

LawHawk Technology Licensing Terms

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Table of contents

1	Application and Conflict of Terms.....	3
2	Term	3
3	General Obligations.....	3
4	Access to Technology Services	4
5	Provision of Technology Services	5
6	Security.....	11
7	Customer Responsibilities.....	12
8	Charges	15
9	Intellectual Property.....	16
10	Confidentiality	17
11	Warranties	19
12	Suspension and Termination.....	19
13	Indemnity	22
14	Disclaimers, Exclusions and Limitation of Liability	24
15	Dispute resolution.....	25
16	General Provisions	26
17	Definitions and interpretation.....	29

Background

This section is intended to provide background and context to assist a customer (“**Customer**”) in reviewing and understanding these Terms and the services provided by LawHawk Limited (“**LawHawk**”) and its partners to the Customer.

LawHawk may work with the Customer to improve and/or automate their processes.

Sometimes LawHawk only provides professional services to the Customer under a professional services agreement and/or LawHawk’s General Terms and Conditions, and there is no technology component. These Terms are not relevant in that situation.

In other cases, the Customer has their own software licences and LawHawk builds and supports solutions for use under the Customer’s own software licences. This could include if the Customer has their own HotDocs licences for example, or LawHawk builds solutions using the Customer’s own Microsoft and/or digital signing subscriptions. These Terms are not relevant in that situation either.

However, in other cases it is not possible or practical for customers to directly contract for the use of relevant technology and LawHawk is willing and able to licence that technology and enable the Customer to use it through LawHawk’s licences. This may be for temporary purposes (for example, a trial) or for ongoing usage unless or until the customer wishes to move to its own direct licences or cease to use the solution.

In utilising such solutions, it is important that the Customer understands the basis on which LawHawk has licensed the underlying technology, and agrees to comply with any obligations LawHawk has to comply with.

LawHawk’s solutions are built on top of third party technology platforms (such as HotDocs and Cognito Forms), sometimes with enhancements (such as a portal and integrations licensed to LawHawk by ProLegalTech) which are not available directly within the core platforms. Other benefits to the Customer under these Terms may include:

- More flexible or commercially favourable terms that LawHawk has been able to negotiate than the Customer will be able to obtain itself (for example different pricing models, or avoiding minimum term or user number requirements);
- LawHawk’s willingness and ability to provide solutions for smaller use-cases than larger suppliers are willing to support directly;
- LawHawk’s ability to assist with solution configuration, training and first-line support;
- LawHawk’s ability to proactively detect and avoid issues affecting the Customer’s use of the technology (through its own use or the use of other customers who alert LawHawk to issues);
- LawHawk’s ability to triage issues and identify the source of the issue amongst the component parts and the party best placed to resolve it; and
- LawHawk’s relationships with the technology providers which may result in enhanced service and outcomes.

LawHawk’s goal is to deliver services that add value and are used over the long term. However, technology and the commercial world are inherently fast moving and constantly evolving. The

Technology Services are intended to be available as long as they are valuable to the Customer and LawHawk but either party can terminate the Technology Services if there are issues which are unable to be resolved to mutual satisfaction.

Against that background, LawHawk has agreed to provide, and the Customer has agreed to take and pay for, Technology Services subject to the terms and conditions of these Terms.

Use of the Technology Services by the Customer and any Authorised Users will be deemed to be acceptance of these Terms.

Schedule 1 - General Terms

1 Application and Conflict of Terms

- 1.1 **Application:** These Terms apply in respect of the Technology Services. For the avoidance of doubt, it does not apply to any Professional Services which are covered by a separate agreement, or any other services LawHawk provides to the Customer.
- 1.2 **Conflict:** To the extent of any conflict between these Terms and the terms and conditions on <https://www.lawhawk.nz/terms-conditions>, or any Customer terms and conditions, these Terms will prevail unless expressly agreed otherwise in writing.
- 1.3 **Acceptance:** When using the Technology Services, an Authorised User will be deemed to be accepting the terms in these Terms.

2 Term

- 2.1 These Terms will commence on the Start Date and will continue until terminated in accordance with these Terms.

3 General Obligations

- 3.1 Both Parties agree to:
- (a) be open, honest, respectful and fair;
 - (b) discuss matters affecting these Terms or the delivery of the Technology Services, whenever necessary;
 - (c) identify and work towards solving problems quickly and effectively;
 - (d) recognise each other's roles and responsibilities in achieving successful contract outcomes;
 - (e) work together to provide excellent service and value for money, whilst ensuring the spirit of these Terms is met;
 - (f) assist each other in achieving a high level of customer service and quality service provision; and
 - (g) comply with all applicable laws and regulations.

4 Access to Technology Services

- 4.1 **Grant:** Subject to the Customer maintaining at least one current LawHawk solution to which they need access, and the terms of these Terms and any other terms agreed in writing, LawHawk hereby grants to the Customer a non-exclusive, non-transferable right to use the Technology Services and the Technology Services Support Material during the term of these Terms.
- 4.2 **Access and Use:** The Customer will ensure that:
- (a) only Authorised Users access and use the Technology Services and the Technology Services Support Material;
 - (b) each Authorised User keeps a secure password for their account which is changed frequently, and that Authorised Users do not share their username and password; and
 - (c) the Customer and each Authorised User otherwise complies with any security requirements advised by LawHawk in writing.
- 4.3 **Users:** Subject to clause 4.4 and clause 4.5, the Customer may, from time to time during the term of these Terms, request access for individual users (who will then become Authorised Users) and LawHawk will grant access to the Technology Services and the Technology Services Support Material to such Authorised Users in accordance with the provisions of these Terms. Some Technology Services covered by these Terms may have additional user charges and licence terms, and others do not. If there are any additional charges or minimum licence terms for adding Authorised Users, LawHawk will advise the Customer in writing in advance.
- 4.4 **Additional Authorised Users:** If the Customer wishes to add Additional Users, the Customer will notify LawHawk in writing of each proposed Authorised User's name and email address (and any other details LawHawk reasonably requires). LawHawk will add such additional Authorised Users as soon as reasonably practicable.
- 4.5 **Transfer of User:** If the Customer wishes to transfer access from an Authorised User to another Authorised User, the Customer will notify LawHawk in writing of each Authorised User's name and email address (and any other details LawHawk reasonably requires). To the extent permitted under its underlying contracts, LawHawk will effect such transfer as soon as reasonably practicable. For example, LawHawk's contract with Mitrastech (the supplier of HotDocs software) states that a "User license may only be reassigned to another individual in the event that the User has ceased working for Client or within Client's organization".
- 4.6 **Fees:** Subject to any alternative agreement in writing, the Customer will, in accordance with these Terms, pay to LawHawk any relevant fees for such Technology Services as advised by LawHawk at the relevant time (in advance of the Customer's commitment).

- 4.7 **Termination of Authorised User:** The Customer may terminate any Authorised User at any time. Customer shall disable any Authorised User's access to the Technology Services promptly upon termination or suspension of such Authorised User's employment or services contract with the Customer.

5 Provision of Technology Services

- 5.1 **Technology Services:** The core Technology Services will enable the Customer to access documents and other content that LawHawk has agreed to host for the Customer under a Professional Services Agreement or other contract. The Customer and LawHawk may also agree to the provision of other Technology Services that are offered by LawHawk from time to time, via an agreed Technology Service Request.
- 5.2 **LawHawk's general commitments:** Unless agreed otherwise in writing, LawHawk will:
- (a) provide the Technology Services in accordance with the terms of these Terms;
 - (b) provide the Technology Services in accordance with Good Industry Practice;
 - (c) use appropriately skilled and experienced Personnel in the provision of the Technology Services;
 - (d) respond promptly, accurately and adequately to any reasonable request for information made by the Customer in relation to the Technology Services or these Terms generally to enable Customer and/or its Service Providers to reasonably make use of the information for the purpose for which it was requested; and
 - (e) use reasonable endeavours to ensure that its Service Providers comply with LawHawk's obligations under these Terms (to the extent applicable to those Service Providers or the services provided by them).
- 5.3 **Non-Conformance:** If the Technology Services do not conform with clause 5.2, LawHawk will use reasonable endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. If LawHawk is not able to resolve issues to the Customer's satisfaction either party may terminate these Terms on written notice to the other.
- 5.4 **Interference:** LawHawk shall ensure that it does not interfere with the Customer Environment or its performance, administration or maintenance except as strictly necessary to provide the Technology Services and then only to the extent expressly permitted or anticipated by these Terms ("**Necessary Interference**").

- 5.5 **Cooperation with Service Providers:** LawHawk will use reasonable endeavours to cooperate with the Customer's Service Providers in good faith and in a timely manner in connection with the Technology Services, including by providing access to such information and documentation that is reasonably required to assist those Service Providers to interface with the Technology Services (subject to LawHawk's reasonable confidentiality and other requirements). LawHawk may require any such cooperation to be subject to a Technology Service Request if it reasonably considers that it will involve additional cost or may materially adversely impact LawHawk or the provision of the Technology Services.
- 5.6 **Solution architecture:** LawHawk and its underlying Service Providers will determine from time to time how the Technology Services are provided, including the solution architecture, and shall notify the Customer of any material proposed changes. If a change can be implemented during a planned maintenance window, will not disrupt or reduce the Customer's use or benefit of any Technology Services, and will not require any material work or changes to be undertaken in the Customer Environment, then LawHawk may proceed with the change (taking into account any reasonable objections raised by the Customer). If a change may impact on the continuing utility or benefit or risk of any Technology Services purchased by the Customer, or would require a material change to the Customer Environment, then the change will require an agreed amendment in accordance with Clause 16.1 of these Terms. If the parties are unable to agree a change to how the Technology Services are provided the Customer may terminate these Terms on written notice to LawHawk. The Customer acknowledges that changes proposed by LawHawk may be outside LawHawk's control (for example, where there is a change to the services provided by an Approved Supplier which are used to provision the Technology Services), and agrees to act reasonably in considering any change(s) proposed by LawHawk.
- 5.7 **Responding to Possible Faults:**
- (a) Where the Customer reports any possible fault in relation to the Technology Services, LawHawk will use reasonable endeavours to respond to the Customer within a reasonable period of time and in a proactive manner and will liaise with its Service Providers according to its contractual rights with such Service Providers to minimise the extent and duration of any fault in relation to the Technology Services to the extent reasonably practicable.
 - (b) Among the steps that LawHawk may take are:
 - (i) LawHawk will review the information provided by the Customer and attempt to replicate the issue to determine if it is user error or an issue in the Customer Environment;
 - (ii) LawHawk will investigate if the issue is affecting only the Customer or other LawHawk customers;
 - (iii) LawHawk will investigate if the issue appears to be related to a particular template, or to the underlying platform;

- (iv) LawHawk will investigate if the issue affects access to the Technology Service only via an integration or at the core level of the platform;
 - (v) based on its findings, LawHawk will identify the most likely source of the issue and liaise with the relevant Service Provider(s), providing them with additional information (which may include screen shots or videos) to guide them to the cause of the issue and the appropriate fix; and/or
 - (vi) LawHawk will communicate with the Customer and the relevant Service Provider(s) until the issue is resolved. This may include emails or video calls outside of Business Hours.
- (c) While LawHawk may assist in identifying them, LawHawk are not responsible for faults or problems in the Customer Environment (except to the extent caused by the Technology Services or the manner in which the Technology Services are provided) or for fixing faults or problems that have been caused solely by the Customer, the Customer's Service Providers, the Customer Environment or any third party that is not an Approved Supplier or other Service Provider or subcontractor of LawHawk. The Customer may raise a Technology Service Request if it wishes LawHawk to work on any such faults or problems. If the Customer or a Service Provider requests LawHawk to investigate or work on any faults or problems that fall outside LawHawk's responsibilities, then LawHawk may require the Customer to raise a Technology Service Request.

5.8 The nature of the Technology Services: LawHawk aims to provide reliable Technology Services to the Customer that are available 24 hours a day, seven days a week and operating in a bug-free and safe manner. However, the Customer acknowledges that use of the Technology Services is at its own risk. The Technology Services are dependent on third party service providers and systems (including underlying Service Providers, telecommunications systems, the Customer Environment, and the internet in general), including the inter-relationships between those systems, which LawHawk does not control. For that and other reasons, in supplying the Technology Services LawHawk is providing the Technology Services "as is" without any express or implied warranties including but not limited to implied warranties of merchantability, fitness for a particular purpose and non-infringement. LawHawk does not represent or warrant that they will be: (a) completely secure; (b) uninterrupted or error free; (c) always accessible or available (including at a certain level or charge); or (d) that all problems can or will be corrected. Further, the Customer acknowledges and agrees that the actions or inactions of third parties may also have a detrimental effect on the Technology Services the Customer receives, and that LawHawk is not liable or responsible for such effects. LawHawk further expressly disclaims any warranty that the Technology Services will function when integrated or combined with third party software products, including but not limited to Microsoft products. LawHawk does not make any representation that the Customer's use of any Technology Services will comply with any legal requirements in any particular jurisdiction. The Customer is solely responsible for determining whether the use of the applicable Technology Services is in accordance with the laws and regulations of any jurisdiction to which the Customer may be subject.

- 5.9 **Data:** The provision of the Technology Services may result in the Customer's data and information being lost or damaged. LawHawk will take reasonable steps to avoid damaging or losing the Customer's information or data when performing the Technology Services. It is the Customer's responsibility to take security precautions and maintain its own back-up data necessary to quickly and easily replace any of its data or information that is lost or damaged from any cause.
- 5.10 **Outages:** LawHawk will give the Customer as much prior notice of any outages as is reasonably practicable, and will liaise with its Service Providers according to its contractual rights with such Service Providers to minimise the extent and duration of any disruption to the Technology Services to the extent reasonably practicable.
- 5.11 **Work-Arounds:** LawHawk will also consult with the Customer as to alternative work-arounds during any period of Technology Service unavailability. LawHawk will not be responsible for any loss, cost, damage or liability that may arise as a result of Technology Services unavailability, and the Customer must ensure that it always has alternative options available to it. The Customer should always retain its own unautomated version(s) of documents and other Customer Data hosted by LawHawk.
- 5.12 **Approved Suppliers:** LawHawk may subcontract obligations under these Terms to an Approved Supplier. LawHawk shall not subcontract any of its obligations under these Terms to any other third party without first obtaining the Customer's written consent, unless that third party does not hold or have access to any Customer Data, and does not directly affect the availability of any Technology Service (in which case Customer's consent will not be required). Unless otherwise agreed in writing, if LawHawk subcontracts any of its obligations under these Terms to an Approved Supplier or other approved third party, it shall, subject to the remainder of this clause 5.12 and clause 14:
- (a) not be released from its liabilities or obligations under these Terms; and
 - (b) be responsible for all the acts and omissions of the subcontractor.
- LawHawk will pass to the Customer at no cost (or if unable to do so will hold for the Customer's benefit) all third party warranties in relation to the Technology Services. If LawHawk cannot pass such warranty to the Customer LawHawk will be responsible (at its own cost) for making all or any warranty claims on any Technology Services supplied by third parties. LawHawk's liability is limited to the amount that LawHawk is able to recover from such third parties.
- 5.13 **Changes to Third Party Products and Services:** From time to time the availability, performance, pricing and nature of third party products and services used by LawHawk may change. This is beyond LawHawk's reasonable control and may affect the Technology Services LawHawk provides to the Customer and/or result in an increase or decrease in the charges. If such changes result in material issues for the Customer, and LawHawk is not able to resolve such issues to the Customer's satisfaction, the Customer may terminate these Terms on written notice to LawHawk.

5.14 Specific Terms Relating to Cognito Forms (if applicable)

- (a) Where the Customer accesses Cognito Forms through LawHawk, LawHawk simply manages the account on behalf of the Customer. While LawHawk sets up and maintains the Cognito Forms account, the Customer and anyone that the Customer permits to have access to the various Cognito Forms forms interact directly with Cognito Forms without passing through any LawHawk systems. While LawHawk may receive emails or other notifications of form submissions and see entry data (subject to the confidentiality obligations in these Terms), LawHawk is not hosting any technology.
- (b) Customer acknowledges and agrees that Cognito Forms' Terms of Service (<https://www.cognitoforms.com/terms>) apply and that Cognito Forms' Terms of Service cannot be negotiated. They expressly state "We have one set of terms for all users worldwide—fair is fair. Because we have so many Users, we can't change these Terms for any one User or group." Both LawHawk and Customer will comply with Cognito Forms' Terms of Service.
- (c) In relation to any Cognito Forms account LawHawk maintains on behalf of the Customer, an agreed list of Customer employees will have "Editor" access to the relevant Cognito Forms, which will (among other things) allow them access and amend form entries, filter and sort the entries, and regenerate agreements. Only LawHawk's employees will have "Owner" or "Administration" access which will ensure that accidental changes that affect the operation of the system cannot be made and to protect LawHawk's Intellectual Property Rights.
- (d) Cognito Forms' Privacy Policy and Acceptable Use Policy applies to any Technology Services relating to Cognito Forms and can be reviewed at <https://www.cognitoforms.com/legal/privacy> and <https://www.cognitoforms.com/legal/1/acceptable-use-policy>.

5.15 Specific Terms Relating to HotDocs (if applicable):

- (a) HotDocs solutions may include the use of Microsoft products or services. In such cases, the Customer agrees that the applicable standard Microsoft terms and conditions for those products or services shall apply (found at <https://www.microsoft.com/en-us/>).

- (b) Included with LawHawk's HotDocs subscription from Mitrtech is access to Mitrtech's standard technical support, during technical support business hours for each product, located within the FAQ section of each product's Knowledge Base found at <https://success.mitrtech.com/>. Depending on the nature of the reported technical issue, Mitrtech may initiate further troubleshooting efforts, which may include support via the live chat feature, responding via e-mail to a support ticket created by LawHawk, or in certain cases providing direct phone support, remote screen-sharing, and/or direct access into LawHawk's database, files, software or environment, as well as Mitrtech taking screen grabs of LawHawk's users' screens, adding and/or deleting records (solely for the purpose of diagnosing and correcting the reported issue(s)). Any support response or combination thereof shall be provided in Mitrtech's sole discretion. By requesting support via LawHawk the Customer shall be deemed to have granted Mitrtech, its affiliates and agents permission to utilise any and all methods of support listed in this paragraph.
- (c) The Customer hereby grants Mitrtech permission during the term the Technology Services are provided to: (1) access Customer Data for the purposes of fulfilling any contractual obligations Mitrtech has with LawHawk in relation to the Customer; and (2) to compile Customer Data in an anonymized form ("**Aggregated Data**"). Mitrtech may use such Aggregated Data for purposes of operating Mitrtech's business, monitoring performance of the software, and/or improving the software. Mitrtech's use of Aggregated Data as described in this section shall not result in any unauthorized disclosure of Customer Data, Customer Confidential Information, or personally identifiable information of Authorised Users. Aggregated Data will not be capable of re-identification. All Aggregated Data shall be owned by Mitrtech and nothing herein shall be construed as prohibiting Mitrtech from using Aggregated Data for business and/or operational purposes. The process of collecting and storing Aggregated Data will be conducted in a manner that will maintain the confidential nature of the Customer Data itself. The Customer hereby represents and warrants that the Customer has provided all necessary and appropriate notices and opt-outs, and has obtained all necessary and appropriate consents, approvals and rights to collect, process, use, store, enhance and disclose the Customer Data and allow LawHawk and Mitrtech to use, store, disclose and otherwise process such Customer Data as contemplated by these Terms, including to and from Users wherever required under applicable law. LawHawk will procure that the Customer's data will be permanently deleted from all Mitrtech and Mitrtech Affiliate servers, cloud instances, or other potential storage space thirty (30) days after the expiration of the term the Technology Services are provided.
- (d) Mitrtech's Privacy Statement apply to any Technology Services relating to HotDocs and can be reviewed at <https://mitrtech.com/privacy-policy/>.

5.16 Third Party Integrations

- (a) The Technology Services may include the ability for the Customer to integrate with various third-party products, software, and applications and their content (“**Third Party Integrations**”). This may include, for example, practice management systems, document management systems or digital signing solutions. LawHawk recommends that the Customer refers to the third party’s website terms and conditions and privacy policy prior to using the relevant Third Party Integration. LawHawk does not endorse or approve any third-party system nor the content of any of the third-party systems connected to via the Third Party Integration.
- (b) The Customer acknowledges and agrees that:
 - (i) the operation of such Third Party Integrations may be dependent on the Customer accepting and agreeing to, and complying with, the relevant terms and conditions of the third-party provider of the Third Party Integrations, and LawHawk shall not have any liability should the Third Party Integrations be unavailable due to the Customer not accepting or breaching such terms and conditions. Any contract entered into and any transaction completed via any third-party website is between the Customer and the relevant third party, and not LawHawk;
 - (ii) these Third Party Integrations may not operate in a reliable manner all of the time and they may impact on the way that the Technology Services operate, and LawHawk makes no warranty or representation regarding the performance of such Third Party Integrations or the content or use of, or correspondence with, any such third-party website, or any transactions completed in connection with it;
 - (iii) LawHawk is not responsible for any damages and losses suffered or incurred by the Customer due to the use of, operation or failure of these Third Party Integrations; and
 - (iv) the third-party provider of such Third Party Integrations may at any time remove, disable, or discontinue the Third Party Integrations in question, or the ability to integrate with it, and LawHawk shall not be liable to the Customer for any resulting unavailability of the Third Party Integration.

6 Security

- 6.1 **Security Safeguards:** LawHawk will maintain, and engage with Approved Suppliers that maintain, in accordance with Good Industry Practice, procedures and safeguards intended to protect against the destruction, corruption, alteration, unintentional loss, unauthorised disclosure, processing or access to Customer Data.

6.2 **Approved Suppliers:** The Customer acknowledges and agrees that Approved Suppliers may process, use, copy, store, distribute, disclose, modify and otherwise handle Customer Data (including outside of New Zealand) and LawHawk's responsibility for acts or omissions of Approved Suppliers in relation to Customer Data shall be to the extent described in clauses 5.12 and 14.

6.3 **Viruses and Vulnerabilities:** LawHawk will take all reasonable steps in accordance with Good Industry Practice to ensure that:

- (a) it does not directly or indirectly create or introduce any Viruses or Vulnerabilities into the Technology Services, Customer Data or Customer Environment; and
- (b) any Virus or Vulnerability that is introduced is rendered ineffective or removed, and its effects are remedied, as soon as possible,

provided that LawHawk is dependent on its Service Providers in providing the Technology Services and cannot guarantee that that access to Technology Services will be free from Viruses or Vulnerabilities, malware or other harmful things and will not be responsible for any Viruses or Vulnerabilities which are created or introduced including as a result of: (i) failure by the Customer to follow LawHawk's reasonable recommendations (including the use of Virus checking software products and conducting security testing); or (ii) bypassing by the Customer or its Service Providers of any Virus checking processes when uploading or downloading files.

6.4 **Security Breaches:** LawHawk will promptly notify the Customer if it becomes aware of any actual or potential breach of security or unauthorised access or use of any part of the Technology Services or any underlying systems or networks or Customer Data (each a "**Security Breach**"). Where a Security Breach was caused or contributed to by a failure by LawHawk to comply with this clause 6, LawHawk will work with the Customer and will use its best endeavours to prevent the reoccurrence of the Security Breach.

6.5 **Security Testing:** LawHawk will cooperate with any security testing of the Technology Services that the Customer may reasonably wish to undertake. LawHawk may require any such cooperation to be subject to a Technology Service Request if it reasonably considers that it will involve additional cost or may adversely impact LawHawk or the provision of the Technology Services. Except to the extent expressly permitted by LawHawk, the Customer will provide at least one week's notice before carrying out security or stress testing on the Technology Services. The parties will work together to ensure that any security testing of the Technology Services does not adversely affect the Technology Services or any underlying systems or infrastructure.

7 Customer Responsibilities

7.1 **Use of the Technology Services:** Subject to clause 6, the Customer is responsible for all access and use of the Technology Services by Users, whether such Users are Authorised Users or not, and for the consequences of such access or use subject to the remainder of these Terms.

- 7.2 **Customer Data:** Subject to clause 6, the Customer is solely responsible for the content and use of Customer Data and will ensure that the Customer Data and its use does not contravene any applicable laws or rights of third parties. Without limiting any of LawHawk's rights or remedies, the Customer will remove or delete any Customer Data from LawHawk's systems that breaches this Clause 7.2 within 5 Business Days' of LawHawk's written request. If the Customer fails to do so LawHawk may remove or delete the applicable Customer Data.
- 7.3 **Customer Environment:** Subject to clause 6, the Customer is responsible for the Customer Environment (including its maintenance) and, subject to LawHawk's obligations under clause 5.6, for ensuring that it remains compatible with (and will not harm) the Technology Services or any underlying networks or systems. LawHawk is not responsible for any faults in the Customer Environment nor any failures or other problems arising from changes or shortcomings in the Customer Environment or any information provided to LawHawk unless such faults, failures or problems arise as a direct result of the Technology Services or LawHawk's failure to comply with its obligations under these Terms.
- 7.4 **General Responsibilities:** The Customer must:
- (a) respond promptly, accurately and adequately to any reasonable request for information made by LawHawk in relation to the Technology Services or these Terms generally to enable LawHawk to reasonably make use of the information for the purpose for which it was requested;
 - (b) maintain its own unautomated version(s) of documents, including as updated from time to time (whether at the Customer's request or as suggested by LawHawk as part of providing any Technology Services or Professional Services from time to time);
 - (c) use the Technology Services in compliance with these Terms and LawHawk's reasonable written directions;
 - (d) use the Technology Services for its own lawful internal business purposes only, and then only for the purpose they were provided as specified in these Terms, and never in a way that infringes or contravenes any applicable laws or regulations;
 - (e) never access (or attempt to access) the Technology Services in a way that has not been expressly permitted by LawHawk or is not incidental to the purpose of the Technology Services, nor circumvent (or attempt to circumvent) any restrictions LawHawk places on the Technology Services;
 - (f) notify LawHawk immediately in accordance with clause 16.6 upon becoming aware of any actual or potential breach of security or unauthorised access or use of any part of the Technology Services or any underlying systems or networks;
 - (g) never reproduce, modify, adapt, create derivative works from all or any part of the Technology Services without first obtaining LawHawk's written approval unless otherwise permitted under these Terms;

- (h) never disassemble, decompile, reverse engineer or otherwise try to discover any source code from any software, files or systems underlying the Technology Services, except to the extent expressly permitted by separate written agreement with LawHawk or by law (despite this limitation);
- (i) never access all or any part of the Technology Services in order to build a product or service which competes with the Technology Services;
- (j) carry out all other Customer responsibilities set out in these Terms (including making decisions, testing and providing feedback and giving approvals) in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, LawHawk may adjust any agreed timetable or delivery schedule as reasonably necessary;
- (k) promptly advise LawHawk of any person who is to be removed as an Authorised User and the timing for such removal; and
- (l) obtain and maintain all necessary licences, consents, and permissions necessary for LawHawk, its contractors and agents to perform their obligations under these Terms.

7.5 Other obligations: The Customer will not and will ensure that each Authorised User will not except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties or as expressly permitted under these Terms:

- (a) use anything other than a standard web browser to access or use the Technology Services, or use automated processes to access or use the Technology Services;
- (b) attempt to access the LawHawk accounts of any person other than the Customer and its Authorised Users;
- (c) share log-in names or passwords with any person;
- (d) use the Technology Services in any manner that could damage, disable, undermine, overburden, or impair the Technology Services or the servers on which they run or interfere with any other parties' use of LawHawk's services;
- (e) license, sell, rent, lease, transfer, assign, or otherwise make the Technology Services and/or Technology Services Support Material available to any third party except the Authorised Users;
- (f) attempt to obtain, or assist third parties in obtaining, access to the Technology Services and/or Technology Services Support Material, other than as provided under this clause 7.5; or
- (g) access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:

- (i) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (ii) infringes a third-party's Intellectual Property Rights;
- (iii) facilitates illegal activity;
- (iv) depicts sexually explicit images;
- (v) promotes unlawful violence;
- (vi) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- (vii) is otherwise illegal or causes damage or injury to any person or property.

7.6 **Unauthorised Access:** The Customer will use all reasonable endeavours to prevent any unauthorised access to, or use of, the Technology Services and/or the Technology Services Support Material and, in the event of any such unauthorised access or use, promptly notify LawHawk.

7.7 **Users and Service Providers:** The Customer will use best endeavours to ensure that its Users and Service Providers comply with the Customer's obligations under these Terms.

8 Charges

8.1 **Charges:** The Customer will pay the Charges for the Technology Services. All Charges are exclusive of GST and all other taxes and duties, all of which are payable by the Customer. Except as agreed otherwise in writing, the Charges are non-refundable.

8.2 **Invoicing and payment:** Unless agreed otherwise in writing, LawHawk will invoice Charges in advance. The Customer will pay all invoices by the 20th of the month following the date of the invoice, without setoff or deduction. Subject to clause 8.3, if the Customer does not pay outstanding Charges within 5 Business Days' of LawHawk's notice of an overdue invoice, the Customer will, if asked by LawHawk, pay interest, at the rate of 2% above the published overdraft interest rate charged by LawHawk's primary bank, on the amount due from the due date for payment until full payment has been made (after as well as before judgment). Interest will accrue daily and must be paid by the Customer on demand. At the end of each calendar month unpaid interest will compound so that it forms part of the unpaid sum on which interest will accrue. The Customer will pay all expenses (including legal costs on a solicitor-client basis) incurred by anyone in the recovery of any monies that the Customer owes to LawHawk. LawHawk may also elect to restrict or suspend the provision of any Technology Services or other services it provides the Customer until it receives payment in full.

8.3 **Invoice disputes:** If the Customer disputes any part of the Charges in good faith, it may withhold the disputed part of the invoice if it:

- (a) provides LawHawk with a written explanation of the grounds for the dispute by the due date for the relevant invoice; and
- (b) pays the undisputed part of the invoice by the due date for payment.

This is the only time that the Customer may withhold any of the Charges. The disputed part of the invoice will be resolved in accordance with clause 15.

9 Intellectual Property

9.1 Ownership rules:

(a) Pre-existing IP Rights:

- (i) Any Intellectual Property Rights created or developed prior to the Start Date or independently of these Terms (whether prior to the Start Date or otherwise) ("**Pre-existing IP Rights**") remain the property of their current owner. For the avoidance of doubt, anything supplied or made available to LawHawk by or on behalf of the Customer for use through the Technology Services will be Pre-Existing IP Rights.
- (ii) Except for the licenses granted in this clause 9, nothing in these Terms confers on a party any rights, title or interest in or to any Pre-existing IP Rights supplied or made available by the other party or their licensors in connection with these Terms.

(b) **Developed IP:** Subject to clause 9.1(a), exclusive ownership of and title to any Intellectual Property Rights in any:

- (i) Customer Owned Developments, will immediately and directly vest in the Customer upon their creation; and
- (ii) LawHawk Owned Developments, will immediately and directly vest in LawHawk upon their creation.

9.2 **IP in the Technology Services and Technology Services Support Material:** The Customer acknowledges and agrees that LawHawk and/or its licensors own all Intellectual Property Rights in the Technology Services and the Technology Services Support Material. Except as expressly stated herein, these Terms do not grant the Customer any rights to, or in, Intellectual Property Rights, or any other rights or licences in respect of the Technology Services or the Technology Services Support Material.

9.3 Licence to the Customer:

- (a) **LawHawk Materials:** Except for any Materials that are subject to Separate Terms, for all Materials (including LawHawk Owned Developments) that LawHawk supplies to the Customer in connection with these Terms, LawHawk grants the Customer a non-exclusive and non-transferable licence, during the term the Technology Services are provided, to use those Materials for the Customer's internal business purposes in connection with their use of the Technology Services.
 - (b) **No other licences:** Except as set out in this clause 9.3 or in any Separate Terms, no other rights or licences are granted to the Customer under or in connection with these Terms.
- 9.4 **Separate Terms:** Some of the services, software or other Materials supplied to the Customer in connection with these Terms may be subject to separate terms and conditions (for example a Professional Services Agreement that provides for the ownership of Intellectual Property Rights in automated document templates) that have otherwise been approved by the Customer in writing (in each case "**Separate Terms**"). The Customer agrees to, and will comply with, any Separate Terms.
- 9.5 **Licence to LawHawk:** The Customer grants to LawHawk, its Approved Suppliers and other Service Providers approved in accordance with clause 5.12, a non-exclusive, non-transferable licence, during the term the Technology Services are provided, to use, modify, store, copy, adapt, display and publish Customer Data and Customer Owned Developments that is strictly necessary for LawHawk, its Approved Service Providers and other Service Providers approved in accordance with clause 5.12, to provide, operate and maintain the Technology Services, and perform the obligations in compliance with these Terms, subject at all times to any third party rights or restrictions that Customer has notified LawHawk of in writing.
- 9.6 **Further assurances:** Each party undertakes, at its own expense, to execute and deliver any document, and to do all things, as may reasonably be required in order to assist the other party to obtain the full benefit of this clause 9 according to its true intent, including assisting a party to register as proprietor of, and to perfect that party's title to, any Intellectual Property Rights vested in that party under these Terms.

10 Confidentiality

- 10.1 **Confidential information:** Except to the extent specifically permitted by these Terms or approved in writing by the other party, each party:
- (a) will keep confidential all Confidential Information obtained from the other party and not disclose it to any third party; and
 - (b) will use the other party's Confidential Information solely to the extent necessary for the purposes of these Terms or otherwise for the purposes for which it was disclosed (in each case a "**Permitted Purpose**").

- 10.2 **Use and Disclosure to Personnel and Service Providers:** Subject to clause 10.3, either party may disclose the other party's Confidential Information to its Personnel and, in the case of the Customer its Service Providers, that need to know that information for any Permitted Purpose, but must take all reasonable steps to ensure that they are informed of the confidential nature of the information and comply with obligations of confidentiality and use that are no less restrictive than these Terms. This clause 10.2 does not apply in relation to Approved Suppliers.
- 10.3 **Disclosure to Approved Suppliers:** LawHawk may disclose the Customer's Confidential Information to Approved Suppliers and other Service Providers approved in accordance with clause 5.12, but only to the extent necessary in connection with the Technology Services or these Terms (for example, as part of uploading Customer Data to the systems of an Approved Supplier) and provided such disclosure is subject to obligations of confidentiality and use that are no less restrictive than these Terms. The parties acknowledge and agree that clause 6.2 applies in addition to this clause 10.3 in relation to any of the Customer's Confidential Information provided to Approved Suppliers. .
- 10.4 **When these obligations do not apply:** A party is not required to comply with clauses 10.1 to 10.3 to the extent that the relevant Confidential Information is:
- (a) already in its unrestricted possession, without an obligation of confidentiality, at the time of receipt of the Confidential Information;
 - (b) independently developed by that party;
 - (c) in the public domain through no fault of that party;
 - (d) disclosed to it by a third party, who has the right to make such disclosure, without an obligation of confidentiality; or
 - (e) required to be disclosed by law or to comply with the rules of any recognised stock exchange, provided that:
 - (i) it provides, to the extent reasonably possible, reasonable advance notice to the other party of the impending disclosure; and
 - (ii) it provides all reasonable assistance in any action taken by the other party to obtain an order that the information does not have to be disclosed and/or an appropriate protection order or assurance that confidentiality is accorded to the information that is required to be disclosed.

- 10.5 If LawHawk has access to personal information, LawHawk (including all of its Personnel) will exercise due care and skill in the handling and storage of any such information, and all personal information must be managed in accordance with the Privacy Act 2020. The Customer acknowledges and agrees to the transfer and processing of personal information by LawHawk and its Approved Suppliers in New Zealand, Australia, the United Kingdom, the European Economic Area (for HotDocs), and/or the United States (for Cognito Forms) (the “**Approved Jurisdictions**”). LawHawk may transfer personal data outside of the Approved Jurisdictions with the Customer’s written consent (not to be unreasonably withheld or delayed).
- 10.6 LawHawk will immediately notify the Customer of any privacy breaches, breaches of the Privacy Act 2020 by LawHawk or any unauthorised access to Confidential Information.

11 Warranties

11.1 **General warranties:** Each party warrants that:

- (a) it has full power, capacity and authority to execute, deliver and perform its obligations under these Terms;
- (b) these Terms constitute its legal, valid and binding obligations and are enforceable in accordance with their terms;
- (c) it has, and will maintain, sufficient resources to fully carry out all of its obligations under these Terms, including adequately skilled staff, Service Providers, tools, equipment and working capital and administrative support; and
- (d) it has the expertise and experience required to enable it to perform its obligations.

11.2 **LawHawk Warranties:** LawHawk represents, warrants and undertakes that at all times:

- (a) it has, or its Approved Suppliers and Service Providers have, good title to all parts of the Technology Services;
- (b) it has, and will continue to have, all the necessary consents, permissions, licences and rights to enter into and perform its obligations under these Terms; and
- (c) the provision and receipt of the Technology Services, and any Intellectual Property supplied to Customer, will not conflict with any obligation or duty owed to any third party nor infringe the rights or Intellectual Property of any third party.

12 Suspension and Termination

- 12.1 **Right to suspend Service:** Without prejudice to clause 12.5, LawHawk is entitled to restrict or suspend all or any part of the Technology Services (including taking the Technology Services or any part of them offline) immediately if:

- (a) deemed reasonably necessary by LawHawk in order to protect the proper interests of LawHawk or any of its other customers, including due to any Security Event;
- (b) the Customer is behind in its payment of any amounts owing to LawHawk; or
- (c) the Customer is in breach of these Terms.

This right of restriction and suspension is in addition to, and does not prejudice, any other right or remedy that LawHawk may have under or in relation to these Terms. LawHawk will not be liable for any losses the Customer may incur as a result of LawHawk exercising its rights under this clause. LawHawk shall give the Customer written notice as soon as is reasonably practicable of the nature of the relevant event.

12.2 Opportunity to remedy situation: If practicable and depending on the nature of the reason for the restriction or suspension under clause 12.1, LawHawk will give the Customer an opportunity to remedy the situation. In such case, if the Customer remedies the situation LawHawk will promptly restore the Technology Services, provided that LawHawk may, where suspension occurred under clause 12.1(b) or 12.1(c), require the Customer to pay a recommencement charge prior to service restoration. During any period of restriction or suspension the Customer is still obligated to pay LawHawk's Charges on the terms set out in these Terms.

12.3 Termination for cause: Either party may terminate these Terms or any affected Technology Service, by written notice to the other party, if the other party:

- (a) commits a material breach of these Terms that is incapable of being remedied;
- (b) commits a material breach of these Terms that is capable of being remedied, and has failed to remedy that breach within 20 Business Days of receiving notice from the terminating party requiring that breach to be remedied; or
- (c) is placed in receivership, or wound up, or goes or is put into voluntary administration, liquidation or any other form of insolvency administration (other than for solvent amalgamation or reconstruction).

12.4 Termination for convenience: Either party may terminate these Terms for convenience, without cause, by providing the other party with 30 days' written notice after first consulting with the other party on any issues that are causing it to consider terminating and whether those issues can be resolved to the satisfaction of both parties. Upon termination for convenience, the terminating party shall not be liable for any damages or costs incurred by the other party as a result of such termination, except for any fees or expenses accrued up to the effective date of termination.

12.5 Partial Termination: If Customer is entitled to terminate these Terms it may, in each case and without prejudice to any other right or remedy available to it, elect to terminate only those portions of the Agreement that it reasonably considers can be severed in the circumstances.

12.6 **Suspension:** If LawHawk is entitled to terminate these Terms it may, in each case and without prejudice to any other right or remedy available to it, elect to temporarily suspend the Technology Services.

12.7 **Ending the Technology Services:** LawHawk is dependent on Approved Suppliers (and their own suppliers), to provide the Technology Services. LawHawk may also suspend or end the provision, access or use of all or any part of a Technology Service if the provision of Technology Services to LawHawk and/or Customer has been stopped, suspended or restricted by an Approved Supplier, and LawHawk and Customer are unable to agree on appropriate alternative arrangements acceptable to LawHawk and Customer. LawHawk will give the Customer as much prior notice as is reasonably practicable of any potential suspension or termination, and will consult with the Customer to identify viable alternate solutions, and will refund on a pro rata basis any prepaid Charges for the Technology Services.

12.8 **Consequences of termination:** On termination of these Terms for any reason:

- (a) LawHawk will immediately cease provision of the Technology Services; and
- (b) each party will, within 7 Business Days of a request from the other party, return to the other party or destroy all of the other party's property (including any Intellectual Property Rights) and information (including Confidential Information and other documentation) within that party's possession or control, except:
 - (i) for Intellectual Property Rights whose license under these Terms extends beyond the date of termination;
 - (ii) for copies of information required to be retained by law or held for recordkeeping purposes only; or
 - (iii) for Customer Data held by Approved Suppliers. However, LawHawk will arrange for the retrieval or deletion of that Customer Data in accordance with those Approved Suppliers' terms and conditions; or
 - (iv) as otherwise permitted by these Terms.

12.9 **Effects of termination:** Termination of these Terms does not affect:

- (a) clauses that are intended to survive termination (which includes clauses 9, 10, 12, 13, 14, 15, 16, and 17), which will continue in full force and effect; and
- (b) any rights or remedies that have accrued beforehand.

13 Indemnity

- 13.1 **Indemnity by LawHawk:** Subject to clause 13.6, LawHawk will fully indemnify Customer against all claims, proceedings, actions, liabilities, damages, costs, expenses and losses (including full legal costs) suffered or incurred by Customer or its Personnel (a “**Customer Claim**”) to the extent arising as a result of any:
- (a) claim by a third party that the provision of the Technology Services by LawHawk, or use of the Technology Services by Customer in accordance with the terms of these Terms, infringes that third party’s Intellectual Property and will also indemnify the Customer against any damages finally awarded by a court (or agreed to in settlement) in respect of any Customer Claim; and
 - (b) breach by LawHawk of clause 10.
- 13.2 **Indemnity by the Customer:** Subject to clause 13.6, Customer will fully indemnify LawHawk against all claims, proceedings, actions, liabilities, damages, costs, expenses and losses (including full legal costs) suffered or incurred by LawHawk or its Personnel (a “**LawHawk Claim**”) to the extent arising as a result of any:
- (a) LawHawk’s use, processing or storage of Customer Data in accordance with these Terms;
 - (b) claim by an Approved Supplier arising as a result of a failure by the Customer to comply with its obligations with respect to any Approved Supplier terms and conditions; and
 - (c) breach by Customer of clause 10.
- 13.3 **Indemnification Procedures:** In the event of any Customer Claim or LawHawk Claim (each a “**Claim**”), the relevant indemnified and defended party (the “**Indemnified Party**”) will:
- (a) promptly notify the other party (the “**Indemnifying Party**”) in writing of the Claim; and
 - (b) if the Indemnified Party wishes to obtain the benefit of clause 13.1 or 13.2 (as applicable):
 - (i) give the Indemnifying Party (or its nominated Service Provider) sole control of the defence or settlement of the Claim, provided that the Indemnified Party will (at its own cost) be entitled to be represented at all negotiations and proceedings related to the Claim; and
 - (ii) provide all reasonable assistance and cooperation to the Indemnifying Party (at the Indemnifying Party’s cost) in the defence and settlement of the Claim.
 - (c) The Indemnifying Party shall:
 - (i) keep Indemnified Party reasonably informed of the defence or negotiations in relation to a Claim at all material times;

- (ii) diligently conduct any litigation or negotiations:
 - (A) using competent counsel; and
 - (B) in a manner that does not materially adversely affect the name or reputation of the Indemnified Party; and
- (iii) not enter into any settlement or compromise in relation to any Claim without first obtaining the written consent of the Indemnified Party (which must not be unreasonably withheld, delayed or subject to unreasonable conditions).

13.4 **Mitigation:** The Indemnified Party must take reasonable steps to mitigate any loss, damage, cost or expense it may suffer or incur in relation to a Claim.

13.5 **Remedies:** In the event of a Customer Claim, LawHawk may, at its own cost, either:

- (a) obtain for the Customer the right to continue to use the Technology Services; or
- (b) replace or modify the Technology Services so that they become non-infringing (provided that the replacement or modification does not materially reduce the functionality of the Technology Services); or
- (c) if LawHawk reasonably considers that the remedies in (a) and (b) are not reasonably available, terminate the Technology Services by notice in writing to the Customer.

13.6 **Exclusions:**

- (a) LawHawk will have no obligation or liability under this clause 13 to the extent that the Customer Claim:
 - (i) arises from any breach by the Customer of these Terms or any modification of the Technology Services by Customer or its Service Providers without the prior approval of LawHawk; or
 - (ii) arises from or relates directly to any Customer Data or Customer Modules.
- (b) Customer shall have no obligation or liability under this clause 13 to the extent that the LawHawk Claim:
 - (i) arises from any breach by LawHawk of these Terms; or
 - (ii) arises from any access, use, copy, storage, disclosure, distribution, processing or modification of Customer Data or Customer's content by LawHawk without the prior approval of Customer; or
 - (iii) arises from or relates directly to any Technology Service used in accordance with these Terms.

14 Disclaimers, Exclusions and Limitation of Liability

- 14.1 **LawHawk is not a Law Firm:** The Customer acknowledges that LawHawk is a New Zealand company (separate from its owners, directors and employees). The Customer's relationship is solely with LawHawk, and not with any of its owners, directors or employees. LawHawk is not and does not intend to be a lawyer or law firm or anything else referred to in section 21 of the Lawyers and Conveyancers Act 2006 (whether or not any of its owners, directors and employees are a lawyer or any of those things). LawHawk is not (and cannot be relied on as) providing legal or other advice.
- 14.2 **Customer Data:** Except to the extent, if any, expressly agreed in writing by LawHawk, LawHawk is not responsible for the content of the Customer Data that the Customer requests LawHawk to process through the Technology Services. While LawHawk may (without assuming any liability) identify and notify the Customer of potential errors or potential improvements in the Customer's Data, LawHawk has no liability in respect of the content of the Customer's Data. The Customer will have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness and ownership of the Customer Data.
- 14.3 **Review of Outputs:** The Customer and its Authorised Users must promptly review each document or other output generated using the Technology Services, taking their own professional advice as they consider appropriate, and satisfy themselves that the document or other output meets their particular requirements. Any action the Customer and/or any Authorised User takes in reliance on or in relation to any such document or other output is their responsibility alone. In particular, the Customer acknowledges that it is the sole responsibility of the Customer and Authorised Users to identify any errors and to notify LawHawk if they wish to have a relevant document or other output amended to address any issues.
- 14.4 **Exceptions to Limitations/Exclusions:** Nothing in these Terms will limit or exclude LawHawk's or the Customer's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its personnel, agents or subcontractors;
 - (b) fraud or fraudulent misrepresentation; or
 - (c) any other liability which cannot be limited or excluded by applicable law.
- 14.5 **Exclusions and Limitations:** Subject to clause 14.4:
- (a) to the fullest extent permitted by law, neither party to these Terms will have any liability in relation to these Terms for any loss of profits, revenue, business, goodwill or opportunity; loss of anticipated savings; costs of procuring substitute services; business interruption; or incidental, indirect or consequential loss arising under or in connection with these Terms;

- (b) LawHawk's total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with these Terms:
 - (i) where caused by a Service Provider will be limited to the amount recovered by LawHawk from the Service Provider (after using reasonable endeavours to enforce its rights under its agreement(s) with the Service Provider for the benefit of the Customer); and
 - (ii) in all other cases, will be limited to the total charges paid and payable by the Customer under these Terms in the previous 12 months; and
 - (c) the Customer's total liability to LawHawk, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with these Terms will be limited to the total charges paid and payable by the Customer under these Terms in the previous 12 months.
- 14.6 **No Implied Warranties:** Except as expressly provided in these Terms all representations or warranties (statutory, express or implied and including under the Contract and Commercial Law Act 2017) are excluded to the fullest extent permitted by law. The Customer acknowledges and agrees that it is acquiring the Technology Services for the purposes of a business and accordingly the provisions of the Consumer Guarantees Act 1993 will not apply to such supply.
- 14.7 **No Third Party Rights:** LawHawk's only obligations are to the Customer. LawHawk excludes all liabilities to any third party (including any Users and any customers of the Customer) arising in any way in connection with the use of the Technology Services.
- 14.8 **Mitigation:** Each party will use reasonable endeavours to mitigate any losses, claims and costs it incurs as a result of breach by the other.
- 14.9 **Contributory Liability:** Any liability of a party to the other for loss or damage of any kind will be reduced to the extent that loss or damage was caused or contributed to by the other party.
- 14.10 **When these limitations and exclusions apply:** The limitations and exclusions of liability in these Terms (including in this clause 14) apply however any liability arises, whether in contract, breach of statutory duty, under indemnity, in tort (including negligence) or otherwise.
- 14.11 **Fee Basis:** The parties acknowledge that the limitations set out in this clause are integral to the amount of fees charged in connection with the Technology Services and that were LawHawk to assume any further liability (or to seek greater liability from its suppliers) such fees would of necessity be set substantially higher. These limitations of liability apply equally to claims related to third party software and its owners and providers.

15 Dispute resolution

- 15.1 **Step One: Dispute notice:** If at any time a party considers that a dispute has arisen in connection with these Terms or its formation (a "**Dispute**"), the disputing party may give written notice to the other party that a Dispute has arisen ("**Dispute Notice**").

- 15.2 **Step Two: Negotiation:** Following a Dispute Notice the parties must promptly enter into negotiations with a view to resolving the Dispute.
- 15.3 **Step Three: Mediation:** If the Dispute has not been resolved within 10 Business Days of the Dispute Notice (or such other period that the parties may agree), then either party may refer the Dispute to mediation by written notice to the other ("**Mediation Notice**"). Promptly following the Mediation Notice, the parties shall attempt to agree the appointment of a mediator approved by The Resolution Institute and attempt to resolve the Dispute by mediation in Wellington, applying the then current Resolution Institute mediation agreement or rules (as the case may be), subject to any variation agreed by the parties. If the parties are unable to agree on a mediator within 5 Business Days of the Mediation Notice, a mediator may be appointed by The Resolution Institute. The mediation will be discontinued if either party gives an Arbitration Notice as set out below.
- 15.4 **Step Four: Arbitration:** If the Dispute has not been resolved within 40 Business Days of the Dispute Notice (or such further time as the Customer and LawHawk may agree), then either party may refer the Dispute to arbitration by written notice to the other ("**Arbitration Notice**"). The arbitration will be determined by a sole arbitrator (being a New Zealand resident) as soon as possible in Wellington. If the parties cannot agree on an arbitrator within five Business Days of the giving of the Arbitration Notice, the arbitrator will be the President for the time being, or his or her nominee, of the Arbitrators' and Mediators' Institute of New Zealand Inc. The arbitration will be conducted in accordance with the Arbitration Act 1996 (excluding clauses 4 and 5 of the Second Schedule to that Act). The award in the arbitration will be final and binding.
- 15.5 **No court proceedings:** All Disputes will be resolved in accordance with this clause 15, although nothing in this clause prevents a party from seeking or obtaining any urgent interim or interlocutory relief. Nothing in this clause 15 will limit or restrict the ability of either party to terminate these Terms in accordance with its terms.

16 General Provisions

- 16.1 **Changes to these Terms:** LawHawk reserves the right to routinely update, amend or change these Terms. At least 30 days prior to the effective date, LawHawk will notify the Customer by e-mail of such changes, and a new Terms document will be posted at <https://www.lawhawk.nz/terms-conditions>. The Customer's continued use of the Technology Services after the 30 days will serve as consent to the changed terms.
- 16.2 **Non-solicitation:** Neither party may, during the term of these Terms or for six months afterwards, directly or indirectly solicit or employ or hire any Personnel of the other party with whom the first party has had contact in relation to these Terms, unless:
- (a) the other party consents in writing;
 - (b) the last such contact was more than 6 months before such employment or hiring;

- (c) the relevant Personnel were made redundant;
- (d) the employment or hiring resulted from a publicly advertised vacancy; or
- (e) the employing or hiring party has terminated these Terms.

16.3 **Monitoring:** LawHawk is entitled, but not obliged, to monitor use of the Technology Services in connection with the provision, operation or improvement of the Technology Services, to check compliance with these Terms, or as required by law. Such monitoring shall at all times be carried out in compliance with clauses 6, 9 and 10.

16.4 **Assignment:** Neither Party may, without the other Party's prior written consent (not to be unreasonably withheld or delayed), assign, transfer or otherwise deal in any way with (or attempt to do any such thing) the benefit of, or any of its rights or obligations under or interest in these Terms or any cause of action arising in connection with any of them, and any purported assignment, transfer, or dealing in contravention of this clause will be ineffective.

16.5 **Force Majeure:** Neither party shall be in breach of these Terms nor liable for delay in performing, or failure to perform, any of its obligations under these Terms if such delay or failure results from a Force Majeure Event. In such circumstances the party claiming the benefit of this clause 16.5:

- (a) will, as soon as is practicable, notify the other party of the nature of the Force Majeure Event and the extent of its inability to perform its obligations under these Terms (including the likely time required to overcome the Force Majeure Event, and the steps the Affected Party will take to comply with clauses 16.5(b) and 16.5(c) below;
- (b) will use its reasonable endeavours to remedy the Force Majeure Event and mitigate its effects on its obligations and the other party; and
- (c) will use its reasonable endeavours to complete its obligations under these Terms as far as possible in the circumstances;
- (d) will be entitled to a reasonable extension of the time for performing such obligations, provided that if the period of delay or non-performance continues for 1 month, either party may terminate these Terms or the affected Technology Services by giving 30 days' written notice to the other party and neither Party will have any liability to the other in respect of any termination of these Terms under clause 16.5(d), but such termination will be without prejudice to rights and liabilities which have accrued prior to termination.

16.6 **Notices:** Anything either party is required to notify or tell the other under these Terms (a "Notice") must be in writing and sent by email, hand or direct mail to the relevant address or number most recently specified in writing by the other from time to time for that purpose. Any Notice under these Terms will be deemed to be received:

- (a) in the case of hand delivery, at the time of actual delivery to the recipient's address;
- (b) in the case of delivery by post, 5 Business Days after posting; or

- (c) in the case of delivery by email, at the time the email was sent (unless the sender receives a delivery failure notification).

However, if a Notice is received or deemed to be received after 5.00pm on a Business Day in the place that it is sent, or on a day which is not a Business Day in that place, it will be deemed not to have been received until the next Business Day.

LawHawk's current address for notices is:

Physical address

2 Krishna Way
Khandallah
Wellington 6035
New Zealand

Postal Address

PO Box 22320
Wellington 6441
New Zealand

Email Address

gene.turner@lawhawk.nz

- 16.7 **Non-restrictive relationship:** Despite any other provision in these Terms, nothing in these Terms restricts LawHawk from providing similar Technology Services to, or entering into similar agreements with, other parties or entities or in any way transferring, licensing or otherwise exploiting any Intellectual Property Rights owned by LawHawk or its third party licensors.
- 16.8 **The relationship between the parties:** No agency, partnership or joint venture relationship is intended or created by these Terms. Except as expressly provided for in these Terms, only the Customer and LawHawk have any benefit under these Terms and any right to enforce these Terms.

- 16.9 **Entire agreement:** These Terms constitute the entire agreement and understanding between the parties in respect of its subject matter and supersedes all previous agreements, promises, assurances, warranties, representations and understandings between the parties (whether written or oral, express or implied) relating to that subject matter and any additional or different terms that the Customer may provide to LawHawk (including on any purchase orders). To the fullest extent permitted by law, each party acknowledges that in entering into these Terms it does not rely on, and shall have no remedies in respect of, any statement, representation, term, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms. Without limiting the previous sentences, where the Customer is acquiring the Technology Services in trade, LawHawk and the Customer agree to contract out of sections 9, 12A and 13 of the Fair Trading Act 1986 to the extent necessary to permit the inclusion of this clause.
- 16.10 **Waiver:** No waiver by any party of its rights under these Terms will be effective unless it is in writing and signed by that party. Any delay or failure by a party to exercise any rights or remedies under these Terms does not prevent that party from exercising that right or remedy, or any other right or remedy, on that or any other occasion.
- 16.11 **The rights and remedies are not exclusive:** Except as expressly provided otherwise in these Terms, any right or remedy under these Terms is cumulative and does not limit any other rights or remedies under these Terms or at law.
- 16.12 **Invalidity:** If any provision of these Terms is found to be invalid or unenforceable, the remaining provisions will be enforced to the fullest extent possible, and the remaining provisions will remain in full force and effect.
- 16.13 **New Zealand law applies:** These Terms are governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the New Zealand courts.

17 Definitions and interpretation

17.1 Definitions:

In these Terms, unless the context requires otherwise:

“Approved Supplier” means a LawHawk Service Provider that is agreed between LawHawk and Customer as being an “Approved Supplier”. At the date of these Terms, Mitrtech, ProLegalTech, The SharePoint Agency, Optimation and Cognito Forms are agreed to be Approved Suppliers.

“Authorised User” means, in relation to a Technology Service, an individual Personnel member agreed between LawHawk and Customer as being an “Authorised User”. There may be different Authorised Users for different Technology Services, and an agreement for an individual Personnel member to be an Authorised User in relation to one Technology Service does not automatically mean that they are an Authorised User in relation to any other Technology Service.

“Business Day” means any day excluding a Saturday, Sunday, New Zealand public holiday, Auckland Anniversary Day and Wellington Anniversary Day, and excluding the period starting Christmas day and ending 2nd of January.

“Business Hours” means 9:00am to 5:00pm on any Business Day.

“Charges” means the charges in relation to the Technology Services, including subscription fees (if any) for Authorised Users, and any other amounts payable by the Customer, as agreed separately in writing between the Customer and LawHawk. For the avoidance of doubt, where LawHawk is providing both professional services and Technology Services to the Customer, a charge may for convenience be expressed in an agreement between the Customer and LawHawk as a single amount (for example, as a single price per document), but that charge may include both a component relating to the professional services and a component relating to the Technology Services. The total charges and their apportionment will be clearly agreed between the Customer and LawHawk.

“Cognito Forms” means Cognito, LLC, including its successors, and permitted assignees.

“Confidential Information” means information that is proprietary or includes information that:

- (a) is by its nature confidential
- (b) is marked by either Party as 'confidential', 'in confidence', 'restricted' or 'commercial in confidence'
- (c) is provided by either Party or a third party 'in confidence'
- (d) either Party knows or ought to know is confidential, or
- (e) is of a sensitive nature or commercially sensitive to either Party.

“Customer Data” means any:

- (a) data or information (including all documents, templates, text, sound, software and image and video files) that Users (or LawHawk on behalf of the Customer or Users) upload to, or generate on, technology provided by LawHawk or that is otherwise provided or made available to LawHawk by or on behalf of the Customer through use of the Technology Services (including templates and code uploaded to the Technology Services by or for the Customer); and
- (b) data or information that is developed or processed or can be compiled or aggregated from, the information referred to in (a) above, by either Customer or LawHawk,

in connection with these Terms or Separate Terms.

“Customer Environment” means the Customer’s information technology and telecommunications environment and infrastructure (including software, hardware, systems and networks).

“Customer Module” means any functionality, code, application, module or other feature supplied to LawHawk by or on behalf of the Customer for inclusion in the Technology Services.

“Customer Owned Developments” means any modification or adaptation of Customer Data or Pre-existing IP that is created or developed under or in connection with these Terms and that is not a modification or adaptation of any Intellectual Property Rights owned by LawHawk or its third party licensors.

“Force Majeure Event” means an event which (i) causes a party to fail or delay in the performance of this agreement and (ii) is beyond the reasonable control of that party.

“Good Industry Practice” means in relation to any undertaking and any circumstances, the exercise of skill, diligence, prudence, foresight and judgement that would reasonably be expected from a skilled person engaged in the same type of undertaking under the same or similar circumstances, applying the standards and practices currently applied in the information technology industry internationally.

“Intellectual Property Rights” means all:

- (a) intellectual property rights and interests, whether or not registered, including copyright, trade marks, service marks, logos, designs, patents, semiconductor or circuit layout rights, plant variety rights, trade, business or company names, domain names, rights in inventions, discoveries, rights in software and databases, trade secrets, ideas, concepts, know-how, business processes, methodologies and tools;
- (b) applications for, and rights to, the protection or registration of any of the rights and interests in paragraph (a) of this definition; and
- (c) equivalent or similar rights and interests and forms of protection anywhere in the world.

“LawHawk” means LawHawk Limited, including its successors, and permitted assignees.

“LawHawk Owned Developments” means any Materials (including any modifications or adaptations of any Materials) created or developed under or in connection with these Terms that are not Customer Owned Developments.

“Materials” means tangible or intangible materials or property of any kind, including data, information, software, images and documentation (including, for the avoidance of doubt, the Technology Services Support Material).

“Mitratesh” means AbacusNext International Limited, including its successors, and permitted assignees.

“Optimation” means Optimation New Zealand Limited, including its successors, and permitted assignees.

“Party” means each of the Customer and LawHawk, who are together the **“Parties”**.

“Personnel” means officers, employees, contract staff and agents.

“Professional Services” means separate service(s) offered by LawHawk to (i) automate and/or (ii) licence for use by the Customer one or more document templates or workflows

(which may then be accessed under these Terms) and/or (ii) provide other professional services.

“ProLegalTech” means PilotBean Limited, incorporated and registered in England and Wales with company number 05182324 whose registered office is at Office 7 35-37 Ludgate Hill, London, England, EC4M 7JN, including its successors, and permitted assignees.

“Resolution Institute” means an Australasian, not-for-profit membership organisation formed to serve the community by promoting and facilitating the use of consensual dispute resolution processes generally known as Alternative Dispute Resolution or ADR.

Security Event means:

- (a) any Security Breach; or
- (b) any use of the Technology Services by the Customer or any Authorised User that is in breach of these Terms and has the potential to materially impact the Technology Services or use of the Technology Services by any other customer of LawHawk or any of that customer's users; or
- (c) any Vulnerability or Virus introduced into the Technology Services by (or facilitated through) the Customer or any Authorised User.

“Separate Terms” has the meaning given in clause 9.4.

“Service Provider” means, in relation to a party, any third party supplier, contractor or service provider engaged by that party, together with their Personnel.

“Start Date” means the date that the Customer starts using LawHawk's Technology Services.

“Technology Service Request” means a request by the Customer or LawHawk to order or change certain Technology Services (including to order an optional component or to request additional services).

“Technology Services” means:

- (a) any HotDocs automated document hosting services agreed to be provided by LawHawk under these Terms via a website notified to the Customer by LawHawk from time to time that enables an Authorised User to access HotDocs templates that LawHawk has agreed to host for the Customer;
- (b) any Cognito Forms services agreed to be provided by LawHawk under these Terms; and
- (c) any other services agreed to be provided by LawHawk as Technology Services under these Terms.

“Technology Services Support Material” the documents and/or other material (which may be a web page and/or video) provided to the Customer by LawHawk (as agreed between LawHawk and the Customer) to help Authorised Users to use the Technology Services.

“The SharePoint Agency” means Jandal Media Limited, including its successors, and permitted assignees.

“Users” means any individuals or entities that access or use the Technology Services or Customer Data (other than LawHawk Personnel or Approved Suppliers or third parties that access such Technology Services or Customer Data via a Virus, hacking or otherwise fraudulent means).

“Virus” means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

“Vulnerability” means a weakness in the computational logic (for example, code) found in software and hardware components that, when exploited, results in a negative impact to confidentiality, integrity, or availability, and the term Vulnerabilities shall be interpreted accordingly.

17.2 Interpretation rules:

- (a) In these Terms, unless the context otherwise requires:
 - (i) anything required to be done within a Business Day of a particular event, must be done by the same time as that event on the next Business Day (and anything required by these Terms to be done within more than one Business Day of a particular event shall have a corresponding meaning).
 - (ii) words in the singular number include the plural and vice versa;
 - (iii) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
 - (iv) unless otherwise stated, all references to dollars, value and price are references to the New Zealand currency;
 - (v) a reference to a party includes its successors and permitted assigns;
 - (vi) any examples in these Terms, and references to “including” and similar words, are illustrative only and do not imply any limitations;
 - (vii) any references to a person includes a company, trust, university, body of persons (corporate or un-incorporate), government department, agency or body, ministry, crown entity or municipal authority;

- (viii) clause and other headings are for ease of reading only and do not affect the interpretation of these Terms;
 - (ix) any obligation not to do a thing also constitutes an obligation not to suffer, permit or cause that thing to be done; and
 - (x) any document may be a web page at a specified URL.
 - (xi) a statute includes any amendments to it, regulations, orders in council and other instruments issued under, or passed in substitution of, that statute,
 - (xii) if the Customer comprises more than one person, each person's liability is joint and several;
 - (xiii) Any obligation on a party to use its "reasonable endeavours" or "all reasonable endeavours" means diligent performance in accordance with Good Industry Practice, but shall not be construed to require unusual or exceptional expenditure or, in the case of LawHawk, use or engagement of facilities, resources and Personnel that are not ordinarily available for the performance of Technology Services or would materially impair the ability to service other customers.
- (b) LawHawk may from time to time provide the Customer with an updated URL to replace any URL referred to in these Terms.