

## FLYPCHART WEBSITE TERMS OF USE

Welcome to our website. This website is owned and operated by Sidekick Digital Pty Ltd ACN 601 872 397, its successors and assignees, (**we** or **us**). It is available at: flypchart.co (**Site**) and may be available through other addresses or channels.

These Terms of Use (**Terms**) govern your use of our Site and form a contract between you and us if you use the Site. Please read these Terms carefully. Please contact us if you have any questions, at [contact@flypchart.co](mailto:contact@flypchart.co). Your use of the Site indicates that you have had sufficient opportunity to access the Terms and that you have read and accept the Terms.

1. **Information:** The information, including statements, opinions and documents contained in this Site (Information) is for general information purposes only. It does not take into account your specific needs, objectives or circumstances, and it is not advice. Any reliance you place on the Information is at your own risk. Before acting on any Information, we recommend that you consider whether it is appropriate for your circumstances, carry out your own research and seek professional advice, where necessary.
2. **Amendment:** The Information and Terms may be amended without notice from time to time in our sole discretion. Your use of our Site following any amendments indicates that you accept the amendments. You should check the Terms regularly to ensure you are aware of any changes, and only proceed to use the Site if you accept and will comply with the new Terms.
3. **Your warranties:** You warrant to us that you have the legal capacity to enter these Terms and form a contract, and that you have read and understood the Terms, before using the Site.
4. **License to use the Site:** We grant you a non-exclusive, royalty-free, revocable, worldwide, non-transferable right and licence to use the Site for your personal, non-commercial use, in accordance with the Terms. All other uses are prohibited without our prior written consent.
5. **Prohibited Conduct:** You must not:
  - a. Use the Site for any activities, or to post or transmit any material from the Site:
    - i. unless you hold all necessary rights, licences and consents to do so;
    - ii. that infringes the intellectual property or other rights of any person;
    - iii. that would cause you or us to breach any law, regulation, rule, code or other legal obligation;
    - iv. that defames, harasses, threatens, menaces, offends or restricts any person;
    - v. that is or could reasonably be considered to be obscene, inappropriate, defamatory, disparaging, indecent, seditious, offensive, pornographic, threatening, abusive, liable to incite racial hatred, discriminatory, blasphemous, in breach of confidence or in breach of privacy; or
    - vi. that would bring us, or the Site, into disrepute.
  - b. Interfere with or inhibit any user from using the Site;
  - c. Use the Site to send unsolicited email messages;
  - d. Attempt to or tamper with, hinder or modify the Site, knowingly transmit viruses or other disabling features, or damage or interfere with the Site, including but not limited to the use of trojan horses, viruses, or piracy or programming routines that may damage or interfere with the Site; or
  - e. Facilitate or assist another person to do any of the above acts.

### 6. Copyright and Intellectual Property Rights:

Our Site contains material which is owned by or licensed to us and is protected by Australian and international laws, including but not limited to the trademarks, trade names, software, content,

## FLYPCHART WEBSITE TERMS OF USE

design, images, graphics, layout, appearance, layout and look of our Site. We own the copyright which subsists in all creative and literary works displayed on the Site.

You agree that, as between you and us, we own all intellectual property rights in the Site, and that nothing in these Terms constitutes a transfer of any intellectual property ownership rights. Your use of the Site does not grant you a licence, or act as a right of use, any of the intellectual property, whether registered or unregistered, displayed on the Site without the express written permission of the owner.

You must not breach copyright or intellectual property rights, including but not limited to, that you must not:

- a. alter or modify any of the code or the material on the Site;
- b. cause any of the material on the Site to be framed or embedded in another website;
- c. create derivative works from the content of the Site; or
- d. use our Site for commercial purposes.

### **7. Republishing:**

You may republish, copy, distribute, transmit, or publicly display (in hard copy, soft copy or online) material on the Site on the following grounds:

- a. you must make no alterations to the material;
- b. you must attribute the material to our Site, including linking back to our Site where possible; and
- c. you must not do so in way that could reasonably be considered to be obscene, inappropriate, defamatory, disparaging, indecent, seditious, offensive, pornographic, threatening, abusive, liable to incite racial hatred, discriminatory, blasphemous, in breach of confidence or in breach of privacy, or that would bring us, or the Site, into disrepute.

**8. Privacy:** We are committed to protecting your privacy. Please read our Privacy Policy, available on our Site. By agreeing to the Terms, you agree to accept our Privacy Policy.

**9. Your content:** If you choose to add any content on the Site, you:

- a. warrant to us that you have all necessary rights to post the content;
- b. grant us a perpetual, non-exclusive, royalty-free, irrevocable, worldwide and transferable right and licence to use that content in any way (including but not limited to, by reproducing, changing, and communicating the content to the public) and permit us to authorise any other person to do the same thing; and
- c. you consent to any act or omission which would otherwise constitute an infringement of your moral rights, and if you add any content in which any third party has moral rights, you must ensure that the third party consents in the same manner.

**10. Third party information:** The Site may contain third party information, including but not limited to user comments, guest articles and advertisements (**Third Party Information**). We do not control, recommend, endorse, sponsor or approve Third Party Information, including any information, products or services mentioned in Third Party Information. You should make your own investigations with respect to the suitability of Third Party Information for you.

**11. Third Party links and websites:** This Site may contain links to websites owned by third parties (**Third Party Sites**). We do not control, recommend, endorse, sponsor or approve Third Party Sites, including any information, products or services mentioned on Third Party Sites. You should make your own investigations with respect to the suitability of Third Party Sites for you.

## FLYPCHART WEBSITE TERMS OF USE

**12. Reservation of Rights:** We reserve the right to amend or delete any and all of your content, Third Party Information and/or Third Party Sites, and to block any user, if we believe that there is a violation of these Terms, or for any other reason, in our sole discretion.

**13. Delays and outages:** We are not responsible for any delays or interruptions to the Site. We will use commercially reasonable efforts to minimise delays and interruptions. We cannot warrant that the Site will be available at all times or at any given time. We may at any time and without notice to you, discontinue the Site in whole or in part. We are not responsible for any loss, cost, damage or liability that may result from our discontinuance of the Site.

**14. Limitation of Liability:**

To the extent permitted by law, we exclude all liability for any loss, damage, costs or expense, whether direct, indirect, incidental, special and/or consequential including loss of profits, suffered by you or any third party, or claims made against you or any third party which result from any use or access of, or any inability to use or access the Site.

To the extent permitted by law, we exclude all representations, guarantees, warranties or terms (whether express or implied) other than those expressly set out in these Terms, and the Australian Consumer Law to the extent applicable.

**15. Disclaimer:**

The Site is provided to you without warranties, express or implied, including but not limited to implied warranties of merchantability and fitness for a particular purpose. We do not warrant that the functions contained in any material on the Site or your access to the Site will be error free, that any defects will be corrected, that the Site or the server which stores and transmits material to you are free of viruses or any other harmful components, or that the Site will operate on a continuous basis or be available at any time.

While we endeavour to keep the Site and information up to date and correct, we make no representations, warranties or guarantee, express or implied, about:

- a. the completeness, accuracy, reliability, suitability or availability of any Information, images, products, services, or related graphics contained on the Site for any purpose;
- b. Third Party Information; or
- c. Third Party Sites.

You read, use, and act on information contained on the Site, Third Party Information and/or Third Party Sites, strictly at your own risk.

**16. Indemnity:** By using the Site, you agree to defend and indemnify and hold us (and our officers, directors, employees and agents) harmless from and against all claims, actions, suits, demands, damages, liabilities, costs or expenses (including legal costs and expenses on a full indemnity basis), including in tort, contract or negligence, arising out of or connected to:

- a. your use of or access to the Site;
- b. any breach by you of these Terms; or
- c. any wilful, unlawful or negligent act or omission by you.

This defence and indemnification obligation will survive these Terms and your use of the Site. These Terms, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by us without restriction.

## FLYPCHART WEBSITE TERMS OF USE

**17. Breach:** You may only use the Site for lawful purposes and in a manner consistent with the nature and purpose of the Site. By using this Site, you agree that the exclusions and limitations of liability set out in these Terms are reasonable. If you do not think they are reasonable you must not use this Site. We reserve the right to remove any and all content found to be in breach of copyright, or which in our opinion is deemed inappropriate and/or illegal. If you breach the Terms, we reserve the right to block you from the Site and to enforce our rights against you. If we do not act in relation to a breach of the Terms by you, this does not waive our rights to act with respect to subsequent or similar breaches of the Terms by you. All rights not expressly granted in the Terms are reserved.

**18. Exclusion of Competitors:** You are prohibited from using our Site, including our information, in any way that competes with our business. If you breach this term, we will hold you responsible for any loss that we may sustain, and hold you accountable for any profits that you may make from non-permitted use. We reserve the right to exclude any person from using our Site and Information, in our sole discretion.

**19. Enforceability:** If any provision of the Terms is found to be illegal, invalid or unenforceable by a court of law, then the provision will not apply in that jurisdiction and is deemed not to have been included in the Terms in that jurisdiction. This will not affect the remainder of the Terms, which continue in full force and effect.

**20. Termination:** The Terms are effective until terminated by us, which we may do at any time and without notice to you. In the event of termination, all restrictions imposed on you by the Terms and limitations of liability set out in the Terms will survive.

**21. Disputes:** You agree to use your best endeavours to use mediation and negotiation to resolve any dispute arising out of or relating to these Terms, prior to resorting to an external dispute resolution process. Please notify us in writing of any dispute you may have.

**22. Jurisdiction:** Your use of this Site and any dispute arising out of your use of it is subject to the laws of New South Wales and the Commonwealth of Australia. These Terms are governed by the laws of New South Wales and the Commonwealth of Australia and subject to the exclusive jurisdiction of the courts operating in New South Wales. The Site may be accessed throughout Australia and overseas. We make no representation that the Site complies with the laws (including intellectual property laws) of any country outside Australia. If you access the Site from outside Australia, you do so at your own risk and are responsible for complying with the laws in the place where you access the Site.

**23. General:** If a provision of these Terms are invalid or unenforceable it is to be read down or severed to the extent necessary without affecting the validity or enforceability of the remaining provisions. If we do not act in relation to a breach by you of these Terms, this does not waive our right to act with respect to that or subsequent or similar breaches. Each party must at its own expense do everything reasonably necessary to give full effect to these Terms and the events contemplated by it.

**For questions and notices, please contact us at:**

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