

# Storm-Road Terms & Conditions

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This Site and the Program are owned and operated by STORM-ROAD. Your access to and use of the Site and Program is subject to these Terms & Conditions. Use of the Site and/or Program, whether or not you have created an account, indicates your acceptance of these Terms & Conditions. Please read them carefully before using the Site or Program.

## 1. DEFINITIONS

- (a) **Confidential Information** means any information, whether recorded in writing or otherwise, in respect of the Program, the Intellectual Property and these Terms & Conditions;
- (b) **Customer** means the person or entity that uses the Site and/or registers for and uses the Program and includes an Organiser and a Participant;
- (c) **Customer Data** means any information and material uploaded, added, created or imported by the Customer or through the Customer's Platform (whether through automatic synchronisation or otherwise) to the Program or Site including without limitation names and account details, meeting times and meeting agendas and minutes;
- (d) **Fee** means the monthly fee payable to use the Program to the extent subscribed by the Customer as set out on the Site;
- (e) **Force Majeure** means delay or inability to perform caused by war, whether declared or not, insurrections, strikes, lockouts or other industrial disturbance, inability to obtain materials, unavailability of equipment, fire, storm or other severe action of the elements, accidents, government or statutory restrictions or from other causes whether like or unlike the foregoing which are unavoidable or beyond the reasonable control of either party including any form of technological failure or the actions of third parties but shall not include, for the avoidance of doubt, a lack of funds or the unserviceability of plant and equipment (for any reason);
- (f) **Intellectual Property** means all present and future rights conferred by statute, common law or equity in or in relation to any copyright, trade marks, designs, patents, circuit layouts, software, business and domain names, inventions and other results of intellectual activity related to or connected with the Program and the Site throughout the world including without limitation:
  - (i) all names, whether registered or not, related to or connected with the Program or Site including without limitation the name 'STORM-ROAD';
  - (ii) all domain names related to or connected with the Program or Site;
  - (iii) all material and software related to or connected with the Program or Site including without limitation all engineering results, calculations and tests;
  - (iv) use information or manuals related to or connected with the Program or Site;
  - (v) licences, certificates and authorisations related to or connected with the Program or Site; and

- (vi) the information, names, text materials, graphics, logos, button icons, images, video and audio clips, trade marks (whether registered or not), advertisements, layout, arrangement, graphical user interface, look and feel, and control features of the Program or Site;
- (g) **STORM-ROAD** means Storm-Road;
- (h) **Organiser** means a person who holds an Organiser's Account who can create and host a meeting or other event through the Program;
- (i) **Organiser's Account** means an account opened and held for use of the Program in accordance with clause 7;
- (j) **Participant** means a person who does not hold an Organiser's Account and cannot create or host a meeting through the Program but can use the Program as an attendee at a meeting or other event hosted by an Organiser;
- (k) **Program** means the centralised information management software accessible via the Site relating to, among other things, the management, facilitation and data storage relating to meetings and includes the Intellectual Property;
- (l) **Site** means the website located at the domain "Storm-Road.com".

## 2. **INTERPRETATION**

In these Terms & Conditions, unless inconsistent with the context or subject matter:

- (a) a reference to a person includes any other legal entity;
- (b) a reference to a legal entity includes a person;
- (c) words importing the singular number include the plural number;
- (d) words importing the plural number include the singular number;
- (e) the masculine gender must be read as also importing the feminine or neuter gender;
- (f) a reference to a party includes the party's heirs, executors, successors and permitted assigns;
- (g) headings are for reference purposes only and must not be used in interpretation;
- (h) where any word or phrase is given a defined meaning any other part of speech or other grammatical form concerning the word or phrase has a corresponding meaning;
- (i) a reference to a statute includes all regulations and subordinate legislation and amendments;
- (j) references to writing include any mode of representing or reproducing words in tangible and permanently visible form, and includes e-mail and fax;

- (k) a reference to a monetary amount is a reference to an Australian currency amount;
- (l) an obligation of two or more parties binds them jointly and each of them severally;
- (m) an obligation incurred in favour of two or more parties is enforceable by them severally;
- (n) references to time are to local time in Queensland;
- (o) where time is to be reckoned from a day or event, the day or the day of the event must be excluded;
- (p) a reference to a business day means any day on which trading banks are open for business in Queensland;
- (q) if any time period specified in these Terms & Conditions expires on a day which is not a business day, the period shall expire at the end of the next business day;
- (r) a reference to a month means a calendar month.

### **3. LICENCE**

- (a) STORM-ROAD grants to the Customer a non-exclusive, non-assignable licence to use the Site and Program to the extent subscribed for by the Customer for the Customer's internal business or personal use only strictly in accordance with these Terms & Conditions and for the avoidance of doubt:
  - (i) If the Customer is an Organiser, the licence is extended to allow the Organiser to create and host and attend meetings and other events and create, amend and view notes and other documents or material through the Program; and
  - (ii) If the Customer is a Participant, the licence is limited to allow the Participant to attend meetings and other events through the Program only.
- (b) The Customer acknowledges and agrees with STORM-ROAD that the Customer will not, as a result of being granted a non-exclusive licence, acquire any rights (including without limitation Intellectual Property) in the Program other than the non-exclusive, non-assignable rights granted in accordance with these Terms & Conditions.
- (c) The Customer acknowledges and agrees that these Terms & Conditions apply to updates, supplements, add on components, or other internet-based services or components of the Program and Site.

### **4. PAYMENT OF FEE**

- (a) The Customer must pay to STORM-ROAD monthly in advance the Fee.
- (b) Unless otherwise agreed by STORM-ROAD in writing, payment of the Fee must be made by credit card on the same day of each month based on the date of creation of the Organiser's Account.

- (c) Without limitation to any of STORM-ROAD's other rights, if payment of the Fee is not made on the due date:
  - (i) access to the Organiser's Account will be automatically suspended; and
  - (ii) the Customer must pay STORM-ROAD interest on any unpaid outstanding amount calculated at the daily rate of 15% per annum from the due date for payment until the date payment is actually made. STORM-ROAD may recover the interest mentioned in this clause from the Customer as liquidated damages.
- (d) The Customer acknowledges that STORM-ROAD may review and increase the Fee, or any part of the Fee, or introduce new fees from time to time by 30 days' notice in writing to the Customer.

## **5. GST**

- (a) In this clause the expressions "adjustment note", "consideration", "GST", "input tax credit", "recipient", "registered", "supply", "supply of a going concern", "supplier", "tax invoice" and "taxable supply" have the meanings given to those expressions in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
- (b) Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under these Terms & Conditions are exclusive of GST.
- (c) Despite any other provision in these Terms & Conditions, if GST is imposed on any supply made by the supplier under these Terms & Conditions, the recipient shall pay to the supplier an amount equal to the GST payable on the taxable supply. That amount shall be paid at the same time that the consideration for the supply is payable under these Terms & Conditions and shall be paid in addition to the consideration.
- (d) If GST is imposed on any supply made by the supplier under these Terms & Conditions or the amount of GST is varied, the supplier will provide the recipient with a tax invoice or adjustment note.

## **6. ACCESS**

- 6.1 In order to use this Program, the Customer requires the equipment and connections necessary to access the World Wide Web. Without limitation, the Customer is responsible for:
  - (a) the provision of any such connection or access to the World Wide Web;
  - (b) the provision of a Platform;
  - (c) the payment of any fees associated with such connection or access (such as those charged by an internet service provider or other online service) and Platform; and
  - (d) the provision of all equipment necessary for the Customer to make any such connection to the World Wide Web and the Platform, including a computer and a modem.

- 6.2 Where any third party software is used in connection with the Program, including software in the Platform, the Customer shall be responsible for obtaining and maintaining such third party software directly from the third party and its use of such software will be governed by the third party's licence agreement and not by these Terms & Conditions, and the Customer must comply with the terms of any such licence agreement.

## **7. REGISTRATION**

- 7.1 The Customer must be legally able to form binding contracts to use this Service. This means the Customer must not use or register for the Program or an Organiser's Account if the Customer under 18 years of age, an undischarged bankrupt, or under any type of insolvency, administration or other insolvency event where the Customer are a company.
- 7.2 In order to be a Participant, a Customer is not required to create and hold an account. However, each Participant acknowledges that they will not be entitled to create or host a meeting or other event or create, amend or view notes and other documents or material through the Program after the meeting has ended.
- 7.3 In order to be an Organiser, the Customer must register the Customer's details with us to create an Organiser's Account and provide an authorised 'username' and 'password'. In some cases, with prior written consent of STORM-ROAD, multiple user access may also be granted for a single 'username' and 'password'. An Organiser must invite Participants to their meetings or other events.
- 7.4 In order to access and use the Program, the Customer will be required to enter the username and password for the Organiser's Account and to synchronise or otherwise connect the Organiser's Platform to the Program. The Organiser acknowledges that upon synchronisation or other connection to the Platform, STORM-ROAD will have access to and will store details of the Organiser's email, data, documents and materials and details and emails of any invited Participants for the purpose of displaying an avatar in the Program including on the meeting timeline and meeting screens.
- 7.5 The Customer must not use false or misleading information in registering or using the Program and the Customer must update the Customer's details should they have changed from the last time the Customer used the Program. We are not responsible for any loss or damage (including misdirected deliveries or notifications) which may occur because the Customer have not provided us with up to date, accurate or complete information.
- 7.6 The Customer must choose a username and password when registering the Organiser's Account. The Customer is responsible for the security of the Customer's username and password and must not disclose any username, password or access links to any other party not authorised to use the Program. We will assume that anyone using the Organiser's Account is authorised by the Organiser. Under no circumstances will unauthorised access and use of the Organiser's Account reduce the Customer's liability in connection with the Program. This includes the Customer's obligation to make a purchase which may result from use of the Customer's username and password.
- 7.7 The Customer must notify us immediately if the Customer becomes aware of any unauthorised use of the Organiser's Account or other security breach which we may consider relevant and we can take steps to close the Organiser's Account.

- 7.8 The Customer permits us to send the Customer notifications by email of the status of any delivery, a copy of the Customer's invoice and any other marketing or promotional events and offers. We will refrain from sending the Customer marketing related materials, including special offers, if the Customer tells us the Customer does not wish to receive these communications when the Customer completes the Customer's registration for an account. We may additionally request that the Customer participate in customer feedback from time to time so that we can improve the Program.
- 7.9 We accept no liability for any loss or damage incurred if the Customer does not receive any notifications by us to the Customer, for whatever reason.
- 7.10 If STORM-ROAD has reason to believe that there is likely to be a breach of security or misuse of the Program, STORM-ROAD may change the password of the Customer and will notify the Customer accordingly.
- 7.11 The Customer may request that the Organiser's Account be closed by emailing us at [information@storm-road.com](mailto:information@storm-road.com) The Organiser's Account will be closed if the Customer has paid everything the Customer owes to us in cleared funds and all transactions have been completed.

## **8. SYSTEM INTEGRITY & USER CONDUCT**

- 8.1 The Customer must not use the Site or the Program to:
- (a) impersonate or otherwise misrepresent the Customer's identity or affiliation with any other person or entity;
  - (b) input, upload, post, disclose or transmit any material that is defamatory, obscene, indecent, lewd, pornographic, violent, abusive, insulting, threatening, harassing or misleading or deceptive;
  - (c) input, upload, post, disclose or transmit any material which is subject to intellectual property rights of STORM-ROAD or any third party or breaches any duty of confidence or contractual obligation owed to STORM-ROAD or any third party;
  - (d) input, upload, post, disclose or transmit any material that is unlawful or violates any law;
  - (e) send junk, obscene, indecent, offensive or threatening electronic mail or electronic mail in contravention of the Spam Act 2003 (Cth) to any person or company;
  - (f) download and store electronically, reproduce, transmit, display, copy, distribute or use the Site or the Program or any materials contained in either of them;
  - (g) upload any files that contain viruses, Trojan horses, worms, time bombs, corrupted files or any other similar software or programs that may damage the operation of the Site or Platform or another's computer or property of another;
  - (h) sub-license, rent, lease, transfer or attempt to assign the rights in the Site or the Program to any other person and any dealing in contravention of this sub-clause shall be ineffective;

- (i) falsify or delete any attributions, legends, or other proprietary designations of origin or source of any content of the Site or Program;
- (j) conduct, display, or forward surveys, contests, pyramid schemes, or chain letters;
- (k) interfere with or disrupt the Site or Program or servers or networks connected to the Site or Program, or disobey any requirements, procedures, policies, or regulations of networks connected to the Site or Program;
- (l) attempt to gain unauthorised access to the Site or Program or computer systems or networks connected to the Site or Program through any means;
- (m) commit forgery (or attempted forgery), harass any individual, or harm minors in any way;
- (n) collect, store, input, upload, post, disclose or transmit personal information or data about others, including, without limitation email addresses; or
- (o) breach the Privacy Act 1988 (Cth) as amended, or the Australian Privacy Principles;
- (p) contravene or breach any applicable state, Commonwealth or international law, convention or regulation.

8.2 The Customer acknowledges and agrees that the Customer must not:

- (a) use the Site or Program for any purpose other than the purpose for which it was designed and intended;
- (b) remove or alter the security or use restriction mechanisms implemented in the Site or Program;
- (c) attempt to gain unauthorised access to any materials other than those to which the Customer has given express permission to access or to the computer system on which the Site or Program are hosted;
- (d) commit or permit any act which may interfere with the use of the Site or Program by any other user;
- (e) tamper with, hinder the operation of or make unauthorised modifications to the Site or Program or any part thereof;
- (f) damage or modify the Site or Program or any part thereof;
- (g) reverse engineer, decompile or disassemble the Site or Program or any part thereof;
- (h) copy, republish, frame, download, transmit, rent, lease, loan, sell, distribute, licence or sublicense the Site or Program or any content within the Site or Program or any part thereof; or
- (i) modify, alter, adapt, disassemble, reverse engineer, decompile or amend the Program or any content within the Program or any part thereof in any way.

- 8.3 The Customer will not without prior written consent of STORM-ROAD, which shall be given or withheld at STORM-ROAD's absolute discretion:
- (a) affix or otherwise display the Customer's name or logo on the content of the Site or Program in a way that suggests a direct or indirect association with STORM-ROAD and/or any shareholder of STORM-ROAD and/or any content provider to the Site or Program;
  - (b) use another Customer's account, password, service or system.
- 8.4 STORM-ROAD reserves the full and exclusive right to remove any offending or inappropriate material from the Site or Program without notice.
- 8.5 The Customer will indemnify STORM-ROAD against any loss, damage or liability arising from or connected to the unauthorised use of the Site or Program by the Customer or any breach by the Customer or of any of the matters set out in this clause.

## **9. LINKS & ADVERTISING**

- 9.1 This Site and the Program may contain links to third party websites. Those websites are not under the control of STORM-ROAD and STORM-ROAD is not responsible for the content of the links contained in those websites or any webcasting or other transmission received from any such websites.
- 9.2 Neither STORM-ROAD nor its officers, directors, employees, agents, or related bodies corporate recommend or endorse the content of any third party websites which may be linked to or from the Site or Program, or products or services of any third party organisations mentioned or described on this Site or Program or linked to or from the Site or Program. The Customer acknowledges that it enters any third-party websites at its own risk.
- 9.3 The Site or Program may contain advertisements for third parties' goods and/or services. The third-party advertisers are responsible for the accuracy of all representations made in those advertisements. Neither STORM-ROAD nor its officers, directors, employees, agents or related bodies corporate recommend or endorse the goods or services that may be advertised on the Site or Program, nor do they offer the goods or services for sale or make any other representation whatsoever about them. If the Customer chooses to order a product or service advertised by a third party on the Site or Program, it does so at its own risk.
- 9.4 The Customer must not link the Site or Program from any other website or facility not owned or operated by STORM-ROAD.

## **10. GENERAL MAINTENANCE AND TECHNICAL SUPPORT**

- 10.1 The rights granted to the Customer do not entitle the Customer to receive from STORM-ROAD any technical support, telephone assistance, or enhancements or updates to the program. However, this does not prevent STORM-ROAD from offering such services at its sole discretion.



- 10.2 STORM-ROAD may at the Customer's request provide the Customer with maintenance and support for the Program on STORM-ROAD's standard terms and conditions and subject to the Customer paying STORM-ROAD's standard maintenance and support fee.
- 10.3 STORM-ROAD will endeavour to carry out any non-urgent support services, upgrades, updates, supplements, add on components, or other internet-based services or components of the Program or Site outside of usual business hours. We will provide reasonable notification to Organisers of any anticipated downtime.

## **11. WARRANTIES**

- 11.1 STORM-ROAD does not warrant that:
- (a) The Software or the Site will provide any function for which it is not specifically designed as described on the Site;
  - (b) The Software or the Site will provide any minimum level of performance;
  - (c) The Software or the Site will be virus free or free of performance anomalies or be operational without interruption.
- 11.2 The Customer warrant to STORM-ROAD that at the time of entering the Site, the Customer was not relying on any representation made by STORM-ROAD.
- 11.3 Except as expressly provided to the contrary, and to the extent permitted by law, STORM-ROAD makes no representations or warranties of any kind, express or implied as to the operation of the Customer's access to or the results of the Customer's access to the Site or the Program (including any related or linked websites) or the correctness, accuracy, timeliness, or completeness or reliability of the information, content, materials or products included on the Site or the Program.

## **12. DISCLAIMER**

- 12.1 The Customer acknowledges that:
- (a) To the extent permitted by law, the Site and Program are provided by STORM-ROAD on an "as is" basis without any express or implied warranty of any kind.
  - (b) The Site or Program may contain inaccuracies or typographical errors.
  - (c) The World Wide Web exists across open public networks that are neither secure nor private. Accordingly, The Customer acknowledges and accepts the risk that any communication to or from the Site or Program may be intercepted, used or modified by third parties.
  - (d) STORM-ROAD may change any of the material on the Site or Program at any time without notice.
  - (e) STORM-ROAD makes no commitment to update any material on the Site or Program.

- (f) The Customer is responsible for assessing the reliability, accuracy, completeness, timeliness, suitability, quality, physical state or for a particular purpose of the material on or accessible through the Program.
- (g) The Customer accepts all risks and responsibility for all loss, damage, costs and other consequences resulting from the Customer's use of the Program or the material on or accessible through the Program.

### **13. LIMITATION OF LIABILITY**

13.1 Where the law implies into these Terms & Conditions any term, condition or warranty, and those laws avoid or prohibit provisions in a contract excluding or modifying them, then the term, condition or warranty shall be deemed to be included in these Terms & Conditions provided that the liability of STORM-ROAD, its officers, directors, employees, agents and related bodies corporate for a breach of any such term, condition or warranty, including any economic or consequential loss which the Customer may sustain shall be limited, at the option of STORM-ROAD, to:

- (a) in the case of services, the supply of the services again, or the payment of having the services resupplied; or
- (b) in the case of goods, the replacement or repair of the goods, the supply of equivalent goods, or the payment of the costs of replacing or repairing the goods or acquiring equivalent goods.

13.2 The Customer releases STORM-ROAD and its officers, directors, employees, agents or related bodies corporate from its liability for any loss or damage including without limitation, losses or damages for loss of profits, business interruption, loss of information, indirect, special, punitive or consequential losses or damages arising out of the use or inability to use or reliance on the material or information available on or accessible through the Site or the Program, even if STORM-ROAD has been advised of the likelihood of such damages and whether or not caused by any negligent act or omission.

13.3 Without limiting Clause 13.2, the Customer releases STORM-ROAD from any loss or damage (including indirect, special or consequential loss or damage) arising from the use of, or reliance on, the Site or the Program, whether or not caused by any negligent act or omission including but not limited to:

- (a) loss of use, data or profits on any theory of liability arising out of or in connection with the use of or the inability to use the Site or the Program;
- (b) the Customer's reliance on the Site or the Program;
- (c) the statements or actions of any employee or agent of STORM-ROAD;
- (d) any unauthorised access to or alteration of the Customer's transmissions or data;
- (e) any statements or actions of any Participant invited by an Organiser;
- (f) any information that is sent or received or not sent or received;
- (g) any failure to store or loss of data or files or other content;

- (h) the Customer's fraudulent, negligent or otherwise unlawful behaviour;
- (i) information, data or other material provided to STORM-ROAD by the Customer or on the Customer's behalf;
- (j) any delay or interruption of the Site or the Program;
- (k) any loss incurred as a result of a third party obtaining the Customer's access details, either with or without the Customer's knowledge;
- (l) any loss or damages in relation to the supply of services on or in relation to this Program and any advertisement placed on or information made available on the Site or the Platform.

**14. INDEMNITY**

- (a) The Customer agrees to indemnify and hold harmless STORM-ROAD, and its officers, directors, shareholders, employees, consultants, agents, and related bodies corporate from and against all losses, damages, expenses and costs (including solicitor Storm-Road costs on a full indemnity basis) and all third-party claims, liability, losses, damages, expenses and costs arising from any claim, demand, suit, action or proceeding by any person against any of those indemnified in relation to or in connection with the Customer's use of the Site or the Program or the Customer's failure to comply with these Terms & Conditions, or from the Customer's violation of any applicable law.

**15. FORCE MAJEURE**

- (a) If either party is rendered unable, wholly or in part, by Force Majeure to carry out or observe any of its obligations under these Terms & Conditions, it shall give to the other party prompt written notice providing full details of the Force Majeure.
- (b) Subject to sub-clause (a), the obligations of the parties under these Terms & Conditions, to the extent affected by Force Majeure, will be suspended and no claim by either of the parties against the other party will avail by reason of such Force Majeure provided that the party giving such notice must, to the extent practicable, take all reasonable steps to remove or otherwise recover from the Force Majeure as soon as possible. Such reasonable steps will not require the notifying party to settle any reasons for Force Majeure on unfavourable terms.

**16. OWNERSHIP OF INTELLECTUAL PROPERTY**

- (a) The Customer acknowledges and agrees that STORM-ROAD owns the Intellectual Property and that no right, title or interest in any of the Intellectual Property is transferred or granted to the Customer other than the rights granted expressly by these Terms & Conditions.
- (b) The Customer must not at any time assert any right to or over such Intellectual Property or take, appropriate, or represent any or all such Intellectual Property as its own.

- (c) The Customer undertakes not to take or permit or omit any action which would or might:
  - (i) invalidate or put in dispute STORM-ROAD's title in the Intellectual Property or any part of it;
  - (ii) oppose any application for registration or invalidate any registration of the Intellectual Property or any part of it;
  - (iii) support any application to remove or undo STORM-ROAD's title in the Intellectual Property or any part of it; or
  - (iv) assist any other person directly or indirectly in any of the above.
- (d) The parties agree that any additional or further or new intellectual property rights created, formulated or discovered during or after the Customer's use of or access to the Site or the Program will be the sole and exclusive property of STORM-ROAD and the Customer will promptly sign all documents and do all things necessary to register, vest or transfer any interest or ownership in such additional or further intellectual property rights to STORM-ROAD.
- (e) Without limiting this clause, STORM-ROAD's logo and name must not be used as part of the Customer's business or in connection with any goods or services without the prior written consent of STORM-ROAD which shall be given, given on conditions or withheld at STORM-ROAD's absolute discretion.

## **17. CONFIDENTIALITY**

- (a) Other than where:
  - (i) the Confidential Information is in the public domain, except as a consequence of a breach of this clause;
  - (ii) expressly agreed by all parties in writing; or
  - (iii) required by law;the Customer must at all times:
  - (iv) treat and keep the Confidential Information confidential;
  - (v) not use, or allow the use, of the Confidential Information by any third party;
  - (vi) not disclose or allow the disclosure, of the Confidential Information or the fact of the disclosure of the Confidential Information to any third party.
- (b) The Customer must ensure that its officers, employees, advisers and agents also observe the covenants in subclause (a) of this clause. The Customer must keep a list of all persons to whom the Confidential Information is disclosed and must produce such list to STORM-ROAD on request.

- (c) If requested by STORM-ROAD, the Customer must immediately return all Confidential Information, and any copies of the Confidential Information, to STORM-ROAD.
- (d) In the event of a breach or threatened breach of the terms of this clause by the Customer, STORM-ROAD will, as between the parties, be entitled to an injunction restraining the Customer from committing any breach of this clause without showing or proving actual damage sustained or likely to be sustained by STORM-ROAD.
- (e) This clause shall not merge on the expiry or earlier termination of the Term.

## **18. PRIVACY**

- (a) STORM-ROAD is committed to maintaining the privacy and confidentiality of Customer Data and personal information and believes that the responsible use of personal information collected is critical to its business objectives and reputation.
- (b) STORM-ROAD has a Privacy Policy which is available on our website. Such Privacy Policy forms part of these Terms & Conditions.
- (c) In addition to the STORM-ROAD Privacy Policy, the following applies to any Customer Data:
  - (i) the Customer authorises STORM-ROAD to use, store or otherwise process any information including Customer Data and personal information which relates to and/or identifies the Customer or its consultants, employees, agents, officers and advisers, including, but not limited to, name, company or business name, email address and postal address ('the Personal Information'), to the extent reasonably necessary for the provision of the Site and Program by STORM-ROAD, its successors (including the purchaser of the whole or part of our business), associates, sub-contractors or other third parties including for gathering statistical and demographic information;
  - (ii) the Customer must ensure that all Personal Information provided to STORM-ROAD and that all registration details (where applicable) contain the correct name, address, e-mail address and other requested details;
  - (iii) the Customer agrees to the processing and disclosure of the Personal Information for the purpose of STORM-ROAD providing and administering the Site and the Platform;
  - (iv) STORM-ROAD will not sell, assign, lease or otherwise dispose of any Personal Information to a third party for merely commercial gain.

## **19. EMPLOYEES AND CONSULTANTS**

- (a) The Customer agrees to assume responsibility for the actions of its consultants, employees, agents, officers and advisers who have access to the Program.
- (b) The Customer must ensure that its consultants, employees, agents, officers and advisers will be similarly bound by the obligations created under these Terms & Conditions.

**20. RELATIONSHIP**

- (a) The parties acknowledge and agree that in entering into these Terms & Conditions they are doing so as independent contractors and that neither these Terms & Conditions nor the provision of the Program will create any relationship of employer and employee or partnership or joint venture between STORM-ROAD and the Customer.

**21. NON EXCLUSIVITY**

- (a) STORM-ROAD may undertake or enter into agreements similar to these Terms & Conditions with other parties and the Customer will not be entitled to make any objection or claim. The Customer will not commit or permit any act which may interfere with the dealings between STORM-ROAD and any other party under such an agreement.

**22. TERMINATION**

- (a) Without limiting the generality of any other provision in these Terms & Conditions, a party who is not in breach may terminate these Terms & Conditions immediately if the other party breaches any provision of these Terms & Conditions and fourteen (14) days has lapsed since the party in breach was served with a written notice by the party not in breach that states how the breach can be remedied and the breach has not been remedied.
- (b) Notwithstanding subclause (a), either STORM-ROAD or the Customer may, by written notice to the other, immediately terminate these Terms & Conditions:
  - (i) in the event of the other party's insolvency, receivership, or bankruptcy, assignment for the benefit of creditors, or where any substantial part of its property is, or becomes, subject to any lien, levy, seizure assignment of sale for or by any creditor to governmental agency without being released or satisfied within ten days; or
  - (ii) if the other party ceases or threatens to cease conducting its business in the normal manner.
- (c) In addition to its other rights either party may, by three (3) months written notice to the other, terminate these Terms & Conditions.
- (d) In addition to the rights set out above, these Terms & Conditions may be terminated by written agreement of both parties.
- (e) The rights and remedies of each party contained in this clause are in addition to any other rights and remedies by law or under these Terms & Conditions.

**23. EFFECT OF EXPIRY OR TERMINATION**

- (a) On closure of the Organiser's Account:
  - (i) the Customer must destroy all evidence of any usernames, passwords, internet protocol addresses and other like matters;

- (ii) all Fee payments previously made remain the property of STORM-ROAD and the Customer may make no claim in respect of such payments;
  - (iii) all Fee payments accrued but unpaid must be paid by the Customer to STORM-ROAD;
  - (iv) STORM-ROAD will cease to provide access to and use of the Program other than as a Participant;
  - (v) the Customer shall have no further rights to use the Program.
- (b) Upon written request delivered to STORM-ROAD within 7 days after the expiry or earlier termination, the Customer shall be entitled to a period of 7 days to complete a transfer of all Customer Data from the Program to the Customer's records. If a written request is not delivered to STORM-ROAD within 14 days of expiry or earlier termination, and subject to any applicable law or governmental requirement, STORM-ROAD will delete all Customer Data and other content of the Customer which is held in the Program or otherwise in the records of STORM-ROAD. Any subsequent recovery of files and data may be undertaken at STORM-ROAD's discretion and at the Customer's cost and expense which shall be recoverable by STORM-ROAD from the Customer as a liquidated debt.
- (c) Any rights which may have accrued to either party shall be unaffected.
- (d) All rights contained in these Terms & Conditions which are capable of doing so shall survive the expiration or termination of these Terms & Conditions.

#### **24. GENERAL PROVISIONS**

25. Publication of electronic addresses on this Site is for the purpose of professional communication only and must not be used to infer consent to the receipt of unsolicited commercial electronic messages.
26. STORM-ROAD may from time to time amend, update, or change the Program or the Site, including these Terms & Conditions, without prior notice.
27. These Terms & Conditions constitute the entire agreement between the Customer and STORM-ROAD with respect to this Site, and the Terms & Conditions replace all prior or contemporaneous understandings or agreements, written or oral, regarding the Site.
28. No oral explanation or information provided by a party to another affects the meaning or interpretation of these Terms & Conditions or constitutes any collateral agreement, warranty or understanding.
29. If any provision of these Terms & Conditions is found to be invalid or unenforceable, that provision shall be enforced to the maximum extent possible and will be deemed deleted to the extent that it is not enforceable, and the remaining provisions of the Terms & Conditions shall remain in full force and effect.

30. The failure by STORM-ROAD to insist upon or enforce strict performance of any of these Terms & Conditions will not be construed as a waiver of any right or remedy of STORM-ROAD in respect of any existing or subsequent breach of these Terms & Conditions.
31. No waiver by a party of a provision of these Terms & Conditions is binding unless made in writing.
32. The law of Queensland, Australia govern these Terms & Conditions. The Customer hereby consent and submit to the non-exclusive jurisdiction and venue of the Courts of the State of Queensland and the Commonwealth of Australia for any cause of action relating to or arising under these Terms & Conditions.
33. STORM-ROAD operates the Site and Program in Australia. Information contained on the Site or Program may not be appropriate or available for use in other locations. If the Customer accesses the Site or Program from other locations, the Customer do so at the Customer's own initiative and the Customer are solely responsible for compliance with local laws.
34. Where possible, the obligations of the parties under these Terms & Conditions will indefinitely survive the finalisation or discontinuance of these Terms & Conditions.
35. These Terms & Conditions shall be for the benefit of and binding upon the parties and their heirs, executors, successors and permitted assigns.
36. The parties must execute and deliver all documents and must do all things as are necessary for the complete performance of their respective obligations under these Terms & Conditions.
37. The rights and remedies of a party to these Terms & Conditions are in addition to the rights or remedies conferred on the party at law or in equity.
38. The *contra proferentem* rule and other rules of construction will not apply to disadvantage a party whether that party put the clause forward, was responsible for drafting all or part of it or would otherwise benefit from it.
39. Any notice or demand in writing required to be given by STORM-ROAD to the Customer shall be sufficiently served if:-
  - (a) Served personally or by pre-paid mail to the Customer's address;
  - (b) Sent in electronic form by email to the Customer's email address; or
  - (c) Published by notice on the Site.