

ZIG ZAG HUB PTY LTD ACN 639 744 451
TERMS OF USE

1. BACKGROUND AND ACCEPTANCE

- 1.1 These are the terms and conditions (“**Terms**”) under which we ZIG ZAG HUB PTY LTD ACN 639 744 451 (“we”, “us”, “our”) will provide goods and services, including without limitation our Products, (hereinafter referred to as “**Services**”) to you.
- 1.2 By signing our Application Form (whether physically or electronically) or otherwise requesting or accessing our Services, you will be deemed to have accepted these Terms which form a legally binding agreement between you and us.
- 1.3 These Terms (including all documents incorporated herein by reference), any Application Form, and any specific terms of a purchase order or other document that are either consistent with these Terms or expressly agreed upon by us in writing, constitute the entire contract between us relating to the provision of Services to you.
- 1.4 You warrant and represent to us that you have read, understand and agree to be bound by these Terms and that you have the right, authority and legal capacity to enter into a legally binding agreement and to abide by these Terms.
- 1.5 All our terms and policies, including our Privacy Policy, as published on our website from time to time are incorporated into these Terms.
- 1.6 In the event of a conflict, an Application Form issued by us takes precedence over these Terms to the extent of such conflict, and a written contract covering the same subject matter signed by both of us takes precedence over both to the extent of such conflict.

2. DEFINITIONS AND INTERPRETATION

- 2.1 In these Terms:

Application Form means our application form(s), proposal(s) and or quote(s) issued to you with respect to the provision of goods and services by us under these Terms which are accepted by you.

Business Day means a day which is not a Saturday, Sunday or public holiday in Sydney, New South Wales.

GST means a goods and services tax, or a similar value added tax, levied or imposed under the GST Law.

GST Law has the meaning given in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Intellectual Property Rights means all present and future rights in relation to copyright, media, photographs, videos, fonts, digital or physical content, trade marks, designs, formulas, know-how, strategy, patents, trade, business, company and domain names, confidential and other proprietary rights, and any other rights to registration of such rights whether created before or after the date of these Terms, and whether in Australia or otherwise.

Law means any applicable statute, regulation, by-law, ordinance, policy or subordinate legislation in force from time to time in Australia, whether made by a State, Territory, the Commonwealth or a local government, and includes the common law and equity as applicable from time to time, and any mandatory standards or industry codes of conduct.

Personnel means a party’s officers, employees, agents, consultants, contractors, students and subcontractors.

Platform means each digital platform and software program (whether online or local) owned and operated by us from time to time, including but not limited to the Young Eyes online learning platform.

Pre-Existing Materials means all Intellectual Property Rights, things, materials, documents, information and items developed by or on behalf of you or us, respectively, independently of the Services.

Privacy Laws means the *Privacy Act 1988* (Cth) including the Australian Privacy Principles set out in the Act and any code approved by the Privacy Commissioner under the *Privacy Act 1988* (Cth) which binds us or you and any laws giving rise to an actionable right of privacy.

Products means any products, materials, hardware or items supplied by us to you in the course of providing the Services, and shall include our Website, Programs and our Platform.

Programs means each program and event owned and operated by us from time to time, including but not limited to the Young Eyes Festival of Innovation, Shark Tank, Zigzag Hub and any other entrepreneur and/or educational programs run by us.

Website means each website owned and operated by us from time to time, including but not limited to <https://youngeyes.co/>.

2.2 In these Terms, the following rules of interpretation apply unless the contrary intention appears:

2.2.1 headings are for convenience only and do not affect the interpretation of these Terms;

2.2.2 the singular includes the plural and vice versa;

2.2.3 words that are gender neutral or gender specific include each gender;

2.2.4 where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;

2.2.5 "includes" means without limitation;

2.2.6 a reference to:

(a) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate;

(b) a party includes its successors and permitted assigns;

(c) a document includes all amendments or supplements to that document;

(d) a clause, term, party, schedule or attachment is a reference to a clause or term of, or party, schedule or attachment to, these Terms;

(e) these Terms include all schedules and attachments to it;

(f) an agreement other than these Terms include an undertaking, or legally enforceable arrangement or understanding, whether or not in writing; and

(g) a monetary amount is in Australian dollars;

2.2.7 an agreement on the part of two or more persons binds them jointly and severally;

2.2.8 when the day on which something must be done is not a Business Day, that thing must be done on the following Business Day; and

2.2.9 no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of these Terms or any part of it.

3. PERMISSIONS

3.1 You agree to allow us to send you emails regarding the Services, including any information regarding or relating to our Services, in accordance with our Privacy Policy (as published on our Website from time to time).

3.2 You agree that you are responsible for your access to the Services and for ensuring that any persons that may access the Services through you or your equipment are aware of and compliant with, these Terms.

3.3 You warrant and represent to us that your use of the Services will comply with all applicable laws and regulations in Australia, in your State/Country, in the location that you access the Services and otherwise where applicable, and that you will not use our Services for any activities that are unlawful, discriminatory or harmful to others, or for any activity that does, or may, violate the rights of others.

3.4 When you provide your details to us, you warrant and represent that the details are accurate and that you are the account holder or authorised nominee of the contact number that you provide to us. You consent in advance to be contacted during our usual business hours (including in relation to customer service matters, order confirmation/assistance, product offers and/or other promotional purposes) and to receiving marketing and promotional materials via electronic communication to the contact details provided in accordance with our Privacy Policy (as published on our Website from time to time).

3.5 You may be required to register an account with us. You agree that you are liable for any use of such an account. You must ensure to keep your username and password secure and notify us immediately if you notice any suspicious activity on your account.

4. INTELLECTUAL PROPERTY

4.1 All Intellectual Property Rights, text, graphics, user interfaces, photographs, trademarks, logos, and

artwork including but not limited to the design, structure, selection, coordination, expression, “look and feel” and arrangement of such content, contained on or in our Services (including our Website, Platforms and Products) are owned by, or licensed to us, and are protected by copyright, patent and trademark laws, and various other Intellectual Property Rights.

- 4.2 You may access and use the information provided by us through our Products, on a limited, revocable, non-sublicensable licence, for your personal, non-commercial informational purposes. If you wish to use any of the information provided by us through our Services for any commercial purpose you must obtain our prior written consent. No content may be downloaded, copied, reproduced, republished, uploaded, posted, publicly displayed, encoded, translated, transmitted or distributed in any way to any other computer, server, website or other medium for publication or distribution or for any commercial enterprise, without our prior written consent.
- 4.3 No change in ownership of the Intellectual Property Rights in any of your or our respective Pre-Existing Materials is effected by these Terms or the provision of the Services.
- 4.4 You grant to us a personal, royalty free, non-exclusive, non-transferrable licence to use your Pre-Existing Materials and any new Intellectual Property Rights created by you in the course of using or receiving the Services only to the extent required for us to provide the Services to you.
- 4.5 All subscriptions and licences for third party Intellectual Property Rights, services, plug ins, software and/or media (**Third Party IP**) provided through the delivery of the Services are held by us (unless otherwise notified or stated in a Application Form). You shall not reuse or distribute the benefit of such Third Party IP unless approved by us in writing.
- 4.6 Unless explicitly stated herein, nothing in these Terms may be construed as conferring any licence to, or assignment of, any of our Intellectual Property Rights, whether by estoppel, implication or otherwise. We reserve all rights not expressly granted in the Services.
- 4.7 You acknowledge and agree that you have obtained, or have had the opportunity to obtain, your own independent legal advice prior to any disclosure of your Pre-Existing Materials and/or Intellectual Property Rights in connection with your use of or access to our Services, including without limitation any risks of loss of claim to Intellectual Property Rights over inventions or ideas (e.g. patents) arising from the disclosure of those inventions or ideas.
- 4.8 You consent to us or our Personnel taking photographs and videos of you in the course of providing the Services, and to the use and publication of those photographs and videos on our Website, Platform or Program.
- 4.9 If you are a school, other educational institution or body and our Services are or will be used or accessed by minors or young people under your care and responsibility (**Pupils**), you acknowledge and agree as follows:
 - 4.9.1 you are solely responsible for notifying and informing those Pupils, or procuring that the Pupils obtain their own advice, of their rights and obligations in respect of their Pre-Existing Materials and any new Intellectual Property Rights created through the use of the Services, including without limitation any risks of loss of claim to Intellectual Property Rights over inventions or ideas (e.g. patents) arising from the disclosure of those inventions or ideas through the use of our Services; and
 - 4.9.2 you must obtain appropriate consents and permissions from the parents/guardians of those Pupils for the taking of photographs and videos by us or our Personnel and the use and publication of those photographs and videos on our Website, Platform or Program.

5. UNAUTHORISED ACCESS

- 5.1 If you are provide with login credentials and a profile with respect to any of our Products (**Profile**), you agree and acknowledge that your login may allow for multiple users and that you are responsible for setting up permissions and access restrictions on your Profile for such users. You agree that we will not be liable for any loss, damage or injury incurred by you in connection with any unauthorised access to your account or the information contained within your Profile including any unauthorised orders placed using your login credentials.
- 5.2 You must not attempt to, or actually gain, unauthorised access to our Website or Platforms, the server on which our Website or Platforms is stored or any server, computer or database connected to our Website or Platforms. You agree that you will not cause harm to our Website, Platforms or Services by hacking, phishing, introducing viruses, trojans or other programs, scripts or material that may be malicious or technologically harmful to us, our Website, Platforms, Services or other users of our Services.

- 5.3 To the maximum extent permitted by law, we will not be liable for any losses or damage whatsoever (including indirect or consequential loss, loss of profit or goodwill), whether in contract, tort or otherwise caused by any malicious or harmful programs, scripts or technologies that may affect our Products as aforementioned, system failures or any other harmful material that may infect your computer, device, programs, data or other proprietary material and you release us from any such liability.

6. THIRD PARTIES

- 6.1 Our Services may, from time to time, contain links to and from websites or other online products which are owned or operated by other parties. Links on our Website or Platforms to third parties do not constitute sponsorship, approval or endorsement of the content, policies, practices or services offered by those parties unless expressly stated by us in writing. Third party websites or other online products are governed by their own terms and conditions and privacy policies and we recommend that you make your own enquiries as to their terms. We do not accept any liability for any information on, or the privacy practices of, any third party websites.

7. LIMITATION OF LIABILITY

- 7.1 To the maximum extent permitted by law, we, or any or our Personnel, will not be liable for any loss, damage or injury whatsoever (including for negligence, death, injury or illness and special, indirect or consequential loss or damage such as loss of profits, loss of revenue, loss of goodwill, loss of opportunity, unavailability of systems or loss of data), whether in contract, tort or otherwise, arising from or in connection with:
- 7.1.1 any act, omission or negligence or the use of, or reliance on, information, comments or opinions contained obtained through or in our Services;
 - 7.1.2 any disclosure of your Pre-Existing Materials or your Intellectual Property Rights;
 - 7.1.3 any use of the information on or access to Services including if for any reason our Products are unavailable at any time or for any period;
 - 7.1.4 any errors in, or omissions from, the information contained on or in our Products;
 - 7.1.5 any Products supplied by us; or
 - 7.1.6 these Terms or any breach of these Terms.
- 7.2 You understand and agree that you are responsible for your own acts, omissions and negligence and if there are any consequences to your acts, omissions or negligence or through your use of the Services, that you will be responsible for those consequences.
- 7.3 Because some countries, states or jurisdictions do not allow the exclusion or the limitation of liability for consequential or incidental damages, in such countries, states or jurisdictions, our liability shall be limited to the extent such limitation is permitted by law in the relevant country, state or jurisdiction.
- 7.4 We recognise that in some countries, you might have legal rights as a consumer. If you are using the Products for a personal purpose, then nothing in these terms or any additional terms limits any consumer legal rights which may not be waived by contract.
- 7.5 This clause 7 survives termination of these Terms.

8. WARRANTY DISCLAIMER

- 8.1 We provide the Products and any contents contained therein on an “as is” basis and use of this information is at your own risk. While we aim to update the content contained in or on our Products regularly, neither we, nor any of our Personnel, makes any representation or warranty as to the accuracy, completeness, currency or reliability of the information contained on or in the Products. Because some jurisdictions do not allow the exclusion of implied warranties, the above exclusion of implied warranties may not apply to you.
- 8.2 We reserve the right to restrict access to parts or, or the entirety of, any of our Products, change or withdraw any Products, information or content featured on the Products or provided through our Services without notice. You acknowledge and agree that we retain complete editorial control over our Products and may alter, amend or cease the operation of the Products at any time in our sole discretion.

9. RELEASE AND INDEMNITY

- 9.1 You agree to release and indemnify and hold us and (as applicable) our Personnel, harmless from and against any claims, demands, proceedings, losses and damages (actual, special and consequential) of every kind and nature, known and unknown, including legal fees on a full indemnity basis, arising from or in relation to your purchase or use of Products, your use or access of the Services (including the Website, Platforms and Programs), or any access to the Services (including the Website, Platforms and Programs) by a third party arising out of your breach of these Terms, or your violation of any law or the

rights of a third party, including, but not limited to, losses we incur due to:

- 9.1.1 any breach of these Terms by you;
- 9.1.2 loss of, or damage to, any property or death of or injury to a person to the extent caused or contributed to by any act or omission of you or your Personnel;
- 9.1.3 any default or delay of payment by you;
- 9.1.4 any action we take against you;
- 9.1.5 any legal costs incurred by us due to your fault;
- 9.1.6 any breach of Law by you or your Personnel;
- 9.1.7 any infringement, or alleged infringement, of a third party's rights (including Intellectual Property Rights);
- 9.1.8 any disclosure, infringement or loss of your Intellectual Property Rights, including without limitation any forfeiture or loss of patent rights; and/or
- 9.1.9 any act or omission of fraud, dishonesty, reckless or wilful misconduct or misrepresentation by you or your Personnel.

9.2 You must pay to us, on demand, for any such claims, demands, proceedings, losses and damages.

9.3 This clause 9 survives termination of these Terms.

10. AMENDMENTS AND CORRECTION OF ERRORS

10.1 We reserve the right to amend these Terms from time to time as we sees fit. Any amendments or changes to these Terms are effective from the date on which the amended terms are published.

10.2 Whilst we endeavour to notify you as soon as reasonably possible of any changes to our Terms by email or by a notice on our Website or Platform, it is your responsibility to keep up to date with any changes or amendments to these Terms by checking this page, which contains our most accurate and up to date version of our Terms.

10.3 We reserve the right to amend any errors in the Services, including any pricing errors, and amend any prices and Products, at any time without notice to you.

11. GST

11.1 In this clause 11 terms used in this clause which are not defined in these Terms, but which are defined in the GST Law, have the meanings given in the GST Law.

11.2 Unless otherwise stated in these Terms, amounts payable, and consideration to be provided, under any provision of these Terms exclude GST.

11.3 If GST is payable on a supply made in connection with these Terms, the recipient must pay the person making the supply (**Supplier**) an amount equal to the GST payable on that supply at the time the recipient pays or provides any part of the consideration for the supply. The Supplier must provide a Tax Invoice to the recipient.

11.4 If an adjustment event arises in connection with a supply made in connection with these Terms:

- 11.4.1 the Supplier must recalculate the GST payable to reflect the adjustment event;
- 11.4.2 the Supplier must give the recipient an adjustment note as soon as reasonably practicable after the Supplier becomes aware of the adjustment event; and
- 11.4.3 the adjustment amount must be paid without delay either by the recipient to the Supplier or by the Supplier to the recipient as the case requires.

11.5 Where a party (first party) must pay to another party (other party) an outgoing of the other party, the amount payable is the sum of:

- 11.5.1 the amount of the outgoing less any input tax credit in respect of it to which the other party, or its GST group representative member, is entitled; and
- 11.5.2 if the amount payable is subject to GST, an amount equal to that GST.

11.6 The provisions of this clause 11 do not merge on Completion.

12. PRIVACY

12.1 You must, and must ensure that your Personnel, comply with all Privacy Laws and our Privacy Policy (as published on our Website from time to time) and not do or omit to do anything that you know, or have reasonable grounds to suspect or believe, would cause us or our Personnel to breach any Privacy Law or our Privacy Policy (as published on our Website from time to time).

12.2 If and to the extent that you become aware of a breach of the Privacy Law by you or us in connection

with the performance of the Terms, you will promptly and without undue delay notify us of such breach and its reasons for believing such breach has occurred.

13. DISPUTE RESOLUTION

13.1 Neither you or we will commence court proceedings or action against the other under or in connection with these Terms (**Dispute**) (other than where urgent interlocutory relief is required) unless you or we have first attempted to resolve the Dispute in accordance with this clause 13.

13.2 You and we will attempt to resolve any Dispute as follows:

13.2.1 either you or we may notify the other in writing of the occurrence of a Dispute and you and we must meet within 5 Business Days or such other time as agreed to discuss and attempt to resolve the Dispute;

13.2.2 failing resolution of the Dispute within 10 Business Days after the first meeting between you and us in accordance with 13.2.1, you and us may agree to refer the Dispute for mediation to be conducted in accordance with the Australian Commercial Disputes Centre (**ACDC**) Mediation Guidelines and with a mediator as agreed by you and us or, failing agreement, as appointed by the CEO of the ACDC. If you and we do not agree to do so, either party may commence legal proceedings.

13.3 We may at our absolute discretion elect to withhold performing or providing any further Services in the event of a Dispute.

14. GENERAL

14.1 **Waiver:** Any failure or delay by us in exercising a power or right (either wholly or partially) in relation to these Terms does not operate as a waiver or prevent us from exercising that power or right or any other power or right. We are not liable to any other party for any loss, cost or expense that may have been caused or contributed to by the failure, delay, waiver or exercise of a power or right. This clause survives termination of these Terms.

14.2 **Force majeure:** If we are unable to perform in whole or in part, any obligation under these Terms as a result of any fact, circumstance or matter beyond our control, we are relieved of that obligation to the extent and for the period that it we are unable to perform the obligation. You agree that we will not be held liable for any delay or failure in performance of any part of the Services or delivery of Products.

14.3 **Severability:** If any part of these Terms is determined to be by a court of competent jurisdiction to be invalid or unenforceable, that part shall be severed from the Terms. Such invalidity does not affect the validity of the remaining provisions of these Terms. This clause survives termination of these Terms.

14.4 **Termination:** We may terminate these Terms and the Services, in our absolute discretion, at any time and without notice to you.

14.5 **Relationship:** These terms do not confer an agency, partnership, joint venture, employee-employer or franchisor-franchisee relationship between us and you or any other party unless expressly stated otherwise.

14.6 **Entire agreement:** These Terms (and all other terms and conditions and policies that are incorporated by these Terms) and any additional policies or terms you have agreed to through use or access of our Services make up the entire agreement, and supersede all prior written and oral agreements, representations, undertakings and understandings. This clause survives termination of these Terms.

14.7 **Jurisdiction:**

14.7.1 These Terms are governed by the laws of New South Wales, Australia. You irrevocably and unconditionally submit to the exclusive jurisdiction of the courts operating in New South Wales and its appellate courts. Although the Services may be accessed throughout Australia and overseas, we make no representations or warranties that its content complies with the laws (including intellectual property laws) of any country outside Australia. If you access this website from outside Australia, you do so at your own risk and are responsible for ensuring compliance with all laws in the place where you are located.

14.7.2 Similarly, if the courts in your country will not permit you to consent to the jurisdiction and venue of the courts in New South Wales, Australia, then your local jurisdiction and venue will apply to such disputes related to these terms.

14.7.3 This clause 14.7 survives termination of these Terms.

14.8 **Interpretation:** In these Terms, headings do not affect interpretation; the singular includes the plural and vice versa; person includes a firm or body corporate, an incorporated body, association or authority; a reference to a person includes its executors, administrators, successors and permitted assigns; and

where two or more persons are a party, they are bound jointly and severally.

14.9 **Reading Down:** If part or all of any clause of these Terms is illegal, invalid or unenforceable:

14.9.1 it will be read down to the extent necessary to ensure that it is not illegal, invalid or unenforceable, including but not limited to; but if that is not possible

14.9.2 it will be severed from these Terms and the remaining provisions of these Terms will continue to have full force and effect, and the parties will attempt to replace that severed part with a legally acceptable alternative clause that meets the parties' original intention in relation to the subject matter severed.