



# TRANSLATION SERVICES TERMS AND CONDITIONS

A copy of this document can be downloaded as a PDF <https://tstreet.io/pages/translation-services-terms-and-conditions>.

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## OVERVIEW

- Set out below are the terms, conditions, disclaimers and warranties (**Terms of Service**) governing TStreet International Pty Ltd's (**TStreet, us, we, our**) provision of translation services to you.
- BY MAKING A REQUEST OR PLACING AN ORDER (AS THESE TERMS ARE DEFINED BELOW) IN RESPECT OF OUR TRANSLATION SERVICES, YOU AGREE TO BE BOUND BY, AND ENTER INTO A CONTRACT COMPRISING, THESE TERMS OF SERVICE AS SET OUT BELOW. IF YOU DO NOT AGREE TO THESE TERMS OF SERVICE OR DO NOT WISH TO CONTRACT WITH TSTREET, PLEASE REFRAIN FROM MAKING ANY REQUEST OR SUBMITTING ANY ORDER FOR TRANSLATION SERVICES WITH US. ALTERNATIVELY, IF YOU WISH TO HAVE SUCH TERMS MODIFIED IN RESPECT OF OUR DEALINGS WITH YOU, PLEASE CONTACT US PRIOR TO MAKING A REQUEST OR PLACING AN ORDER FOR OUR SERVICES.
- Please be aware that we also separately maintain our:
  - Privacy Policy (detailing our use and collection of data), accessible at <https://tstreet.io/pages/privacy-policy>; and,
  - Website Terms and Conditions (governing your use of our website), accessible at <https://tstreet.io/pages/terms-and-conditions>.

## DEFINITIONS

### ACL

1. means the Australian Consumer Law as contained in the *Competition and Consumer Act 2010* (Cth).

### Business Days

2. means a day on which banks are open for trading in the state of Queensland, other than a Saturday or Sunday.

### Confidential Information

3. means:
  - a. all ideas, product concepts, prototypes, physical dimensions, designs, manufacturing and production processes, computer programs and databases, written materials, pictures and drawings, specifications, recipes, formulas, measurements, notes, calculations, know how or all other verbal information or written data concerning or relating to the Subject Material;
  - b. all improvements, modifications, derivations and discoveries related to the Subject Material;
  - c. all business and financial information, sales and supply details, customer and supplier listings, marketing strategies, sales plans, and price structures relating to the business carried on by a Party;
  - d. any other information developed by the Discloser which, by its nature, places or potentially places the Discloser or the Recipient at an advantage over its present or future business competitors; and
  - e. any information that would otherwise at law be considered secret or confidential information of the Discloser;  
whether or not marked 'confidential', 'private', 'secret', 'in confidence', or 'not to be disclosed', but excluding information the Recipient can prove to the reasonable satisfaction of the Discloser which:
    - f. at the time of first disclosure by the Discloser to the Recipient is already in the public domain;
    - g. after disclosure to the Recipient by the Discloser becomes a part of the public domain, otherwise than by disclosure in breach of this Agreement; and/or,
    - h. is received from a third party legitimately in possession of it, and having a right to disclose it, and who is not under any obligation of confidentiality to the Discloser.

### Consequential Loss

4. means any one or more of the following:

- a. indirect loss;
- b. loss of revenue;
- c. consequential loss;
- d. loss in connection with third party claims;
- e. loss of reputation;
- f. loss of profits;
- g. loss of bargain;
- h. loss of actual or anticipated savings;
- i. lost opportunities, including opportunities to enter into arrangements with third parties; and
- j. loss or corruption of data.

### Contact Email Address

5. means the email address <[translations@tstreet.io](mailto:translations@tstreet.io)>, being the email address to be used by You to submit requests and place Orders with TStreet (or such other email address as agreed by TStreet).

### Contract

6. means a contract between You and TStreet which:
  - a. comprises these Terms of Service and any special conditions agreed upon between You and TStreet; and
  - b. comes into effect and commences at such time as TStreet accepts Your Order in accordance with these Terms of Service.

### Discloser

7. means the Party providing information or materials to the other Party.

### Final Language

8. means the language in which the Subject Material is to be translated.

### Intellectual Property

9. Includes all:
  - a. inventions, discoveries, innovations, novel or technical information and data, prototypes, processes, improvements, and patents, including all patents and patented applications, processes and products within the meaning of the Patents Act 1990 (Cth);
  - b. circuitry and circuit layouts, computer programs, software, code, drawings, plans, and specifications;

- c. domain names, business names, trade marks, including any trade name, brand name, common law trade mark, or trade mark within the meaning of the Trade Marks Act 1995 (Cth);
- d. designs, including all designs within the meaning of the Designs Act 2003 (Cth);
- e. copyright material within the meaning of the *Copyright Act 1968* (Cth);
- f. trade secrets and know-how; and
- g. Works, and all other works resulting from intellectual activity in the industrial, scientific, education, literary, or artistic fields.

### Intellectual Property Rights

- 10. includes all rights relating to any and all of the Intellectual Property; copyright and neighbouring rights; and Moral Rights, whether existing now or in the future, both in Australia and throughout the world.

### Moral Rights

- 11. means moral rights under Part IX of the *Copyright Act 1968* (Cth) as amended from time to time.

### Order

- 12. means an order placed by You for the Services which is in writing and accepted by TStreet.

### Order Number

- 13. means the identification number given to You by TStreet in respect of Your Order in accordance with clause 44.

### Owing Amount

- 14. means an amount due and payable by You to TStreet under a Contract in respect of Services rendered on your behalf.

### Page Rate

- 15. means the fixed rate charged in respect of each page containing Source Language words requiring translation into a Final Language.

### Party

- 16. means either You or TStreet, as dictated by context.

### QR Code

- 17. means TStreet's custom created QR code which signifies that translated Subject Material is available in other languages (i.e., the Final Language(s)) and provides access to view the Subject Material in such languages.

### Recipient

18. means the Party receiving information or materials from the other Party.

### Related Body Corporate

19. has the meaning provided in the *Corporations Act 2001* (Cth) and Related Bodies Corporate has a corresponding meaning.

### Relevant Laws

20. means any State, Federal and/or international law/s applying to or otherwise governing You and/or Your conduct.

### Services

21. means our services in translating Subject Material(s) which is provided by and/or using:

- a. the Translation Software; and/or
- b. translators employed by TStreet; and/or
- c. third-party translators contracted by TStreet;

and subsequent stamping, formatting or otherwise marking the documents with the QR Code.

### Service Output

22. means any end-product, output or deliverable TStreet provides to You in accordance with and in satisfaction of Your Order (and which for clarity includes any Subject Material which has been translated into a Final Language specified by You).

### Service Rate

23. means the hourly rate charged in carrying out the Services, as communicated to You from time to time.

### Source Language

24. means the language in which the Subject Material requiring translation was originally transcribed in or as is otherwise written in at such time as the Subject Material was provided by You to TStreet.

### Subject Material

25. means the material/content forming the subject of an Order and which requires translation from the Source Language to the Final Language.

### Translation Software

26. means TStreet's proprietary and artificially intelligent translation software.

### Turnaround Time

27. means estimated time by which TStreet will have carried out the Services in accordance with an Order.

### Works

28. includes, but is not limited to, all literary, dramatic, musical and artistic work within the meaning of the Copyright Act 1968 (Cth).

### You / Your

29. are references to you (whether an individual, business, corporation or other body or entity) and includes, where applicable, your organisation (whether a business, corporation or other body or entity).

## **INTERPRETATION**

30. The following rules apply unless the context requires otherwise:
- a. headings are for ease of reference only and do not affect interpretation;
  - b. the singular includes the plural and vice versa, and a gender includes other genders;
  - c. if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
  - d. a reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them;
  - e. a reference to a clause is a reference to a clause of this document;
  - f. a reference to an agreement or document is to the agreement or document (or schedule) as amended, varied, supplemented, novated or replaced, from time to time;
  - g. a reference to a party to an agreement or document includes that party's successors, permitted substitutes and permitted assigns (and, where applicable, that party's legal personal representatives);
  - h. a reference to conduct includes, without limitation, an omission, statement or undertaking, whether or not in writing;
  - i. a reference to dates and times are to those dates and times in Queensland;
  - j. a reference to "dollars", "\$" or an amount of money is to Australian currency;
  - k. the meaning of general words is not limited by specific examples introduced by "including", "for example" or similar expressions; and
  - l. a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this document or any part of it.

## **ACKNOWLEDGEMENT AND AGREEMENT TO TERMS OF SERVICE**

31. By placing an Order for the Services, you acknowledge and agree:

- a. You have read and understood these Terms of Service;
  - b. to be bound by these Terms of Service. If you do not agree to these Terms of Service, please refrain from submitting any order for Services with us. Alternatively, if you wish to have such terms modified in respect of our dealings with you, please contact us prior to placing an order for our Services;
  - c. you are over the age of eighteen (18) years old and can give all consents and the making of all representations contained in these Terms of Service; and,
  - d. if You are submitting an order for Services on behalf of or during Your duties for another legal entity, such as a corporation, You represent that You are an authorised agent able to act on behalf of this entity and able to validly bind the entity to these Terms of Service.
32. You hereby represent and warrant that You are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in these Terms of Service and to abide by, and comply with, these Terms of Service.

## COMMENCEMENT AND BASIS OF CONTRACT

33. Your placement of an Order constitutes an offer to purchase the Services in accordance with these Terms of Service.
34. Any Order placed shall only be deemed accepted at such time as TStreet issues written acceptance of the Order at which time and on which date a Contract between you and TStreet for the provision of the Services shall come into existence (**Commencement Date**).
35. TStreet may accept or reject any Order in its absolute and sole discretion.
36. Any materials, samples, estimations, descriptive matter and/or marketing content provided by TStreet to You, including any discussions (whether in writing or otherwise) prior to TStreet's formal acceptance of Your Order shall not form part of the Contract unless expressly confirmed to do so.
37. These Terms of Service apply to the Contract to the exclusion of any other terms that You seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing, including in particular any terms which You seek to impose in respect of any Order or similar. These Terms of Service, together with any special conditions agreed upon, in writing, by both You and TStreet, constitute the whole agreement under the Contract and to the extent these Terms of Service differ from any mutually agreed special conditions, the special conditions will prevail.

## CONTRACT TERM

38. Each and every Contract shall commence on the Commencement Date and will continue until such time as:

- a. You are provided with the Service Output in respect of Your Order and TStreet receives payment for any Owing Amount in full and cleared funds;
- b. Your Order is cancelled in accordance with clause 53.a; or
- c. Your Order is cancelled in accordance with clause 53.b and TStreet receives payment of any Owing Amount in full and cleared funds;
- d. Your Order is cancelled in accordance with clauses 47 to 54 (inclusive) and TStreet receives payment of any Owing Amount in full and cleared funds.

## ORDERING PROCESS

39. The process to obtain the Services shall be as follows:
  - a. You submit a request for Services (**Request**) to TStreet in accordance with clause 40 or via TStreet's software or API's;
  - b. TStreet shall respond to the Request in accordance with clauses 41 and 42 and in doing so, provide you with the opportunity to submit an Order;
  - c. You must submit the Order in accordance with clause 43.
  - d. TStreet will then confirm or reject your order.

## REQUESTS FOR SERVICES

40. Requests must be submitted by way of email to the Contact Email Address and will only be considered valid where the Request clearly:
  - a. Lists the Subject Material and properly attaches or otherwise provides TStreet with access to the same;
  - b. specifies, in respect of the Subject Material, both the:
    - i. Source Language(s); and,
    - ii. The requested Final Language(s) (including any dialects);
  - c. Details any specific requirements You may have in respect of TStreet's provision of the Services, including, non-exhaustively:
    - i. If applicable, whether You require or otherwise wish the Subject Material to be translated by:
      1. our Translation Software; or
      2. a human translator, and, if so, whether that translator needs to hold any specific qualifications (such as being NAATI certified);
    - ii. Whether You require the Services to be carried out by a certain date; and/or



- iii. Any particular purpose for which the Subject Material, once translated, will be used (should it reasonably necessary for us to be aware of such purpose).
- d. Provides TStreet with all of Your relevant contact information, including Your:
  - i. Full name;
  - ii. Email address;
  - iii. Contact phone number; and,
  - iv. (where applicable) the organisation, company or entity which you work for and/or otherwise represent.

This clause 40 does not apply to the extent that a different method for making a request is enabled via any TStreet software and/or API.

## PROCESSING OF REQUESTS

- 41. Where TStreet receives a valid Request in accordance with clause 40, TStreet shall endeavour, within two (2) Business Days and by way of reply email, phone call or via TStreet software and/or API, to:
  - a. confirm whether it is able and willing to fulfill the Request; and/or
  - b. Request further information/particulars in respect of the Request.
- 42. Where TStreet confirms it is able and willing to fulfil Your Request, TStreet shall provide to you, by way of email, a scope of services (**Service Scope**) in response to your Request which, non-exhaustively, will set out or otherwise contain:
  - a. A summary of your Request (including TStreet's understanding of the particulars required by You in respect of the Services);
  - b. Subject to any requirements specified by you in accordance with clause 40.c, confirmation as to whether the Services will be carried out by a human translator (including confirmation as to whether that translator holds any requested certifications) or our Translation Software (or a combination thereof);
  - c. Confirmation as to how pricing for the Services shall be calculated – to be determined by TStreet, in its absolute and sole discretion, following TStreet's preliminary review of the Subject Material; and,
  - d. an estimate in respect of:
    - i. the likely costs You will incur in respect of the Order; and,
    - ii. the Turnaround Time.
- 43. Subsequently:

- a. should you wish to proceed with obtaining the Services set out within the Service Scope, you must confirm, by way of reply email, that You wish to place an order (**Order**) for the Services detailed in the Service Scope; and,
  - b. TStreet will then confirm or reject Your Order by way of reply email.
44. Once You have placed an Order which has been confirmed by TStreet, TStreet will provide you with an Order Number. You must reference this Order Number in all correspondence with TStreet relating to Your Order.

## PRICING

45. Pricing for the Services shall be calculated using either the Service Rate or the Page Rate, or a combination thereof, as notified to you in accordance with clause 42.
46. Any cost estimates given by TStreet:
- a. shall not constitute an offer and is instead an invitation to treat only;
  - b. is only valid if conveyed in writing;
  - c. is exclusive of GST unless expressly stated otherwise; and,
  - d. is only valid for a period of 20 Business Days from its date of issue.

## CANCELLATION OF REQUESTS AND ORDERS

47. You may cancel a Request at any time by sending an email requesting such cancellation to the Contact Email Address.
48. Subject to clauses 49, 50 and 51, You may request to cancel a confirmed Order at any time by sending a request (**Cancellation Request**) to the Contact Email Address.
49. When submitting a Cancellation Request in accordance with clause 48, You must clearly:
- a. Specify that you are seeking to cancel your existing Order; and,
  - b. Specify the Order Number in respect of the Order you wish to cancel.
50. TStreet shall endeavour to confirm a Cancellation Request within 24 hours of receipt of the Cancellation Request. For the purposes of any Contract with TStreet, any Order the subject of a Cancellation Request will only be considered cancelled at such time as TStreet provide You with written confirmation that the relevant Order has been cancelled.
51. You acknowledge and agree that any work undertaken by TStreet in respect of Your Order up to and including the date on which TStreet confirms that Your Order is cancelled will remain due and payable by You.
52. TStreet may cancel Your Order, or any part of Your Order, at any time and without incurring liability to You in respect of such cancellation in circumstances where TStreet becomes aware, or has reason to believe:

- a. that You are Insolvent or experiencing an Insolvency Event, or are likely to become Insolvent or experience and Insolvency Event; or
  - b. that You have breached any of these Terms of Service.
53. In circumstances where TStreet cancel Your Order:
- a. under clause 52.a, no payment will be required by You in respect of that Order;
  - b. under clause 52.b, payment for any work undertaken by TStreet in respect of Your Order up to and including the date on which TStreet confirms that Your Order is cancelled will remain due and payable by You.
54. At such time as your Order is cancelled in accordance with these Terms of Service, Your Contract with us shall immediately terminate.
55. Clauses 51 and 53.b expressly survive termination of any Contract You have with TStreet.

## VARIATION OF ORDERS

56. Subject to clauses 57 and 58, You are permitted to request a variation to a confirmed Order at any time by sending a request (**Variation Request**) to the Contact Email Address.
57. Where You seek to vary your order in accordance with clause 56, You must clearly:
- a. Specify the nature of the variation requested;
  - b. Specify the Order Number in respect of the Order you wish to vary;
  - c. Provide us with all information and instructions necessary to enable us to carry out the requested variation of your Order; and,
  - d. Where applicable, attach or grant us access to any additional Subject Material we require in order to carry out Your Variation Request.
58. In respect of a Variation Request, You acknowledge and agree that:
- a. TStreet may accept or reject a Variation Request in its complete and sole discretion; and,
  - b. Where TStreet accept a Variation Request, TStreet are permitted to charge You, and you must pay, for any work completed by TStreet in respect of your original Order up to the time on which TStreet approved your Variation Request.
59. TStreet shall endeavour to approve or reject a Variation Request within two (2) Business Days receipt of the Variation Request.
60. In circumstances where TStreet approve a Variation Request, TStreet shall:
- a. Provide you with an updated cost estimate;
  - b. Notify you of any changes to TStreet's provision of the Services (as may be required in order to fulfil the terms of Your variation request); and,
  - c. Provide you with a revised estimated Turnaround Time.

## PROVISION OF SERVICES

61. Subject to its acceptance of an Order in accordance with clause 43.b, TStreet shall:
- a. Carry out the Services and/or cause the Services to be carried out with due care and skill and in accordance with:
    - i. these Terms of Service;
    - ii. the terms of Your Order; and,
    - iii. any special conditions and/or reasonable instructions communicated by You to TStreet and to which TStreet have agreed, in writing, to adhere to;
- and,
- b. Use all reasonable endeavours to meet any Turnaround Times communicated by TStreet to You in respect of Your Order. For clarity, You acknowledge and agree that any Turnaround Times communicated by Street to You in respect of Your Order are estimates only and time shall not be of the essence in respect of TStreet's performance of the Services.

## PAYMENT

62. Within 7 days of Your Order being cancelled or TStreet's provision of a Service Output to You, TStreet will issue You with an invoice (**Invoice**) which, non-exhaustively:
- a. lists an Owing Amount (and, where applicable, any interest owing on overdue payments);
  - b. specifies a date by which You must pay the Owing Amount in full and cleared funds; and,
  - c. lists the methods by which payment of the Owing Amount can be made.
63. Payment of the Owing Amount must be made:
- a. by the date for payment specified within the Invoice; and,
  - b. via a payment method specified within the invoice or otherwise communicated to You by TStreet, in writing.
64. You acknowledge and agree that TStreet shall charge interest on any overdue Owing Amounts at a rate which is the lower of:
- a. 1% per month; or
  - b. Such other rate as reasonably determined by TStreet.

## PROVISION OF SERVICES - ACKNOWLEDGEMENT & DISCLAIMER

65. You expressly acknowledge and agree that:
- a. TStreet's provision of the Services to You is limited solely to the extent of:

- i. Arranging for a human translator (whether an employee of TStreet or a sub-contractor) to carry out translation services in respect of the Subject Material; and/or
  - ii. Applying our Translation software in order carry out the translation the Subject Material;
  - iii. Stamping, formatting or otherwise marking the Subject Material with a QR Code; and/or
  - iv. Making the Service Output (as defined below) available via TStreet's distribution system.
- b. The Services and any output stemming from the Services (including, for clarity, any Subject Material translated into its Final Language) (**Service Output**) provided to You by TStreet is provided on an as-is basis and, to the maximum extent permitted by law, TStreet makes no representation or warranty that the Service Output is suitable for any particular purpose.
- c. Owing to the nature of languages and language translation, it may be the case that certain words, phrases, expressions or material appearing in the Source Language are unable to be correctly or appropriately translated into the requested Final Language. You acknowledge and accept that such translation failures shall not be construed as a breach of TStreet's Contract with You (and/or these Terms of Service) or of sections 60 or 61 of the ACL.
- d. TStreet and each of its Related Bodies Corporate, subsidiaries, associates, sub-contractors, agents and/or employees, to the maximum extent permitted by law, take no responsibility for any direct or Consequential Loss, or any damage, however caused, suffered by You or any person, company, organisation or entity in connection with:
  - i. Any act or omission of any third-party involved in the provision of the Services or Service Output, including arising out of the acts or omissions of any translator, Subcontractor (as defined below) or any failure, outage or interruption of service involving any hardware, software and/or infrastructure utilised by TStreet in the provision of the Services and/or Service Output (including where owned by or licenced from a third-party);
  - ii. Any reliance on our provision of the Services to You and/or Your reliance on the Service Output; and
  - iii. Our provision of the Services or the Service Output to You.
- e. TStreet and each of its Related Bodies Corporate, subsidiaries, associates, sub-contractors, agents and/or employees have no role in creating, designing or otherwise producing the Subject Material and takes no responsibility for any direct, or Consequential Loss, or any damage, however caused, suffered by You or any person, company, organisation or entity in connection with any reliance on or use of the Subject Material.

- f. In providing the Services to You, TStreet may outsource the task of translating the Subject Material to one of its third-party sub-contractors (**Subcontractor**). You acknowledge that TStreet's Subcontractors are not employees or entities related to TStreet and that the only relationship in existence between TStreet and a Subcontractor is that of contractor and contractee, respectively.

## YOUR WARRANTIES

- 66. You warrant that:
  - a. All information and data provided by You to TStreet is true, accurate, complete, and up to date;
  - b. Your provision of Subject Material to TStreet shall not infringe the rights (including Intellectual Property Rights) of any third – party; and,
  - c. You have and will continue to comply with all Relevant Laws relating to:
    - i. Your engagement of us as service provider and/or your interactions or dealings with TStreet;
    - ii. Your provision of Subject Material to TStreet; and,
    - iii. Your use and/or intended use of any Service Outputs.

## LIMITATION OF LIABILITY

- 67. Except as specifically stated within these Terms of Service, and to the maximum extent permitted by law, these Terms of Service do not include by implication any other term, condition or warranty in respect of the quality, acceptability, fitness for purpose, description or performance of the Services or Service Output, or any contractual remedy for their failure.
- 68. If You are a consumer within the meaning of the ACL, nothing in these Terms of Service and/or our Contract with You serves to restrict, limit or modify Your rights or remedies against TStreet for TStreet's failure to provide any applicable statutory guarantee under the ACL.
- 69. Subject to clauses 67 and 68, TStreet's total liability to You, whether in contract, tort (including negligence), breach of statutory duty or otherwise, arising under or in connection with our Contract with You, shall be limited to:
  - a. the total amount of fees paid by You to TStreet; or
  - b. the Owing Amount.
- 70. Nothing in these Terms of Service or our Contract with You is to be interpreted as excluding, restricting or modifying, or having the effect of excluding, restricting or modifying the application of any laws applicable to TStreet's supply of the Services which cannot be excluded, restricted or modified.
- 71. Clauses 67 to 71 (inclusive) shall survive termination of our Contract with You.

## INTELLECTUAL PROPERTY

72. To the extent that the Subject Material provided to TStreet consists of Intellectual Property, or Intellectual Property Rights attaching or related thereto, you expressly warrant that You own, control or are otherwise legally permitted to use and disclose such Intellectual Property to TStreet.
73. To the extent that the Service Output (including the Subject Material which has been translated into a Final Language) consists of or comprises any newly created Intellectual Property (**New Intellectual Property**) and Intellectual Property Rights related thereto (**New Intellectual Property Rights**) owned by TStreet, TStreet hereby assigns all its rights, title and interest in such New Intellectual Property and Intellectual Property Rights related thereto to You.
74. The assignment provided under clause 73 is to take place from the later of the date on which You are provided the Service Output and the date that all outstanding amounts payable to us in respect of the Service Output are paid.

## CONFIDENTIAL INFORMATION

75. You acknowledge and agree that each Party to any Contract in place may provide and/or receive Confidential Information over the course of TStreet's provision of the Services.
76. In circumstances where the Recipient obtains Confidential Information under a Contract with TStreet and/or these Terms of Service, the Recipient acknowledges and agrees that it must, or cause its Sub-Contractors to:
  - a. maintain strict confidentiality in relation to the Confidential Information and must take all reasonable physical and legal steps necessary to prevent its disclosure;
  - b. not divulge to any person any aspect of the Confidential Information;
  - c. not use nor exploit the Confidential Information;
  - d. not make any written notes, copy, reproduce, retain, store, record, computerise, document or duplicate any part of the Confidential Information which appears in written, computerised or other recorded form; or
  - e. not make any improvements or modifications to or derivations or discoveries from any of the Confidential Information;unless allowed otherwise pursuant to these Terms of Service or with the prior written approval of the Discloser.
77. If the Recipient is uncertain whether any information comprises part of the Confidential Information, then it must seek direction from Discloser before divulging the information to any other person.
78. If the Recipient believes that it may be necessary to disclose any of the Confidential Information to any other person in order to further Discloser's interests or comply with its obligations under

these Terms of Service, then the Recipient must obtain prior written authorisation from Discloser before making such disclosure.

79. Exclusions – the obligations and restrictions of each Recipient contained in these Terms of Service will not apply to that Confidential Information for which the Recipient can satisfactorily demonstrate that:
- a. was in the possession of the Recipient prior to receipt from the Discloser;
  - b. is independently developed, including any IP, by the Recipient or employees of the Recipient without reliance on the Confidential Information received; or
  - c. is required to be disclosed by law or regulation having the force of law, but only to the extent required to be so disclosed and after having promptly notified the Discloser of this legal requirement and allowing the Discloser an opportunity to challenge, limit and/or restrict the legal requirement to disclose.
80. For clarity, TStreet warrants and confirms that:
- a. its use of any Confidential Information provided by You to TStreet shall be used by TStreet for the sole purpose of providing or otherwise carrying out the Services; and,
  - b. any Sub-Contractors engaged by TStreet will be and are subject to confidentiality obligations in respect of their use of Your Confidential Information which are no less onerous than those contained under these Terms of Service.

## **INDEMNIFICATION OF TSTREET**

81. You expressly agree to indemnify TStreet, its Related Bodies Corporate, subsidiaries, associates, agents, sub-contractors and employees against all losses, liabilities, costs and expenses (including legal costs and expenses on a full indemnity basis) arising from or in respect of any claim by a third party made in relation to TStreet's provision of the Services and which alleges:
- a. TStreet has infringed upon a third party's Intellectual Property Rights in relation to the Subject Material; and/or
  - b. TStreet has breached any obligations of confidentiality in respect of the Subject Material.

## **TERMINATION**

82. You may terminate any existing Contract with respect to a Request by cancelling Your Request in accordance with clause 47.
83. Subject to clauses 84 and 85, You may terminate any existing Contract with respect to an Order with TStreet by cancelling Your Order at any time in accordance with clauses 48 to 55 (inclusive).



## **CONSEQUENCES OF TERMINATION**

84. On termination of a Contract with TStreet:
- a. TStreet shall provide to You an Invoice in accordance with clause 62; and,
  - b. All Owing Amounts listed within the Invoice (including interest on unpaid Owing Amounts) shall become immediately due and payable by You;
85. The following provisions shall also apply on termination of the Contract for any reason:
- a. the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
  - b. clauses which expressly or by implication survive termination shall continue in full force and effect.

## **CHANGES TO THESE TERMS OF SERVICE**

86. We reserve the right to change these Terms of Service at any time without providing notice to You.
87. Any changes made under clause 86 take effect as at the time they are displayed online in these Terms of Service.
88. Where an Order for the Services has been made and accepted, the Terms of Service applicable to that Order and our Contract with You will be those that were in effect as at the time Your Order was accepted.

## **FORCE MAJEURE**

89. Neither party shall be liable for any failure or delay or default in performance of their obligations arising under a Contract and/or these Terms of Service if such failure or delay or default is caused by conditions beyond its control including but not limited to acts of god, government restrictions, pandemics, epidemics, wars, insurrections, disruption of essential services and/or any other cause beyond the reasonable control of the party whose performance is affected.

## **WAIVER**

90. Our failure to enforce any provisions contained within these Terms of Service shall not be construed as a waiver of any of our rights. Any waiver of any provision under these Terms of Service will only be effective if it is in writing and signed by us.

## **SEVERABILITY**

91. If any clause within these Terms of Service is invalid under any applicable law, the clause will be limited, narrowed, construed or altered as necessary to render it valid, but only to the extent necessary to achieve such validity. If necessary, the invalid clause will be deleted from the

Terms of Service and the remaining clauses will remain in full force and effect. This clause has no effect if the severance alters the basic nature of these Terms of Service or is contrary to public policy.

## TRANSFER AND ASSIGNMENT

92. If TStreet sells or otherwise undergoes a change control of its business, TStreet reserves the right, without giving notice or seeking consent, to transfer or assign the personal information, content and rights that TStreet has collected from You and/or any agreements it has made with You.

## GOVERNING LAW

93. These Terms of Service and any Contract in place with You under these Terms of Service will be governed by and construed in accordance with the law of the State of Queensland and the parties submit to the non-exclusive jurisdiction of the courts of the State of Queensland and any court hearing appeals from those courts.
94. If You Order the Services in or from a jurisdiction other than Australia, you are responsible for compliance with the laws of that jurisdiction, to the extent that they apply. TStreet makes no representations that its provision of the Services complies with the laws of any country outside Australia.

## CONTACT

95. All contact, queries or other correspondence regarding these Terms of Service should be directed to our legal representatives at [Macpherson Kelley Lawyers](#), as follows:
- a. By email to:
    - i. Address: [ipq@mk.com.au](mailto:ipq@mk.com.au)
    - ii. Subject: Terms of Service Query – TStreet International Pty Ltd
  - b. By mail to:
    - i. Address: GPO Box 5299, Brisbane QLD 4001
    - ii. Attention: Intellectual Property Team – Terms of Service for TStreet International Pty Ltd
96. Any correspondence relating to these Terms of Service will be deemed as dated on the date received by the recipient.

### END OF AGREEMENT

*This Terms and Conditions Document has been prepared with our legal team at [Macpherson Kelley Lawyers](#).*

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