



Dazychain Terms and Conditions of Use

Thank you for choosing Dazychain as your services management platform ('**Platform**'). This document explains our obligations, your rights and obligations as a Dazychain customer, and the obligations of your End Users.

1. Meanings

1.1 Definitions

Agreement means the agreement made between you and us in accordance with the Purchase Order and this document.

Confidential Information includes all information exchanged between you and us, whether in writing, electronically or orally, concerning prices, customers, suppliers, or proprietary processes that:

- (a) by its nature is confidential;
- (b) is designated by the discloser as confidential; or
- (c) the receiving party knows or ought to know is confidential,

but does not include information:

- (d) which is, or becomes without a breach of confidentiality, public knowledge;
- (e) which the receiving party can prove was in its possession at the time of first disclosure to it by the discloser and was not acquired directly or indirectly from the discloser;
- (f) which the receiving party received from a third party, provided that, as far as the receiving party is aware (without the need for enquiry), it was not received directly or indirectly from the discloser in breach of an obligation of confidence owed by the third party to another person and was not provided by the third party acting on the authority of the discloser; or
- (g) which consists of de-identified data that does not reveal Subscriber's identity or that of its staff, members, suppliers, customers or contractors.

Data includes data on the Platform and **your Data** means any data added to the Platform by you or with your authority.

Dazychain means the online services management platform trading as Dazychain.

End User means an employee of yours who is registered on the platform using your organization's email system and email naming convention.

Fees mean the fees detailed in the Purchase Order.

Intellectual Property Right means any patent, trade mark, service mark, copyright, moral right, right in a design, know-how and any other intellectual or industrial property rights, anywhere in the world whether or not registered.

Purchase Order means your signed request setting out the details of your use of the Platform.

Term means the term of this Agreement, if any, set out in the Purchase Order.

we means Yarris Procurement Applications Pty Ltd ABN 54 160 514 830 of Level 1, 520 Bourke Street Melbourne 3000 Australia and **us** has a corresponding meaning.

Website means the Internet site at the domain www.dazychain.com

you means the Customer and **your** has a corresponding meaning.



1.2 Interpretation

In this agreement:

- (a) headings are for convenience only and do not affect interpretation;
- (b) unless the context indicates a contrary intention:
- (c) person includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership or a trust;
- (d) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation;
- (e) a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (f) a word importing the singular includes the plural (and vice versa);
- (g) a reference to time is a reference to Australian Eastern Standard Time;
- (h) to the extent of any inconsistency between the following documents, the inconsistency is resolved in the following descending order of precedence:
 - (i) the clauses of this agreement;
 - (j) a Schedule to this agreement; and
 - (k) any other document incorporated into this agreement;
- (l) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (m) includes in any form is not a word of limitation; and
- (n) a reference to \$ or dollar is to Australian currency and an obligation to pay money is an obligation to pay in Australian dollars.

2 License and use of platform

2.1 We licence you to use the Platform.

2.2 The licence is non-exclusive, non-transferable and subject to these Terms.

2.3 If you wish to use the Platform to collaborate with your suppliers or other third parties with whom you do business ('**Collaborators**') the Collaborators must buy a licence to use the Platform and accept these Terms.

3 Fees and payments

3.1 In consideration of us making Dazychain available to you, you agree to pay the fees set out in the Purchase Order.

3.2 All Fees will be billed in advance and payable in 7 days, unless otherwise agreed in writing.

3.3 We will send invoices to you by email.

3.4 You are responsible for payment of all taxes and duties on all payments.



4 System confidentiality

You will take reasonable efforts to:

- (a) maintain the confidentiality of your Platform passwords;
- (b) immediately notify us if you become aware of any unauthorised use of your account or other breach of security.

5 Use of the Platform

- 5.1 You are responsible for all your Data and for the quality and results of your use of the Platform and we will have no responsibility for your use of the Platform.
- 5.2 Your use of the Platform is subject to various laws and regulations and you agree that you and your End Users will:
 - (o) comply with the laws of Australia regarding the export or transmission of technical data through the Platform;
 - (p) not use the Platform for illegal or unethical purposes;
 - (q) not intentionally interfere or disrupt networks connected to the Platform;
 - (r) not intentionally disrupt or interfere with any other user's usage of the Platform;
 - (s) not intentionally upload, post, or otherwise transmit through the Platform offensive, defamatory or illegal material or any viruses or other harmful, disruptive, or destructive files;
 - (t) not create a false identity;
 - (u) not use or attempt to use another's account or password;
 - (v) not intentionally disrupt or interfere with the security of, or otherwise cause harm to, the Platform, system resources, accounts, passwords, servers, or networks connected to or accessible through the Platform or any affiliated or linked sites;
 - (w) not attempt to modify, copy, adapt, reproduce, disassemble, decompile or reverse engineer any computer programs used to for the Platform; and
 - (x) not use any data mining, robots or similar data gathering and extraction methods in connection with the Platform.

6 Purpose of use

We licence you to use the Platform for the purpose of operating your own business. You agree not to sell or lease the Platform, use the Platform to operate a business for a third party or to use the business to provide a managed service for third parties. You will only allow End Users to access and use the Platform. Any use of the platform to operate a managed service for the benefit of a third party requires a different agreement with us.

7 Suspension

- 7.1 In addition to the other remedies under this agreement or at law, we may without notice suspend your use of the Platform for the period of any breach by you of clauses 4 or 5 and you will remain liable to pay the all applicable Fees during any suspension. We will immediately lift the suspension when the breach has been remedied or has otherwise ceased.
- 7.2 If we suffer an intentional or unintentional denial of service network attack from your servers, we may at our discretion and without prior notice suspend your use of the Platform and you will remain liable to pay the Fees during any suspension. We will immediately lift the suspension when the denial of service network attack has been remedied or has otherwise ceased.



8 Confidentiality

- 8.1 Except with the prior written consent of the other, each party will preserve the confidentiality of all Confidential Information of the other obtained in connection with the use of the Platform or under these Terms. Neither party will disclose or make any Confidential Information available to any person, or use the same for its own benefit, other than as contemplated by these Terms.
- 8.2 Each party's obligations under this clause will survive termination of these Terms.
- 8.3 The provisions of clauses 10.1 and 10.2 shall not apply to any information which:
- a) is or becomes public knowledge other than by a breach of this clause;
 - b) is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
 - c) is in the possession of the receiving party without restriction in relation to disclosure before the date of receipt from the disclosing party;
 - d) is required to be disclosed by law; or
 - e) is independently developed without access to the Confidential Information.

9 Privacy

We collect, use and disclose personal information as set out in our Privacy Statement which you will find at the Website and you agree to the terms of the Privacy Statement when you accept these Terms.

10 Intellectual Property and Data

- 10.1 All Intellectual Property Rights in the Platform, the Website and any documentation relating to the Platform remain our property (or property of our licensors).
- 10.2 You own your Data and all Intellectual Property Rights in your Data. Your access to your Data (other than any personal information within the meaning of the Privacy Act 1988) is dependent on you paying all undisputed Fees when due.
- 10.3 You grant us a licence to use, copy, transmit, store and back-up your information and Your Data for the purposes of enabling you to access and use the Platform and for any other purpose related to provision of services to you by us.
- 10.4 We recommend that you maintain copies of all Data inputted into the Platform. We will adhere to our policies and procedures to prevent data loss, we have engaged Amazon Web Services ('AWS') to provide web hosting services in Australia, but we do not guarantee that there will be no loss of Data since that is under the control of AWS. We expressly exclude liability for any loss of Data by causes beyond control.
- 10.5 If you require third-party applications for use in conjunction with your use of the Platform you authorise us to allow the providers of the third-party applications to access your Data as required for the proper operation of the third-party applications. We will not be responsible for any disclosure, modification or deletion of your Data resulting from any such access by third-party application providers.



11 No warranties

- 11.1 The provision of access to and use of the Platform is on an "as is" basis. We do not warrant that the use of the Platform will be uninterrupted or error free. Among other things, the operation and availability of the systems used for accessing the Platform, including public telephone services, computer networks and the Internet, can be unpredictable and may from time to time interfere with or prevent access to the Platform. We are not in any way responsible for any such interference or prevention of your access or use of the Platform.
- 11.2 The Platform is integrated with several third party services including without limitation database providers, cloud file systems for document management, application hosting, messaging, emails and SMS. We give no warranty about the Platform and those third party services and we exclude all terms, conditions and warranties implied by custom, the general law or statute, except to the extent that any such exclusion would contravene any statute or cause any part of this Agreement to be void. Without limitation we do not warrant that the Platform or those third party services will meet your requirements or that it will be suitable for any particular purpose. To avoid doubt, all implied conditions or warranties are excluded in so far as is permitted by law, including (without limitation) warranties of merchantability, fitness for purpose, title and non-infringement.

12 Consumer guarantees

You warrant and represent that you are acquiring the right to access and use the Platform for the purposes of a business and that, to the maximum extent permitted by law, any statutory consumer guarantees or legislation intended to protect non-business consumers in any jurisdiction does not apply to the supply of, or your use of, the Platform or these Terms.

13 Indemnities

- 13.1 We will indemnify, defend, and hold you harmless from and against all liabilities, damages, and costs (including settlement costs and reasonable legal fees) arising out of any claim by a third party against you for a breach of Intellectual Property Rights to the extent based on an allegation that our technology used to provide the Platform infringes the Intellectual Property Rights of a third party.
- 13.2 In no event will we have any liability arising from your Data or information or content provided by you, your End Users or other third parties.
- 13.3 You will indemnify, defend, and hold us harmless from and against all liabilities, damages, and costs (including settlement costs and reasonable legal fees) arising out of any claim by a third party against us in relation to your Data or your End Users' breach of any of your obligations under these Terms.

14 Limitation of liability

- 14.1 To the maximum extent permitted by law, we exclude all liability and responsibility to you or a third party for breach of contract, negligence or otherwise, for any loss (including loss of information, Data, profits and savings) or damage resulting, directly or indirectly, from any use of the Platform, except for failure to take reasonable care to secure your Confidential Information against breaches of privacy. For any liability which cannot lawfully be excluded as it is under this clause 15, our liability is limited to resupplying or paying the cost of resupplying services and repairing, replacing or paying the costs of replacing goods.
- 14.2 If you are not satisfied with the Platform, your sole and exclusive remedy is to terminate this Agreement in accordance with Clause 16.



15 Term and Termination

- 15.1 This Agreement will remain in effect for the Term.
- 15.2 Upon expiration of the Term this Agreement will continue in effect until terminated by either party upon at least 60 days' notice.
- 15.3 Prior to the expiration of the Term we will, at your request, extend the Term for a reasonable period to allow you to extract your Data.
- 15.4 Either party may terminate this Agreement if the other party is in material breach of the Agreement and fails to cure that breach within 30 days after receipt of written notice, or if the other party becomes insolvent.
- 15.5 If payment of any invoice for Fees due is not made in full by the relevant due date, we may also suspend your use of the Platform.
- 15.6 Termination of this Agreement is without prejudice to any rights and obligations of the parties accrued up to and including the date of termination. On termination of this Agreement you will:
 - a) remain liable for any accrued charges and amounts which become due for payment before or after termination; and
 - a) immediately cease to use the Platform.
- 15.7 Clauses 8, 9, 10, 11, 12 and 14 and 15 survive the expiry or termination of these Terms

16 Disputes

If a dispute arises, we both agree that before instituting proceedings, we will try to resolve the dispute by giving written notice of the dispute. If the dispute is not resolved within thirty days of notice, either of us may bring proceedings in court.

17 Service availability

- 17.1 Whilst we intend that the Platform should be available 24 hours a day, seven days a week, on occasions the Platform will be unavailable to permit maintenance or other development activity to take place.
- 17.2 If for any reason we have to interrupt use of the Platform for longer periods than we would normally expect, we will use reasonable endeavors to publish in advance details of such activity on the Website.

18 Changes to this Agreement

We may change these Terms and Conditions at any time but we will post the changes on our Website or send you notice of the changes. If you continue to access or use the Platform after revisions become effective, you agree to be bound by the revised Agreement. If you do not agree to the revised terms of this Agreement, you may terminate your use of the Platform within thirty days of receiving notice of the change.

19 Goods and Services Tax

- 19.1 If the supply of goods or services by one party ("Supplier") to another party ("Recipient") under this agreement is a taxable supply, then the amount due to the Supplier for that supply will be the sum of:
 - a) the amount that is payable under this agreement by the Recipient for that supply (or, if no amount is payable, the value of that supply); and
 - b) the amount of GST payable by the Supplier in respect of that supply.



- 19.2 The Recipient's obligation to pay to the Supplier the amount by which consideration is increased under Clause 19 a) is subject to the Supplier first providing to the Recipient a tax invoice conforming with the requirements of GST law.
- 19.3 If a party becomes liable for any penalties or interest as a result of a late payment of GST, where that late payment is as a direct result of a failure of another party to comply with the terms of this Clause 19, that other party shall pay to the first party an additional amount on demand equal to the amount of those penalties.
- 19.4 In this clause 19:
- a) "GST" means any tax imposed by or through the GST Legislation on a supply (without regard to any input tax credit);
 - b) "GST Legislation" means A New Tax System (Goods and Services Tax) Act 1999 (Cth) and any related tax imposition Act (whether imposing tax as a duty of customs excise or otherwise) and includes any legislation which is enacted to validate recapture or recoup the tax imposed by any of such Acts;
 - c) a term defined in the GST Legislation has the meaning which it has in the GST Legislation.

20 General

- 20.1 **Entire agreement:** These Terms and Conditions, together with the Purchase Order, the Dazychain Privacy Policy and the terms of any other notices or instructions given to you under this Agreement, supersede and extinguish all prior agreements, representations (whether oral or written), and understandings and constitute the entire agreement between you and us relating to the Platform and the other matters dealt with in these Terms.
- 20.2 **Waiver:** If either party waives any breach of these Terms, this will not constitute a waiver of any other breach. No waiver will be effective unless made in writing.
- 20.3 **Delay:** Neither party will be liable for any delay or failure in performance of its obligations under this Agreement if the delay or failure is due to any cause outside its reasonable control. This clause does not apply to any obligation to pay money.
- 20.4 **Promotion:** you agree that unless you request otherwise we may display your company name and logo on the Dazychain website and name you as a user of the Platform but we must not disclose any details of your usage of the Platform.
- 20.5 **Assignment:** You may not assign or transfer any rights to any other person without Dazychain's prior written consent.
- 20.6 **Governing law:** This agreement is governed by and will be construed according to the laws of Victoria, and the parties submit to the non-exclusive jurisdiction of the courts of Victoria, Australia.
- 20.7 **Invalidity:** If any part or provision of this Agreement is invalid, unenforceable or in conflict with the law, that part or provision is replaced with a provision which, as far as possible, accomplishes the original purpose of that part or provision. The remainder of this Agreement will be binding on the parties.
- 20.8 **Notices:**
- a) Any notice given under this Agreement by either party to the other must be in writing by email and will be deemed to have been given on transmission unless a non-transmission notification is transmitted to the sender.
 - b) Notices to us must be sent to support@Dazychain.com or to any other email address notified by email to you by us. Notices to you will be sent to the email address which you provided when setting up your access to the Platform.



20.9 **Interpretation of conflicting terms:** If there is a conflict between the documents that make up this Agreement, the documents will control in the following order: the invoice, the Purchase Order and the Agreement.



Dazychain Purchase Order

To: Yarris Procurement Applications Pty Ltd ('YPA')
ABN: 54 160 514 830
Address: Level 1, 520 Bourke Street
Melbourne 3000
Australia

The Customer requests a licence to use the Dazychain services management platform in accordance with the attached Terms and Conditions.

Customer	
Name	
Address	
Contact name	
Telephone	
Email	
Order details	
Term of licence	
Commencement date	
Monthly fee	
Other services	
Other fees	

Signed for and on behalf of Customer	
Name of authorised officer	
Signature	
Date	

Signed for and on behalf of YPA	Accepted by Yarris Procurement Applications Pty Ltd
Name of authorised officer	
Signature	
Date	