

MIRUS TERMS AND CONDITIONS

Mirus Data a division of the **Veda Advantage Group**

YOU, have made an application for the provision of the Mirus Data subject to your acceptance of and compliance with the terms and conditions set out below. This Agreement for the provision of the MIRUS DATA commences on the Commencement Date and is between the YOU ("**Client**"), and MIRUS DATA, a division of VEDA ADVANTAGE SOLUTIONS GROUP PTY LTD ABN 88 071 215 328 of Level 15, 100 Arthur Street, New South Wales, 2060 ("**Mirus**")

RECITALS

- A. Mirus is engaged in the business of supplying information services.
- B. Mirus has rights to use the Mirus Data and operates the Mirus Website.
- C. The Client wishes to obtain access to the Mirus Data for the Approved Purpose.
- D. Mirus permits the Client to access the Mirus Data and to use the Mirus Data for the Approved Purpose in the Territory on the terms of this Agreement.

1. DEFINITIONS

- (a) "**Agreement**" means the agreement between Mirus and the Client and includes:
 - (i) the Recitals; and
 - (ii) these terms and conditions;
- (b) "**Approved Purpose**" means either:
 - (i) that the Client may use the Mirus Data to assist the Client in:
 - verifying Customer Data;
 - tracing individuals who have changed addresses; and
 - the collection of overdue debts; or
 - (ii) the Client may use the Mirus Data to provide the Service.
- (c) "**Business Day**" means any day on which banks are open for business in Sydney, not being a Saturday, Sunday or public holiday;
- (d) "**Change in Control Event**" means:

- (i) a change in 15% or more of the shareholding of the Client;
 - (ii) any change in shareholding, management or Control of the Client that may affect its ability to abide by the terms and conditions of this Agreement; or
 - (iii) any other event which results in or causes a change of the person who Controls the Client;
- (e) **“Commencement Date”** means the date on which the Client is granted access to the Mirus Data;
- (f) **“Confidential Information”** of a party means the terms of this Agreement and any other information relating to the business, finances, strategy, methods, processes, products, services or other affairs of that party (**“Disclosing party”**) which is disclosed to, learnt by or accessed by the other party (**“Receiving party”**) in connection with this Agreement, whether before or after the Commencement Date, whether orally, electronically, in writing or otherwise, but excludes information which:
- (i) is or becomes part of the public domain otherwise than as a consequence of a breach of this Agreement or an obligation of confidence owed to the disclosing party;
 - (ii) the receiving party obtains from a source other than the disclosing party which source is entitled to disclose it; or
 - (iii) the receiving party developed or acquired independently before the Commencement Date.

Confidential Information of Mirus includes the Mirus Data;

- (g) **“Control”** has the meaning given in section 50AA of the *Corporations Act 2001 (Cth)*;
- (h) **“Customer Data”** means Personal Information relating to an individual that the Client has in its own databases before the Commencement Date, or acquires during the Licence Period from a person or organisation other than Mirus;
- (i) **“Data Delivery”** means a set of one or more Mirus Data or any other data that becomes available for use in the Mirus Data and is obtained by an End User. For the avoidance of doubt, an address search for the purpose of previewing available records does not constitute a Data Delivery;
- (j) **“Documentation”** means any manuals, user instructions or other documentation provided by Mirus to the Client to assist the Client to access and use the Mirus Data;
- (k) **“Do Not Call Register”** means the national register of telephone numbers maintained pursuant to the *Do Not Call Services Act 2006 (Cth)*;
- (l) **“End User”** means a person to whom the Client supplies the Mirus Data or the Service;
- (m) **“Facilities”** has the meaning given in clause 5(d);
- (n) **“GST Act”** means the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;
- (o) **“Individual”** means a person, whose Personal Information has been collected and is included in the Mirus Data;
- (p) **“Intellectual Property Rights”** means copyright and neighbouring rights (including moral rights), all rights in relation to inventions (including patents), registered and unregistered trade marks, business names, domain names, registered and unregistered designs, circuit layouts, confidential information, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields;

- (q) **“Licence”** has the meaning given in clause 2(a);
- (r) **“Licence Fee”** means the fees specified in the option for payment selected by the client on the Website; or as otherwise agreed;
- (s) **“Licence Period”** means the period which the Client has access to the Mirus Data according to the option for payment selected by the client on the Website;
- (t) **“Mirus Data”** means the data provided by Mirus to the Client via the Website;
- (u) **“Personal Information”** has the meaning given to that term in the *Privacy Act 1988 (Cth)*;
- (v) **“Privacy Legislation”** means:
 - (i) the *Privacy Act 1988 (Cth)*; and
 - (ii) any legislation from time to time in force in any Australian jurisdiction (which includes the Commonwealth of Australia and any State or Territory of Australia) affecting privacy, Personal Information or the collection, handling, storage, processing, use or disclosure of Personal Information, data and other types of information and includes the *Spam Act 2006 (Cth)* the *Do Not Call Register Act 2006 (Cth)*, the *Commonwealth Electoral Act 1918 (Cth)* and the *Telecommunications Act 1997 (Cth)*;
- (w) **“Service”** means the product or service supplied to End Users by the Client where the Mirus Data is washed against the Customer Data and the Mirus Data forms a composite element of the product or service;
- (x) **“Territory”** means Australia;
- (y) **“User”** means any employee or contractor of the Client granted a user name, password or any other secure identifier by Mirus to use the Mirus Data for the Client’s Approved Purpose; and
- (z) **“Website”** means www.mirusonline.com.au.

2. NON-EXCLUSIVE LICENCE

- (a) Subject to the provisions of this Agreement Mirus grants to the Client a non-exclusive, revocable licence to use the Mirus Data in the Territory for the Approved Purpose (**“Licence”**) for the Licence Period.
- (b) The Licence is restricted to the Client and may not be assigned or sub-licensed to or exercised by any person other than the Client.

3. LICENCE FEE

The Client must pay to Mirus the Licence Fee in consideration of the Licence.

4. LICENCE PERIOD

The Licence granted under this Agreement will commence on the Commencement Date and will continue until the end of the Licence Period unless and until terminated in accordance with clause 13 (the termination clause).

5. CLIENT'S COVENANTS

- (a) The Client must comply with the Privacy Legislation and all other laws that apply to the Mirus Data, including use of the Mirus Data, even if the Client is not an organisation to which the Privacy Legislation would otherwise apply. In particular the Client must:
 - (i) take reasonable steps to ensure that when the Client uses the Mirus Data or provides the Service, the Individual, is or has been made aware of the following, except to the extent that making the Individual aware of the matters would pose a serious threat to the life or health of any individual:
 - A. the identity of the Client and how to contact the Client;
 - B. the fact that the Individual is able to gain access to the Mirus Data relevant to the Individual;
 - C. the purposes for which the information has been collected;
 - D. the End User (or the types of organisations) to which the Client usually discloses information of that kind;
 - E. any law that requires the particular information to be collected; and
 - F. the main consequences (if any) for the Individual if all or part of the information is not provided; and
 - (ii) only supply the Mirus Data to an End User who is in a foreign country if:
 - A. the Client reasonably believes that the End User is subject to a law, binding scheme or contract which effectively upholds principles of fair handling of information that are substantially similar to the Privacy Legislation; or
 - B. the Client has a binding contract imposing similar obligations as the Privacy Legislation in respect of the Mirus Data on the End User.
- (b) The Client must maintain documentation to demonstrate compliance with this Agreement and the Privacy Legislation.
- (c) The Client must not and must not allow any other person to:
 - (i) copy the Mirus Data (except to make 1 copy of the Mirus Data supplied in disk form for back up purposes only);
 - (ii) copy the Documentation;
 - (iii) show, demonstrate or describe the Mirus Data or the Documentation to any person other than the Client's employees or the Client's contractors in the ordinary course of using the Mirus Data for the conduct of the Client's business;
 - (iv) re-sell, sub-license, rent or lease the Mirus Data or any other data generated by use of the Mirus Data whether or not other information is added to it and whether or not it is incorporated into other data other than in the provision of the Service;
 - (v) alter, modify, tamper with, or reverse engineer or attempt to reverse engineer the Mirus Data;
 - (vi) use the Mirus Data to develop other products;
 - (vii) change, delete or alter the data contained in the metadata fields of the Mirus Data; or
 - (viii) use the Mirus Data for any purpose other than for the Approved Purpose.

- (d) Mirus will provide the Client with access to the Mirus Data using any of the following facilities:
 - (i) the Website;
 - (ii) batch data interchange methods; or
 - (iii) any other means Mirus may determine from time to time (“**the Facilities**”).
- (e) Mirus does not warrant that the Client will have continuous access to the Website or the Facilities. Mirus shall not be liable to the Client for any loss or damage howsoever caused in the event that the Website or any of the Facilities are unavailable.
- (f) The Client must:
 - (i) keep any user name, password or any other identifiers provided by Mirus to access the Mirus Data confidential and secure;
 - (ii) manage user access to the Mirus Data;
 - (iii) not transfer any identifiers between or among users or disclose them to any third party;
 - (iv) notify Mirus if any identifier is no longer required; and
 - (v) stop using the identifiers or any replacement identifiers upon notice from Mirus to do so.
- (g) The Client must at all times provide, at its own cost, such information, cooperation and assistance reasonably required to enable Mirus to perform its obligations under this Agreement.
- (h) The Client must not, and must procure that its customers do not, refer to Mirus expressly or impliedly in reference to any communication or any decision made regarding individuals who may be identified using the Mirus Data.
- (i) If the Client suffers a Change in Control Event, the Client must, as soon as it becomes aware of such a Change in Control Event, notify Mirus in writing of the Change in Control Event.
- (j) The Client must, if asked by Mirus, provide access to its systems and documentation to enable Mirus to check compliance with this Agreement and in some cases aspects of the Privacy Legislation. The Client acknowledges that nothing that Mirus does as part of the review should be construed as providing legal or compliance advice or any imprimatur in respect of the Client’s data management practices or compliance with the Privacy Legislation. Compliance with data management practices and the Privacy Legislation is the responsibility of the Client.
- (k) The Client indemnifies Mirus and its employees or officers from any and all liability, loss, claims, demands and/or expenses that are incurred by Mirus in connection with:
 - (i) the Client’s use of the Mirus Data; and
 - (ii) any breach by the Client of the Privacy Legislation.

6. DO NOT CALL REGISTER

Where the Service includes contacting Individuals by telephone, the following provisions apply.

- (a) The Client may by notice in writing to Mirus, request that Mirus wash the Mirus Data against telephone numbers on the Do Not Call Register.

- (b) Where the Client has asked Mirus to wash the Mirus Data against the Do Not Call Register, Mirus warrants that it took all reasonable precautions in verifying the Mirus Data against the Do Not Call Register and that as at the date the Mirus Data is provided, the Mirus Data does not contain the telephone number of a person on the Do Not Call Register.
- (c) If after washing the Mirus Data against the Do Not Call Register Mirus becomes aware that the Mirus Data contains the telephone number or other contact details of a person on the Do Not Call Register, Mirus must notify the Client in writing.
- (d) If the Client becomes aware that the Mirus Data contains the telephone number or any other contact details of a person on the Do Not Call Register, the Client must:
 - (i) inform any End User that the Mirus Data contains a telephone number or other contact details of a person on the Do Not Call Register; and
 - (ii) procure that each End User uses its best endeavours not to call any person whose telephone number is on the Do Not Call Register.
- (e) Mirus make no warranty or representation that telephone numbers disclosed to the Client or any End User as part of the Mirus Data are not listed on the Do Not Call Register, unless Mirus has, at the Client's written request, agreed to wash the telephone numbers against the Do Not Call Register.
- (f) Mirus excludes all liability to the Client and End Users arising in relation to the use of any telephone number disclosed by Mirus to the Client that appears on the Do Not Call Register.
- (g) The Client indemnifies Mirus in respect of any loss, claim, liability or expense incurred by Mirus (whether in contract, tort (including negligence), strict liability or otherwise) in connection with the use by the Client or an End User or any third party of any telephone number disclosed by Mirus to the Client or an End User as part of the Mirus Data that appears on the Do Not Call Register.

7. UPDATES

Mirus may issue updates of the Mirus Data periodically during the Licence Period, without notifying the client.

8. NO TRANSFER OF INTELLECTUAL PROPERTY RIGHTS BY MIRUS

This Agreement does not transfer to the Client any Intellectual Property Rights in the Mirus Data or the Documentation (except the Licence granted under clause 2(a)).

9. PAYMENT

- (a) The Client must pay all Licence Fees within 7 days after the date of Mirus's invoice even if the Client terminates this Agreement before that date (other than by reason of a breach by Mirus of this Agreement) in consideration for Mirus supplying the Mirus Data to the Client.
- (b) Mirus may change the Licence Fee from time to time by giving the Client 30 days written notice.
- (c) The Client acknowledges that the Licence Fees are non refundable.
- (d) The Client must pay interest on all amounts due to Mirus which are in default at the rate of 2% above the then current overdraft rate of the National Australia Bank for

accounts over \$10,000.00. An account will be in default if it has not been paid within the approved terms or within seven (7) days from the date of invoice.

10. GST

- (a) Words used in this clause that are defined in the GST Act have the meaning given in that legislation.
- (b) Unless otherwise specified, all amounts payable under this agreement are exclusive of GST and must be calculated without regard to GST.
- (c) If a supply made under this agreement is a taxable supply, the recipient of that taxable supply (**Recipient**) must, in addition to any other consideration, pay to the party making the taxable supply (**Supplier**) the amount of GST in respect of the supply.
- (d) The Recipient will only be required to pay an amount of GST to the Supplier if and when the Supplier provides a valid tax invoice to the Recipient in respect of the taxable supply.
- (e) If there is an adjustment to a taxable supply made under this agreement then the Supplier must provide an adjustment note to the Recipient.
- (f) The amount of a party's entitlement under this agreement to recovery or compensation for any of its costs, expenses or liabilities is reduced by the input tax credits to which that party is entitled in respect of those costs, expenses or liabilities.

11. EXCLUSIONS AND LIMITATIONS OF LIABILITY

- (a) The Client acknowledges that some of the Mirus Data is supplied by third parties and Mirus does not guarantee the accuracy or validity of the Mirus Data.
- (b) The Client understands that the Client is responsible for assessing the value of the information provided by Mirus and for the business decisions made, regardless of whether the decisions are based on the information and data supplied by Mirus.
- (c) Mirus does not exclude or limit the application of any provision of any statute (including the *Competition and Consumer Act 2010 (Cth)*) where to do so would contravene that statute or cause any part of this Agreement to be void.
- (d) Mirus excludes from this Agreement all conditions, warranties and terms implied by statute, general law or custom, except any implied condition or warranty the exclusion of which would contravene any statute or cause this clause to be void ("**Non-excludable Condition**").
- (e) Mirus's liability to the Client for a breach of any express term of this Agreement or any Non-excludable Condition (other than one implied by the *Competition and Consumer Act 2010 (Cth)*) is limited, at Mirus's option, to any one of supplying, replacing or repairing the goods or supplying again the services, in respect of which the breach occurred.
- (f) Mirus excludes all liability to the Client:

- (i) in any cause of action whatsoever for loss or damage arising out of or in connection with any lending decision made using information supplied by Mirus (whether or not supplied using the Mirus Data), including without limitation, lost profits and damage suffered as a result of claims by any third person, such as a customer or the Client;
 - (ii) in contract for consequential or indirect damages arising out of or in connection with the Mirus Data, and this Agreement even if:
 - (A) Mirus knew they were possible; or
 - (B) they were otherwise foreseeable,
 including without limitation, lost profits and damage suffered as a result of claims by any third person, such as a customer of the Client or End User;
 - (iii) in negligence for acts or omissions of Mirus, its employees, agents and contractors arising out of or in connection with the Mirus Data and this Agreement; and
 - (iv) in connection with the use by the Client or any third party of any telephone number disclosed by Mirus to the Client as part of the Mirus Data that appears on the national Do Not Call Register.
- (g) The Client indemnifies Mirus in respect of any loss, claim, liability or expense incurred by Mirus (whether in contract, tort (including negligence), strict liability, statute or otherwise at all) resulting from the Client's or End User's use or possession of telephone numbers on the Do Not Call Register disclosed by Mirus to the Client as part of the Mirus Data.
 - (h) Each indemnity in this Agreement is a continuing obligation of the indemnifying party, whether or not legal proceedings are instituted, and survives the termination or expiry of this Agreement.
 - (i) Each indemnity in this Agreement is an additional, separate and independent obligation of the indemnifying party and no one indemnity limits the generality of any other indemnity
 - (j) The indemnities in this Agreement include legal costs on a solicitor client basis and damages and other compensation paid on the advice of legal advisers to compromise or settle any claim, whether between the parties or another person.

12. CONFIDENTIAL INFORMATION

- (a) Mirus has imparted and may from time to time impart to the Client Confidential Information and Documentation and the Client hereby agrees that it shall use such Confidential Information and Documentation solely for the purposes of this Agreement and that during the operation of this Agreement or thereafter it shall keep confidential and not disclose, whether directly or indirectly, to any third party such information other than is required to carry out the purposes of this Agreement.
- (b) A party ("**Recipient**") may disclose Confidential Information of the other party only to employees and contractors of the Recipient who:
 - (i) have a need to know for the purposes of this Agreement (and only to the extent that each has a need to know); and
 - (ii) before disclosure, have been directed by the Recipient to keep confidential all Confidential Information of the other party (each a "**Direction**").

- (c) A Recipient must:
 - (i) ensure that each person to whom it discloses Confidential Information of the other party complies with its Direction; and
 - (ii) notify the other party of, and take all steps to prevent or stop, any suspected or actual breach of a Direction.
- (d) If a Recipient is required by law to disclose any Confidential Information of the other party to a third person (including but not limited to, government) the Recipient must:
 - (i) if possible before doing so:
 - (A) notify the other party; and
 - (B) give the other party a reasonable opportunity to take any steps that that party considers necessary to protect its Confidential Information; and
 - (ii) notify the third person that the information is Confidential Information of the other party
- (e) Any disclosure by the Recipient in accordance with clause 12(d) is not a breach of this Agreement.
- (f) The Client shall not make or provide copies of the Mirus Data to any person, firm or company other than for the purpose of a backup, or security copy, in accordance with clause 5(c)(i).
- (g) The Client shall ensure that all reasonable security measures are taken to safeguard the Confidential Information and Documentation from access or use by any unauthorised person.

13. TERMINATION OF THIS AGREEMENT

- (a) Either party may terminate this Agreement by giving 30 days written notice to the other.
- (b) Subject to clause 13(c), a party shall be entitled to terminate this Agreement with immediate effect by giving written notice to the other party ("**Other Party**") if:
 - (i) the Other Party breaches any term of this Agreement and fails to remedy the breach within 30 days after receiving notice requiring it to do so;
 - (ii) the Other Party enters into liquidation for reasons of insolvent trading, or if any step is taken to appoint a receiver and manager, a trustee in bankruptcy, a liquidator, a provisional liquidator, an administrator or other like person of the whole or any part of the Other Party's assets or business.
- (c) Mirus may terminate this Agreement or suspend the Client's access to the Mirus Data with immediate effect by giving notice to the Client if:
 - (i) the Client breaches any of the terms of clause 3, clause 5, clause 6 or clause 9; or
 - (ii) a Change in Control Event has occurred.

- (d) Mirus may terminate this Agreement or suspend the Client's access to the Mirus Data with immediate effect by giving notice to the Client if the Client fails to make the minimum number of Data Deliveries, if any, agreed in the Application Form.
- (e) The termination of this Agreement shall be without prejudice to any accrued rights of either party.
- (f) Clauses 3, 11 and 12 survive the termination of this Agreement.

14. CONSEQUENCES OF TERMINATION

In all cases after termination of this Agreement the Licence terminates and:

- (a) the Client must immediately:
 - (i) stop accessing the Mirus Data and using the Documentation;
 - (ii) return to Mirus the Mirus Data and the Documentation and any copies of either of them in its possession or control, including any back-up copies made pursuant to this Agreement; and
 - (iii) if requested by Mirus, confirm by letter signed by a director of the Client that it has complied with all of its obligations under this clause;
- (b) each party must return to the other party:
 - (i) all Confidential Information of that other party in material form (eg on paper or disk);
 - (ii) those parts of all notes and other records based on or incorporating Confidential Information of the other party; and
 - (iii) all copies of Confidential Information of the other party and those parts of notes and other records referred to in paragraphs (i) and (ii); and
- (c) neither party may:
 - (i) use or disclose to any person any Confidential Information of the other party;
 - (ii) record any Confidential Information of the other party into any form (including without limitation electronic form); or
 - (iii) sell or otherwise transfer any Confidential Information of the other party.

15. DISPUTE RESOLUTION

- (a) A party must not start arbitration or court proceedings (except proceedings seeking interlocutory relief) in respect of a dispute arising out of or relating to this Agreement, including without limitation a dispute about the breach, termination, validity, or subject matter of this Agreement or a claim in equity or in tort relating to the performance or non-performance of this Agreement (a "**Dispute**") unless it has complied with this clause.
- (b) A party claiming that a Dispute has arisen must notify the other party.
- (c) Within 7 days after a notice is given under clause 15(b) each party must nominate in writing to the other party a representative authorised to settle the Dispute on its behalf.

- (d) Each party must ensure that during the 20 day period after a notice is given under clause 15(b) (or longer period agreed by the parties) its representative uses his or her best efforts to resolve the Dispute. If the parties have not resolved the Dispute within that time, each party agrees the Dispute must be referred for mediation, in accordance with the ACDC Mediation Guidelines, to a mediator agreed by the parties, or if the parties do not agree on a mediator, a mediator nominated by the then current CEO of ACDC or the CEO's nominee.

16. WAIVER

Failure or neglect by Mirus to enforce at any time the provisions of this Agreement shall not be construed nor shall be deemed to be a waiver of Mirus's rights under this Agreement nor in any way affect the validity of the whole or any part of this Agreement nor prejudice Mirus's rights to take subsequent action.

17. SEVERABILITY

In the event that any clause or any part of this Agreement shall be determined invalid, unlawful or unenforceable to any extent, such clause or part of this Agreement shall be severed from this Agreement which shall continue to be valid and enforceable to the fullest extent permitted by law.

18. WHOLE AGREEMENT

This document supersedes any arrangements, understandings, provisions or agreements made or existing between the Client and Mirus prior to or simultaneously herewith and constitutes the sole and entire agreement between the parties and except as provided herein no variation, amendment, modification or addition to any of its terms shall be of any force or effect unless the same shall be in writing and signed by and on behalf of the Client and Mirus.

19. GOVERNING LAW

This agreement is governed by the law applicable in New South Wales, Australia and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of that State.

20. NOTICES

All notices, consents, waivers and other communications in connection with this agreement must be in writing, signed by an authorised representative of the party and sent to the address or facsimile number, and marked for the attention of the following:

For Mirus:

The Company Secretary
Veda Advantage Solutions Group Pty Ltd
Level 15, 100 Arthur Street
North Sydney, NSW 2060
Facsimile: +61 2 9278 7333.

For Client:

As set out in the Application Form

or, if the Client has notified otherwise, then in the way last notified.

Communications take effect from the time they are received or taken to be received.
Communications are taken to be received:

- (a) if sent by post, on the day after the date of posting; or
- (b) if sent by fax, at the time shown in the transmission report as the time that the whole fax was sent; or
- (c) if sent by email, on the earlier of receipt by the sender of an automated message confirming delivery or on the day after the email is sent, unless the sender receives an automated message that the email has not been delivered.