

Terms of Service - The Induction Company Limited

IMPORTANT: These terms are binding on you. It is important that you read them carefully. These terms govern your access to the Platform and use of the Services (as defined below). If you do not agree to be bound by these Terms you must not use any part of our Platform or the Services.

- If you are an employee of one of our business customers or use its services, your information may be used by that customer.
- If that customer is located outside New Zealand or a country that has been accorded adequacy by the European Commission under the General Data Protection Regulation (GDPR), this means that your personal information may be transferred to, and stored in, a country that is not subject to privacy laws that, overall, provide comparable safeguards to those in the New Zealand Privacy Act 2020 or which are not adequate for GDPR purposes. The Induction Company Limited does not control where that personal information may be transferred to or stored.
- By using our Platform or the Services you consent to the transfer of your personal information in the above circumstances.

1. Definitions and interpretation

1.1. The following words and phrases have specific meanings wherever you see them used in these Terms:

Account means a Customer or User account on the Platform.

Confidential Information means any and all information of a confidential nature which is obtained by one party in relation to the other party in connection with these Terms and a Customer Agreement including without limitation any strategies, concepts, budgets, trading terms, plans, projections, methods, processes, systems, know how, trade secrets, computer software and programs, research data, client lists, intellectual property, business or financial information, employee, customer, financier or supplier information, or any dealings, transactions, affairs or any other information in any form. For the avoidance of doubt, Confidential Information includes all the Company's Intellectual Property and Customer Data.

Company means The Induction Company Limited, a company registered in New Zealand under company number 8148779, and **our**, **us** and **we** used in these Terms refers to The Induction Company Limited.

Company's Intellectual Property means all Intellectual Property Rights owned by or licensed to the Company which are used in the provision of the Services, including (but not limited to) the Platform, any generic material (eg library code, standard text, stock imagery and the like) that has been used in the past by the Company or which may need to be used in future and which does specifically identify the Customer, proprietary software, systems, technologies, strategies, manuals, know how, financial approaches, business processes and methodologies.

Content means computer code, text, graphics, images, music, software, audio, video, information or other digital materials provided, or otherwise made accessible on or through the Platform.

Customer means the entity (eg. a company or other organisation) which has entered into a Customer Agreement with the Company.

Customer Agreement means an agreement under which an entity (eg. a company or other organisation) engages the Company to provide Services.

Customer Data all data (including metadata), works and materials uploaded to or stored on the Platform by the Customer or a User; transmitted by the Platform at the Customer's or User's instigation; supplied by you for uploading to, transmission by or storage on the Platform; or generated by the Platform as a result of the use of the Services by you.

Fees means the fees set out in the Customer Agreement or otherwise agreed with a Customer.

Force Majeure Event means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes

affecting any third party, changes to the law, disasters, epidemics, pandemics, explosions, fires, floods, riots, terrorist attacks and wars), but not including payment of money.

GST means goods and services tax payable under the New Zealand Goods and Services Tax Act 1985 as amended.

Intellectual Property Rights means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights and these “intellectual property rights” include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trademarks, service marks, passing off rights, unfair competition rights, patents, utility models and rights in designs.

New Intellectual Property all Intellectual Property Rights, including (but not limited to) copyright, in all concepts, designs, drawings, specifications, plans, studies, reports, models, software and documentation collated, prepared or created in any medium by the Company (or persons on behalf of the Company) in carrying out the Services and provided to the Customer as deliverables, but not including the Company’s Intellectual Property.

Platform means the systems the Company provides (including the web app at induct.digital and other systems) to enable Users to progress through the Customer induction process and enable the provision of our Services in accordance with these Terms.

Services means the service offered by the Company called The Induction App™ and referred to as the Platform, as modified and enhanced by the Company from time to time.

Terms means these terms of service.

User means an end user who has been authorised by a Customer to access Customer Data.

You means the person who accepts these Terms in accordance with clause 2 below, and, if clause 2.2 applies, the Customer on whose behalf you are acting.

2. Application of these Terms

- 2.1. These Terms are binding and apply to your use of the Platform and any use of the Services by the Customer. By visiting the Platform or using the Services, you irrevocably agree to these Terms and our enforcement of the Customer Agreement and these Terms against you.
- 2.2. Where the Services are used or to be used by a Customer entity (eg. a company or other organisation), you confirm that you are authorised to agree to these Terms on that Customer entity’s behalf and you agree on behalf of that Customer entity that it is bound by these Terms. In that case, references to “you” in these Terms include both the person accepting these Terms and that Customer entity.
- 2.3. Where a Customer has Users under the age of 18, you warrant that you have obtained consent of the User’s parent or guardian for the User to create an Account and use the Platform.
- 2.4. Please also read our [privacy policy](#) because it will apply to all the information provided to us.
- 2.5. You warrant in respect of all personal information about any identifiable individual, which is contained in any Customer Data, that you have the right to collect and use that personal information for the purposes you are using it and to make it available to us and our third-party service providers so that we can together deliver the Services. You further warrant that our and those third parties’ collection, storage, distribution, disclosure and other use of that personal information to deliver the Services will not breach any privacy, data protection or other similar law in any jurisdiction.
- 2.6. If you do not agree to be bound by these Terms, you must immediately stop accessing the Platform and using the Services.

3. Changes

- 3.1. We may revise these Terms at any time by providing you with at least 30 days’ prior notice of the change, whether via the Platform, by email or by any other messaging facility we may use. Continued use after that notice constitutes agreement to the changed terms.
- 3.2. These Terms were last updated on 1st October 2024.

4. Our Services

- 4.1. We provide you with the Services to enable you to develop and access a customised onboarding and induction programme through the Platform.
- 4.2. The Services may be used by officers, employees, subcontractors or specific user groups of the Customer who are authorised by the Customer to do so. You acknowledge that you are liable for the acts and omissions of your officers, employees, subcontractors and user groups as if they were your own acts or omissions.
- 4.3. You must use reasonable endeavours, including reasonable security measures relating to account access details, to ensure that no unauthorised person may gain access to the Services.
- 4.4. We will use reasonable efforts to provide the Services:
 - 4.4.1 in accordance with these Terms and New Zealand law;
 - 4.4.2 exercising reasonable care, skill and diligence; and
 - 4.4.3 using suitably skilled, experienced and qualified personnel.
- 4.5. Our provision of the Services to you is non-exclusive. We can provide the Services to any other person.

5. Creating your Account

- 5.1. To create an Account you must not have an existing Account.
- 5.2. You agree to provide accurate, current and complete information during the Account registration process and to update such information to keep it accurate, current and complete at all times. If you provide any false or misleading information, we may suspend or terminate your Account in accordance with clause 6.
- 5.3. During the registration process, you must choose a password as part of our security procedures. You must ensure that your password is strong and not disclose it to any third party. We strongly recommend using MFA (multi-factor authentication).
- 5.4. You must not allow others to access or use your Account, unless expressly authorised in writing by us. No matter whether anyone using your Account is authorised to use it or has obtained unauthorised access, you will remain responsible for their actions and omissions.
- 5.5. You must tell us immediately if you think that someone has used or has unauthorised access to your Account or password, or there has been some other security breach.

6. Terminating your Account

- 6.1. You may close your Account at any time by written notice of termination not later than three (3) months before the last day of the then existing term.
- 6.2. We have the right to suspend or terminate any Account, or number of Accounts, or all Accounts, at any time, for any reason or no reason, which need not be disclosed to you. This includes but is not limited to Accounts that we consider in our sole discretion, contain invalid information or to have been used for inappropriate or objectionable activities, in violation of these Terms, in breach of any law in any jurisdiction or which are, or may be, harmful or detrimental to the Company, the Platform, any user, or third party. We shall not be liable for any loss of revenue or opportunity or any damage, cost or other liability, suffered or incurred by you in connection with a suspended or terminated Account.
- 6.3. If we exercise our discretion under these Terms to suspend or terminate your Account, any or all of the following can occur with or without any notice or explanation to you, your Account will be deactivated or suspended and you will not be able to access any part of the Platform, your Account or your Content.
- 6.4. If your Account is terminated, we do not have an obligation to delete or return to you any Content you have posted to the Platform.

7. Maintenance and updates

- 7.1. We will use reasonable efforts to maintain the Platform to enable ongoing client access and usability.
- 7.2. We will make updates to the Platform as and when we consider it appropriate to do so.

8. Fees/Payment

- 8.1. You agree to pay all applicable Fees.
- 8.2. Unless otherwise agreed in a Customer Agreement, we will invoice you monthly or annually in advance for the Platform, and at the end of the month for other Services.
- 8.3. All Fees exclude GST, which you must pay on taxable supplies under these Terms.
- 8.4. You agree to pay our invoice on the due date in cleared funds without set-off or deduction.

9. Your obligations

- 9.1. You must comply with all applicable laws, regulations and rules when using the Platform and Services, and with respect to any Customer Data you provide to us.
- 9.2. You must provide to us, or procure for us, such information and documentation as is reasonably necessary to enable us to perform our obligations under these Terms.
- 9.3. You must not use the Services:
 - 9.3.1 in any way that is unlawful, illegal, fraudulent or harmful; or
 - 9.3.2 in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.

10. Your Content

- 10.1. By uploading Content to and creating Content on, the Platform, you grant us the licence referred to in clause 12.2.2 below.
- 10.2. You must maintain copies of all Content you upload to the Platform. We do not make any guarantees that there will be no loss of your Content or the Services will be bug free. You should download all your Content prior to terminating your Account.
- 10.3. We have standards which apply to the Content you upload to the Platform. These are set out in clause 11. If we are notified of a claim that Content you have uploaded to the Platform breaches our standards, we may prevent your Content being accessible through the Platform or being used in connection with Services and/or delete it.
- 10.4. If we terminate your Account because you have breached these Terms we may delete your Content immediately or keep it for evidential purposes.

11. Uploading appropriate Content

- 11.1. Whenever you upload Content to the Platform or use the Platform to create or send Content, you must comply with the Content standards set out in this clause 11.1. You will not with respect to such Content:
 - 11.1.1 upload, create, transmit, distribute, or store obscene, offensive, objectionable or inappropriate content;
 - 11.1.2 damage, interfere with or degrade the functioning of the Platform;
 - 11.1.3 upload, create, transmit, distribute, or store verbal, physical, written or other abuse or unsolicited commercial communications (including threats of abuse or retribution or spam) to any person or cause harm to any person in any way under the Harmful Digital Communications Act 2015; or
 - 11.1.4 upload, create, transmit, distribute, or store material that violates trademark, copyright, trade secret, or other intellectual property rights of others or violates the privacy, publicity, or other personal rights of others.
- 11.2. You warrant that any Content you uploaded or send via the Platform complies with the Content standards in clause 11.1. You will be liable to us and you indemnify us for any breach of that warranty. We have the right to remove any Content without notice if, in our opinion, your Content does not comply with those standards.

12. Intellectual Property Rights and Software

12.1. The Company's Intellectual Property Rights:

- 12.1.1 we own, or have a license to, all rights, title and interest, including all Intellectual Property Rights, in and to the Company's Intellectual property and any suggestions, enhancements, requests, recommendations, corrections or other feedback provided by Customers relating to the Company's Intellectual Property;
- 12.1.2 subject to these Terms, we grant you a worldwide, non-exclusive, non-transferable, non-sublicensable licence to use Company's Intellectual Property to the extent reasonably required to enable you to make use of the Services;
- 12.1.3 we own all rights, title and interest, including all Intellectual Property Rights in New Intellectual Property;
- 12.1.4 subject to you having paid all amounts due and payable to us in accordance with a Customer Agreement, we grant you a non-revocable, royalty free, non-exclusive license to use the New Intellectual Property to the extent reasonably required to enable you to make use of the Services;
- 12.1.5 we retain all right, title and interest in any source or HTML code, files and Company proprietary software used by the Company or its contractors and agents in providing the Services and the Platform; and
- 12.1.6 your rights in relation to any licence in respect of Company Intellectual Property and New Intellectual Property is conditional upon, on each occasion, you having paid all amounts due and payable to the Company in accordance with a Customer Agreement concerning the Services which produced the New Intellectual Property or made use of Company Intellectual Property.

12.2. Your Intellectual Property Rights:

- 12.2.1 you own all right, title and interest, including Intellectual Property Rights, in and to Customer Data; and
- 12.2.2 you grant us a royalty free, perpetual, worldwide, transferable, non-exclusive licence to use Customer Data for the term of a Customer Agreement to the extent reasonably necessary to enable the Company to provide the Services.

12.3. Nothing in these Terms will operate to assign or transfer any Intellectual Property Rights from us to you or the Customer, or from you or the Customer to us.

12.4. If we reasonably determine, or any third party alleges, that the use of the Services by you in accordance with these Terms, including, but not limited to your use of the New Intellectual Property, infringes any person's Intellectual Property Rights, we may at our own cost and expense:

- 12.4.1 modify or revoke the Services and/or the New Intellectual Property in such a way that they no longer infringe the relevant Intellectual Property Rights; or
- 12.4.2 procure for you the right to use the Services and/or New Intellectual Property in accordance with these Terms.

12.5. Where we provide any software to you to enable you to use the Services:

- 12.5.1 we retain all Intellectual Property Rights in that software (including both the human readable and machine readable parts);
- 12.5.2 you have no right to access the source or object code of the Platform other than in running the Platform to use the Services and you agree not reverse engineer, reproduce, duplicate, copy, sell, assign, sublicense, resell or exploit any portion of the software other than as strictly necessary for you (and not anyone else) to use the Services;
- 12.5.3 you will only use the Platform for the purposes it was provided;

- 12.5.4 all proprietary notices on or in the software are to be retained and not altered or removed; and
- 12.5.5 you will keep your copy of the software secure and not let anyone else access or use it and you will not use the software to provide services that are the same or equivalent to the Services, to anyone else.

13. Viruses

- 13.1. We do not guarantee that the Platform will be secure or free from bugs or viruses. You are responsible for configuring your information technology, computer programmes and site in order to access the Platform (as applicable). You should use your own virus protection software.
- 13.2. We will not be liable for any loss or damage caused by a virus, distributed denial-of-service attack, or other technologically harmful material that may infect your computer equipment, computer programs, data or other proprietary material due to your use of the Platform or to your downloading of any material from the Platform.
- 13.3. You must not misuse the Platform by knowingly introducing viruses, trojans, worms, logic bombs or other material which is malicious or technologically harmful. You must not attempt to gain unauthorised access to the Platform, the server on which the Platform is stored or any server, computer or database connected to the Platform. You must not attack the Platform (if applicable) via a denial-of-service attack or a distributed denial-of service attack.

14. Warranties and exclusions

14.1. We warrant to you that:

- 14.1.1 we have the legal right and authority to enter into and to perform our obligations under these Terms;
- 14.1.2 we will comply with all applicable legal requirements applying to the exercise of our rights and the fulfilment of our obligations under these Terms;
- 14.1.3 the use of the Services in accordance with these Terms will not breach any legal requirements applicable under New Zealand law; and
- 14.1.4 we have or have access to all necessary know-how, expertise and experience to perform our obligations under these Terms.

14.2. You acknowledge that:

- 14.2.1 complex software is never wholly free from defects, errors and bugs, and the Company gives no warranty or representation that the Platform will be wholly free from such defects, errors and bugs;
- 14.2.2 we do not warrant or represent that the Platform will be compatible with any device not approved by us;
- 14.2.3 the Services are designed to be compatible only with that software and those systems advised by us from time to time; and we do not warrant or represent that the Services will be compatible with any other software or systems; and
- 14.2.4 we do not give any representation, warranty or other assurance whatsoever as to the fitness for purpose, functionality, operation, continuation or use of any device that you may use to access the Platform.

- 14.3. All of the parties' warranties and representations in respect of the subject matter of these Terms are expressly set out in these Terms. No further terms are implied.

15. Indemnities

- 15.1. We will indemnify and will keep you indemnified against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts reasonably paid in settlement of legal claims) suffered or

incurred by you and arising out of any claim brought against the Customer by a third party to the extent that the claim alleges that your use of the Services infringes the third party's Intellectual Property Rights (a **Company Indemnity Event**).

15.2. You must:

- 15.2.1 upon becoming aware of an actual or potential Company Indemnity Event, immediately notify us;
- 15.2.2 provide to us all such assistance as may be reasonably requested by us in relation to the Company Indemnity Event;
- 15.2.3 allow us the exclusive conduct of all disputes, proceedings, negotiations and settlements with third parties relating to the Company Indemnity Event; and
- 15.2.4 not admit liability to any third party in connection with the Company Indemnity Event or settle any disputes or proceedings involving a third party and relating to the Company Indemnity Event without our prior written consent,

and our obligation to indemnify you under clause 15.1 will not apply unless you comply with the requirements of this clause 15.2.

- 15.3. We will not be liable to you under a Company Indemnity Event to the extent that the third party's claim arises from the Customer's breach of the Customer Agreement or these Terms, use of the Services in a manner not reasonably contemplated by the Customer Agreement or these Terms, or any Customer Data or third party's data.
- 15.4. You agree to indemnify, and hold us and our respective officers, directors, employees and agents, harmless from and against any claims, liabilities, damages, losses, and expenses, including, without limitation, any tax, legal and/or accounting fees, arising out of or in connection with your access to or use of the Platform, Services or your violation of these Terms.

16. **Liability**

- 16.1. The limitations and exclusions of liability set out in this clause 16 and elsewhere in a Customer Agreement and these Terms govern all liabilities arising under a Customer Agreement and these Terms or relating to the subject matter of a Customer Agreement and these Terms, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in a Customer Agreement and these Terms.
- 16.2. Neither party is liable to the other under or in connection with these Terms of a Customer Agreement for:
 - 16.2.1 loss of profit, opportunity, revenue, savings, business, use, data (including Customer Data), or goodwill;
 - 16.2.2 consequential, indirect, incidental or special damage or loss of any kind, including damage to the Customer's systems; or
 - 16.2.3 any losses arising out of a Force Majeure Event.
- 16.3. This clause 16 does not apply to limit your liability to pay the Fees for the Services.
- 16.4. Neither party will be responsible, liable, or held to be in breach of these Terms or a Customer Agreement for any failure to perform its obligations under these Terms or a Customer Agreement or otherwise, to the extent that the failure is caused by the other party failing to comply with its obligations under these Terms or a Customer Agreement, or by the negligence or misconduct of the other party or its personnel.
- 16.5. Each party must take reasonable steps to mitigate any loss or damage, cost or expense it may suffer or incur arising out of anything done or not done by the other party under or in connection with these Terms or a Customer Agreement.

- 16.6. Our aggregate liability to you under a Customer Agreement and these Terms will not exceed the total amount received by us under such Customer Agreement in the 12-month period preceding the commencement of the event giving rise to the liability.

17. Insurance

- 17.1. We will maintain and keep in force during the term of a Customer Agreement insurance of such types and in such amounts as we consider appropriate. Certificates of insurance will be provided to the Customer upon request.

18. Confidentiality

- 18.1. In this clause 18, Disclosing Party means the party disclosing Confidential Information and Receiving Party means the party receiving the Confidential Information.

- 18.2. The Receiving Party must:

- 18.2.1 keep the Confidential Information strictly confidential;
- 18.2.2 not disclose the Confidential Information to any person without the Disclosing Party's prior written consent, and then only under conditions of confidentiality no less onerous than those contained in a Customer Agreement and these Terms;
- 18.2.3 use the same degree of care to protect the confidentiality of the Confidential Information as the Receiving Party uses to protect the Receiving Party's own confidential information of a similar nature, being at least a reasonable degree of care;
- 18.2.4 act in good faith at all times in relation to the Confidential Information; and
- 18.2.5 not use any of the Confidential Information for any purpose other than media production through the use of the Services.

- 18.3. Notwithstanding clause 18.2, the Receiving Party may disclose the Confidential Information to its officers, employees, professional advisers, insurers, agents and contractors who have a need to access the Confidential Information for the performance of their work with respect to the permitted purpose and who are bound by a written agreement or professional obligation to protect the confidentiality of the Confidential Information.

- 18.4. This clause 18 imposes no obligations upon a Receiving Party with respect to Confidential Information that:

- 18.4.1 is known to the Receiving Party before disclosure under the Customer Agreement and these Terms and is not subject to any other obligation of confidentiality;
- 18.4.2 is or becomes publicly known through no act or default of the Receiving Party; or
- 18.4.3 is obtained by the Receiving Party from a third party in circumstances where the Receiving Party has no reason to believe that there has been a breach of an obligation of confidentiality.

- 18.5. The restrictions in this clause 18 do not apply to the extent that any Confidential Information is required to be disclosed by any law or regulation, by any judicial or governmental order or request, or pursuant to disclosure requirements relating to the listing of the securities of a party on any recognised stock exchange.

- 18.6. The provisions of this clause 18 will continue in force indefinitely following the termination of a Customer Agreement.

19. Force Majeure Event

- 19.1. If a Force Majeure Event gives rise to a failure or delay in either party performing any obligation under these Terms (other than any obligation to make a payment), that obligation will be suspended for the duration of the Force Majeure Event.

- 19.2. A party that becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in that party performing any obligation under these Terms, must:
- 19.2.1 promptly notify the other; and
 - 19.2.2 inform the other of the period for which it is estimated that such failure or delay will continue.
- 19.3. A party whose performance of its obligations under these Terms is affected by a Force Majeure Event must take reasonable steps to mitigate the effects of the Force Majeure Event.

20. Disputes

- 20.1. Any and all disputes arising out of these Terms, a Customer Agreement, or any termination, will be determined by binding arbitration in English under the Arbitration Act 1996 in Auckland, New Zealand, by one arbitrator who will be a lawyer knowledgeable in relevant technology matters appointed by the President for the time being of the Arbitrators and Mediators Institute of New Zealand Incorporated (AMINZ) on a request by either you or us.
- 20.2. The Arbitrator shall permit the parties and any witnesses to appear by videoconference that we will organise and pay for if reasonably necessary. The costs of arbitration shall be shared equally unless the arbitrator otherwise specifies (eg. where the arbitrator determines that the dispute is frivolous or vexatious).

21. General

- 21.1. **Assignment:** We may assign or transfer our rights under these Terms or a Customer Agreement, at our sole discretion, without restriction. You may not assign or transfer your rights under these Terms or a Customer Agreement without our prior written consent, which may be withheld in our absolute discretion.
- 21.2. **Notices:** Any notices or other communications permitted or required under these Terms, including those regarding modifications to these Terms, will be in writing and given by us:
- 21.2.1 via email (in each case to the address that you provide); or
 - 21.2.2 via the Platform.
- For notices made by email, the date of receipt will be deemed the date on which such notice is sent.
- 21.3. **No waiver:** No failure or delay by us to exercise any right or remedy provided under a Customer Agreement or these Terms or by law will constitute a waiver of that or any other right or remedy, nor will it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy by us will prevent or restrict the further exercise of that or any other right or remedy.
- 21.4. **Survival:** The obligations of the parties under clauses 12 (Intellectual Property), 15 (Indemnities), 16 (Liability), 18 (Confidentiality), 20 (Disputes) and this clause 21 shall survive the expiry or the termination of this Agreement.
- 21.5. **Severability:** If any provision or part-provision of these Terms is or becomes void, illegal or unenforceable, it will be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision will be severable and deemed to be deleted, and will not affect the validity, legality or enforceability of the remaining provisions.
- 21.6. **Governing Law:** These Terms will be governed by and construed in accordance with New Zealand law. You agree to submit to the exclusive jurisdiction of the courts of New Zealand with respect to any claim or matter arising out of or in connection with these Terms or their termination.

If you have any questions or concerns in relation to these Terms, please contact us at Enquiries@InductionApp.co