

SUBSCRIPTION SERVICE TERMS AND CONDITIONS

1. BACKGROUND

- (a) Storytime PODs Pty Ltd (ABN 93 165 833 983) (**Storytime Pods, we, our, us**) provides Subscribers and Authorised Users audio-visual digital content subscription services, including digital book videos for children, and related information such as book descriptions, metadata, recommendations, user ratings and user reviews (**Subscription Services**).
- (b) For the purposes of this agreement:
 - (i) Subscribers include public libraries, schools, hospitals and any other organisation that purchases subscriptions from us to access and use the Platform (**Subscriber**); and
 - (ii) Authorised Users include individuals that are members or otherwise associated with Subscribers, including students, visitors and staff of each relevant Subscriber (**Authorised Users**).
- (c) This agreement sets out the terms and conditions on which Subscribers and Authorised Users are provided access to and use of the Platform, Website and Subscription Services.
- (d) By clicking the 'I accept' button in the online order form (where available) or otherwise confirming the Subscriber's acceptance of this agreement electronically or the Subscriber commencing access to or use of the Platform and Website, the Subscriber agrees that it has read, understood and will be bound by this agreement.
- (e) If you are entering into this agreement as an agent, officer, employee or other representative of the Subscriber, you warrant to us that you have full legal authority to bind the Subscriber to this agreement.

2. TERM

- (a) This agreement will commence on the Commencement Date and will continue until the earlier of the end of the Subscription Term or until terminated in accordance with clause 11 (**Term**).
- (b) Storytime PODs may offer 'trial periods' and trial access to Subscribers and Authorised Users, at the sole discretion of Storytime PODs. Any such trial period provided to Subscribers will be on the same terms and conditions of this agreement (provided that the term will be limited to the relevant trial period notified to the Subscriber).
- (c) The parties may renew this agreement before the end of the then current Term by agreement in writing (**Renewal Term**). Any such Renewal Term will be on the same terms and conditions as set out in this agreement, provided that our Fees may be reviewed for any Renewal Term in accordance with this agreement.
- (d) If the parties are in negotiations for any Renewal Term but, on the expiry of the Term:
 - (i) have not finalised the relevant Fees for the Renewal Term; or
 - (ii) the Subscriber has not obtained relevant internal approvals required for renewing the agreement for the Renewal Term,

this agreement will automatically extend for a 30 day period on the same terms and conditions (with Fees payable pro-rata), provided that if the matters referred to in this clause 2(d) have not been finalised by the end of that 30 day period, the agreement will automatically terminate, unless otherwise agreed between the parties in writing.

3. PLATFORM AND SUBSCRIPTION SERVICES

3.1 Provision of Platform and Subscription Services

During the Subscription Term and in accordance with this agreement, Storytime Pods will provide the Subscriber:

- (a) access to and use of the Platform; and (b) Subscription Services.

3.2 Access

To the extent relevant, the Subscriber agrees that to access the Platform and Subscription Services in accordance with this agreement, it must comply with our onboarding requirements as may be notified by us to you, including:

- (a) the Subscriber issuing a written or formal confirmation of purchase for the Fee and accepting this agreement in accordance with its terms; and
- (b) providing its Authorised Users access to the Platform and Subscription Services through their library or membership card or barcode range number, or through Subscriber or third-party IP authentication methods supported, or approved by us in writing.

3.3 Dashboard Information and User Resources

- (a) The Subscriber acknowledges and agrees that Storytime PODs may provide the Subscriber with:
- (i) usage reports and interactive online dashboard information (**Dashboard Information**); and
- (ii) manuals, guides, catalogues, reference materials, system records, and internal and external marketing collateral such as brochures, flyers, bookmarks, logos, social media images, user guides and articles, in connection with the Platform (**User Resources**).
- (b) Except in relation to external marketing collateral, Dashboard Information and User Resources may only be used by the Subscriber for its internal, educational, research or reporting purposes. We do not guarantee the accuracy of any Dashboard Information or User Resources and provide these on a best endeavours basis.

3.4 Subscriber responsibility for non-standard Authentication Applications

- (a) The Subscriber may request Platform access for Authorised Users via an internal or third party Internet Protocol (IP) authentication application (**Authentication Application**), and where Storytime PODs supports the Authentication Application, Storytime PODs may allow Authorised User access via the Authentication Application.
- (b) The Subscriber acknowledges and agrees that it is responsible for setting up and managing Authorised User access via Authentication Applications, including dealings with third parties. Storytime PODs does not make any representations or warranties regarding the appropriateness, reliability or performance of Authentication Applications, and will not be responsible for any access issues, however will act on reasonable Subscriber instructions to the extent required to facilitate Authorised User access to the Platform where Authentication Applications are used.

3.5 No exclusivity

The Subscriber acknowledges and agrees that all rights granted to the Subscriber under this agreement (including all rights to use the Storytime PODs Platform) are non-exclusive.

3.6 Variation

Storytime PODs may, at its discretion, vary the features, functions, content and other benefits available to Subscribers and Authorised Users in respect of the Platform, Website and Subscription Services at any time. If a variation has the effect of materially diminishing the performance or features of the Platform, we will seek to provide the Subscriber reasonable prior notice.

4. USERS

The Subscriber agrees that it must use its reasonable endeavours to ensure that each Authorised User complies with all the provisions of this agreement and acknowledges that each Authorised User will be required to enter into an end user licence agreement in a form reasonably required by Storytime PODs to access the Platform.

5. ACCESS DETAILS

5.1 Provision of Access Details

The Subscriber will be responsible for issuing Access Details to the Authorised Users and directing their members how to access the platform.

5.2 Obligations of the Subscriber in relation to the Access Details

The Subscriber must:

- (a) use its best endeavours to ensure that all Access Details are securely maintained and used only by the Authorised User (or the Authorised User's parent or guardian as applicable) to whom the relevant Access Details have been issued;
- (b) if an Authorised User ceases to be a member of the Subscriber (or otherwise associated with the Subscriber that has given them the right to have access to the Platform), to the extent practical and within the reasonable control of the Subscriber, the Subscriber must ensure that the Authorised User is no longer authorised to access and use the Platform through the Subscriber.

6. SUBSCRIBER RESPONSIBILITIES

The Subscriber must ensure that it:

- (a) obtains all consents, authorisations, permits or approvals (including any relevant consents from Authorised Users) necessary to access and use the Platform as contemplated by this agreement and as may be required under all applicable privacy laws in the jurisdiction in which it resides;
- (b) satisfies itself that the Platform meets its needs, and is compatible with its own hardware, software, and internet and network capabilities;
- (c) only issues Access Details to Authorised Users within the population limits relevant to the Subscriber as described in writing during quotation or renewal;
- (d) does not modify, adapt, translate, reverse engineer, de-compile, disassemble or copy all or any part of the Website and Platform;
- (e) does not transfer, assign, rent, lease, lend, sell or otherwise dispose of all or any part of the Website and Platform or any compilation derived from the Platform;
- (f) does not permit any person other than the Authorised Users to use the Platform.

7. SECURITY OF PLATFORM

7.1 Storytime PODs obligations

Storytime PODs will comply with its obligations under the relevant privacy laws in the jurisdiction in which the Subscriber resides.

7.2 Storytime PODs liability

Storytime PODs will not be liable for any Loss suffered by the Subscriber which arises out of or in connection with:

- (a) any computer viruses being transferred by or obtained as a result of the use of the Platform or Website, or any hacking or similar issues;
- (b) any other data security issues in respect of the Platform or Website.

8. SUPPORT

During the Subscription Term, Storytime PODs will, during the Support Hours, provide the Subscriber and its Authorised Users with technical support in relation to the use and operation of the Website and Platform, in accordance with the Support Services.

9. FEES AND EXPENSES

9.1 Fees and expenses payable

The Subscriber agrees to pay to Storytime PODs the Fees.

9.2 Payment of Fees

- (a) Storytime PODs will issue the Subscriber with a tax invoice for the Fees payable by the Subscriber (**Tax Invoice**) in accordance with the terms of payment set out in the Order Form.

- (b) All amounts payable by the Subscriber must be paid in advance within 30 days of the date of the relevant amounts being invoiced to the Subscriber by Storytime PODs, unless otherwise agreed between the parties in writing or otherwise stated in the Order Form.

9.3 Failure to pay

If the Subscriber fails to pay any amounts due to Storytime PODs under this agreement then Storytime PODs may issue a notice to the Subscriber stating that the Tax Invoice is overdue (**Overdue Notice**). If Storytime PODs does not receive payment of the relevant Fees within 14 days of the date of the Overdue Notice, Storytime PODs may cease providing the Subscription Services and may disable the Subscriber's and any Authorised User's access to the Platform until such time as the outstanding amount is paid in full (and may in its discretion charge interest on any outstanding amount).

9.4 Increases to Fees

We may review the Fees for each Renewal Term and notify you of any changes to the Fees. You may terminate this agreement in accordance with clause 11.2 if you do not accept our changes to the Fees.

10. CONTENT MODERATION

We moderate all Subscriber and Authorised User content submitted for publication or posting on our Website and may amend or remove such content at our sole discretion, including if we consider the content is inappropriate, or does not meet our content standards or any content or user policy we may implement from time to time.

11. TERMINATION

11.1 Storytime PODs may terminate this agreement on giving the Subscriber notice if:

- (a) the Subscriber does not pay our Fees or charges when due in connection with the Platform or Services (provided we have given you 14 days notice of such Fees being overdue); or
- (b) if you have materially breached your obligations under this agreement, and if such non-compliance is not capable of remedy, or; if capable of remedy, not remedied within 7 days after we have notified you.

11.2 Either party may terminate this agreement for its convenience on giving the other party at least 30 days' notice.

11.3 Upon termination of this agreement taking effect, the Subscriber must immediately:

- (a) cease using and use reasonable endeavours to ensure that each Authorised User ceases using the Platform;
- (b) cease referring all prospective Authorised Users and any other third parties to the Platform, and cease all active campaigns, promotions and access references to the Platform and Website, whether in physical materials or digital form; and
- (c) pay to Storytime PODs all Fees, expenses or other sums payable to us under this agreement which have accrued or are payable as at the date of termination.

11.4 Where this agreement is terminated:

- (a) by us under clause 11.1, because of the Subscriber breaching this agreement; or
- (b) by the Subscriber under clause 11.2, because of the Subscriber terminating for its convenience, we reserve the right to retain all Fees, including Fees paid in advance.

11.5 Where this agreement is terminated for any other reason, we may retain all Fees paid for use of the Platform and for the Subscription Services that were provided up to the date of termination, and will refund the balance of any Fees paid in advance.

12. INTELLECTUAL PROPERTY

12.1 You acknowledge and agree we own all the intellectual property (including copyright) in:

- (a) the information and reports compiled by us and supplied to the Subscriber through the Platform and Website; and
- (b) the software, information technology and documentation relating to the Subscription Services.

12.2 We grant the Subscriber a limited, non-exclusive, non-transferrable, revocable licence to use:

- (a) such information and reports for the purposes set out in this agreement; and
- (b) such software, information technology and documentation to the extent reasonably necessary to use and access the Platform as set out in this agreement.

12.3 You must not reproduce, alter, adapt, modify, reverse engineer or otherwise use any information, materials, software or documentation we provide or make available to you without our express written consent, except in accordance with this agreement.

12.4 We warrant that the Subscriber's use of the Platform as contemplated by this agreement does not infringe the intellectual property rights of any party anywhere in the world.

13. WARRANTIES

13.1 Warranties excluded

Subject to all applicable laws, Storytime PODs does not warrant or guarantee that:

- (a) the Website or Platform will be compatible with, or capable of being used on or in connection with, the Subscriber's or Authorised User's computers and communications systems;
- (b) the Subscriber's access to the Platform will be uninterrupted or error free;
- (c) the Platform and any Dashboard Information or User Resources will be accurate, reliable or fit for any particular purpose.

13.2 Subscriber's warranty

The Subscriber acknowledges and warrants that it has relied on its own skill and judgment in the selection of the Platform and it has satisfied itself that the Platform is fit for all the purposes which the Subscriber requires it for.

14. LIABILITY

14.1 We expressly exclude from this agreement all conditions, warranties, guarantees and terms which may be implied into this agreement by statute or general law and are capable of being excluded, to the extent permitted by the law in the jurisdiction in which you reside.

14.2 You indemnify us for any loss or damage we suffer because of:

- (a) any breach of this agreement by the Subscriber, including any breach by the Subscriber of any relevant privacy laws; and
- (b) any information the Subscriber gives us that is not accurate, up to date or is otherwise misleading, except to the extent that such loss is caused by our breach of this agreement, our negligent act or omission, or our wilful misconduct.

14.3 We indemnify you for any loss or damage you suffer because of any breach of this agreement by us, including any breach by us of any relevant privacy laws, except to the extent that such loss is caused by your breach of this agreement, your negligent act or omission, or your wilful misconduct.

14.4 Liability capped

Notwithstanding any other provision of this agreement, the maximum aggregate liability of Storytime PODs for any Loss or claim, however caused or arising, suffered by the Subscriber in connection with this agreement is limited to the total amount of the Fees paid by the Subscriber to Storytime PODs under this agreement during the 3 month period prior to the Subscriber first notifying Storytime PODs of the relevant Loss or claim.

14.5 Commencement of claims

Any claim by the Subscriber against Storytime PODs for Loss however caused or suffered by the Subscriber in connection with this agreement must be made within 6 months of the Subscriber becoming entitled to make the claim and any claim not made within this period is absolutely barred.

14.6 Consequential Loss

Neither party will be liable for any Consequential Loss (however caused) suffered or incurred by the other party in connection with this agreement, except to the extent a party caused or contributed to the relevant loss due to its fraud, wilful default or breach of intellectual property rights. This clause applies even if the party knew or ought to have known that the relevant Consequential Loss would be suffered.

15. Goods and Services Tax (GST)

To the extent applicable, including by reference to the country of residence of the Subscriber, the consideration for any supply made under or in connection with this agreement does not include an amount for GST, unless it is expressly stated in this agreement to be inclusive of GST. For the purposes of this clause, GST means any goods and services tax or valued added tax applicable to the transactions under this agreement, taking into account Storytime PODS and the Subscriber's jurisdiction of residence.

16. GENERAL PROVISIONS

16.1 Governing law

This agreement will be construed and interpreted in accordance with the laws of the state of Victoria, Australia and each party submits to the non-exclusive jurisdiction of courts of that jurisdiction.

16.2 Assignment

The Subscriber may not assign or otherwise deal with any of its rights or obligations under this agreement without the prior written consent of Storytime PODs. Storytime PODs may assign, novate or otherwise deal with its rights under this agreement at any time effective immediately upon Storytime PODs notifying the Subscriber of the assignment or novation.

16.3 Entire agreement

This agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all previous communications, representations, inducements, undertakings, agreements or arrangements between the parties or their respective officers, employees or agents.

16.4 Relationship between parties

This agreement does not create a relationship of employment, agency, partnership or joint venture between the parties.

16.5 Force Majeure

- (a) If a party is prevented, hindered or delayed from performing its obligations under this agreement by a Force Majeure Event, then as long as that situation continues, that party will be excused from performance of the obligation to the extent it is so prevented, hindered or delayed, and the time for performance of the obligation will be extended accordingly.
- (b) If a party is affected by a Force Majeure Event it will immediately give the other party a notice of its occurrence and its effect or likely effect, and use all reasonable endeavours to minimise the effect of the Force Majeure Event and to bring it to an end.
- (c) This clause does not apply to any obligation of the Subscriber to pay the Fees or other amounts payable to Storytime PODs under this agreement.

16.6 Waiver

No failure to exercise or delay in exercising any right given by or under this agreement to a party constitutes a waiver and the party may still exercise that right in the future.

16.7 Variation

This agreement may only be amended or varied by a document in writing signed by each party.

16.8 Severability

If any provision of this agreement is invalid or not enforceable in accordance with its terms in any jurisdiction, it is to be read down, if possible, so as to be valid and enforceable and will otherwise be capable of being severed to the extent of the invalidity or unenforceability without affecting the remaining provisions of this agreement or affecting the validity or enforceability of that provision in any other jurisdiction.

17. DEFINITIONS AND INTERPRETATION

17.1 Definitions

In these Terms, unless the context otherwise requires:

- (a) **Access Details** means the relevant library or membership card or barcode range number, or access details required by supported Authentication Applications, or approved by us in writing.
- (b) **Authentication Application** has the meaning given in clause 3.4.
- (c) **Authorised Users** means the employees, consultants, or members of the Subscriber who are issued with Access Details from, by or at the direction of the Subscriber to access the Platform by or on behalf of the Subscriber in accordance with this agreement.
- (d) **Commencement Date** means the earlier of:
 - (i) the commencement date set out in the Order Form;
 - (ii) the due date for payment of the relevant Tax Invoice issued by us to the Subscriber; and
 - (iii) the date an Authorised User first uses the Platform following access being granted to the Subscriber by us.

- (e) **Consequential Loss** means:
 - (i) all indirect and consequential Loss;
 - (ii) all Loss beyond the normal measure of damages; and
 - (iii) all Loss of revenue, Loss of data, Loss of reputation, Loss of profits, Loss of actual or anticipated savings, Loss of bargain, lost opportunities, including opportunities to enter into arrangements with third parties, Loss of use, cost of capital or costs of substitute goods, facilities or services.
- (f) **Dashboard Information** has the meaning given in clause 3.3(a)(i).
- (g) **End Date** means the end date set out in the Order Form.
- (h) **Fees** means any fees or other amounts payable by the Subscriber to Storytime PODs under this agreement, including the fees set out in the Order Form as may be increased under this agreement.
- (i) **Intellectual Property** includes all patents, designs, copyright, trademarks or circuit layout rights and any right to apply for the registration or grant of any of the above.
- (j) **Loss** means any loss, liability, cost, claim, expense, damage, charge, penalty, outgoing or payment however arising, whether present, unascertained, immediate, future or contingent and whether direct loss or Consequential Loss.
- (k) **Order Form** means the order form provided by Storytime PODs to the Subscriber in respect of the Subscription Services and the Subscriber's access to and use of the Storytime PODs Platform.
- (l) **Platform** means the digital story book platform made available through the Website by Storytime PODs for use by the Subscriber and Authorised Users from time to time and includes access to any tools or resources hosted by third parties accessible through the Platform.
- (m) **Renewal Term** has the meaning given in clause 2(c).
- (n) **Storytime PODs** means Storytime PODs Pty Ltd (ABN 93 165 833 983).
- (o) **Subscriber** means the party named as the Subscriber in the Order Form.
- (p) **Subscription Services** means the services described in the Order Form.
- (q) **Subscription Term** means the period of time during which Storytime PODs will provide the Subscription Services to the Subscriber, as set out in the Order Form and includes any Renewal Term.
- (r) **Support Hours** means the hours in which Storytime PODs will provide any applicable Support Services to the Subscriber as reasonably determined by us.
- (s) **Support Services** means any technical or user support services in relation to the Storytime PODs Platform that we may provide to you, as reasonably determined by us.
- (t) **Taxes** means any taxes, rates, levies imposts, duties or other charges assessed or payable to any government authority and includes any additional taxes, interest, penalties, charges, fees or other amounts imposed in relation to a failure to file a return or to pay the tax.
- (u) **User Resources** has the meaning given in clause 3.3(a)(ii).
- (v) **Website** means the website located at www.lote4kids.com or the website located at such other URL that Storytime PODs notifies the Subscriber of from time to time.

17.2 Interpretation

In this agreement, headings are inserted for convenience only and do not affect the interpretation of this agreement and, unless the context otherwise requires: (a) the singular includes the plural and vice versa;

- (b) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (c) the meaning of general words is not limited by specific examples introduced by 'includes', 'including', 'for example', 'such as' or similar expressions;
- (d) a reference to a person includes an individual, a partnership, a corporation or other corporate body, a joint venture, a firm, a trustee, a trust, an association (whether incorporated or not), a government and a government authority or agency; and
- (e) no provision of this agreement will be construed to the disadvantage of a party merely because that party was responsible for the preparation of the agreement or the inclusion of the provision in the agreement.