>
<b>Schedule 1: Implementation Services</b>	<p>Removed – not used in definition of 'implementation services', and all services should be described in the Product Agreement.</p>
<b>The following terms apply if the Agreement is a Small Business Contract.</b>	
<b>Definitions</b>	<p>Defined terms in this document have the same meaning as in the Agreement. In addition:</p>
<b>Transition</b>	<p>If the Contract is terminated under clause 19.2 or clause 26.2.1, or</p>

	the Client provides Education Horizons with a Cessation Notice under clause 3.3 or clause 26.2.2, the Client may require Education Horizons to provide commercially reasonable assistance to transition to a new provider at the rates applicable to the Client immediately prior to the termination of the Agreement or the issue of the Cessation Notice.
<b>Clause 6.2.5: no liability for failure or delay</b>	The second sentence in Clause 6.2.5 is removed so that clause 6.2.5 reads “use reasonable endeavours to complete the Services within the timeframes specified in the Agreement “
<b>Clause 13.5 Loss of Client Data</b>	The Client’s remedies will not be limited to Education Horizons’ reasonable commercial endeavours to restore lost or damaged Client Data. If the Client suffers Loss as a result of a failure by Education Horizons to take reasonable steps to prevent loss or damage to the Client Data, Education Horizons liability will be limited in accordance with clause 17.
<b>Clause 17: Limitation of Liability</b>	The Client’s liability is limited to the same extent as Education Horizons’ liability is limited under clause 17.1 and 17.3. The limitations and exclusions in clause 17.1 will not apply in respect of the Client’s liability for personal injury, death, clause 10 (Fees and Invoicing) and Clause 11 (Tax) breach of clause 13 (client data and security), breach of clause 14 (confidentiality), breach of clause 15 (privacy), or intellectual property infringement including under clause 12 and 16.
<b>Clause 18: Suspension of Services</b>	(a) Education Horizons will not unreasonably restrict access to the Solution. (b) If Education Horizons suspends access to the Solution or its performance of any or all of the Services under clause 25(c), the Client will not be required to pay Fees in relation to the suspended services during the suspension period other than those covered by clause 3(c) of these Small Business Terms. (c) If Education Horizons suspends access to the Solution or its performance of any or all of the Services under clause 25(c), the Client will be required to pay to Education Horizons the costs that it incurred in relation to the suspended services during the suspension period.
<b>Clause 26: Unilateral Variations</b>	A variation to the Agreement made under clause 26 that materially affects the Client’s rights under a Small Business Contract will not take effect until 45 days after Education Horizons provides the Client with a notification by email that such a variation will occur. This notification will ensure that the Client has sufficient time to terminate the Agreement before any material variation to its rights takes effect.