

## SELLER TERMS AND CONDITIONS

This online platform is operated by Realview Technologies Pty Ltd ABN 60 085 790 834, trading as Partica (**Partica**). It is available at: [www.partica.com](http://www.partica.com) and may be available through other addresses or channels.

In these Terms, **Platform** refers to Partica's content platform regardless of how it is accessed. The Platform enables publishers of any type, including writers, bloggers or any producers of content (**Publishers**) to supply articles to a growing network of businesses which require content (**Purpose**).

### 1 Acceptance

**1.1** By accessing and/or using the Platform and/or by accepting these Terms and Conditions (**Terms**), either by clicking a box indicating your acceptance or by executing an order form that references these Terms, you:

- (a) warrant to Partica that you have reviewed these Terms, and that you understand these Terms;
- (b) warrant to Partica that you have the legal capacity to enter into a legally binding agreement with Partica and if you are accepting these Terms on behalf of a company or other legal entity, you represent that you have the authority to bind such entity and its affiliates to these Terms; and
- (c) agree to use the Platform in accordance with the Terms.

Please read the Terms carefully. You must immediately cease using the Platform if you do not agree to the Terms. In this clause, "you" refers to the Publisher and its affiliates. Partica may, at any time and at its discretion, vary these Terms by publishing the varied terms on the Platform. Partica recommends you check the Platform regularly to ensure you are aware of the current Terms.

### 2 Platform Summary

**2.1** Publishers who have created original content, including text, styles, images, HTML and any other multimedia content, may submit this content to Partica (**Content**). Partica uses this Content to create articles in various formats (**Articles**) ready for on-sale to businesses or users on the Platform. Partica:

- (a) converts a Publisher's Content into a searchable archive;
- (b) identifies and extracts evergreen material and converts this into Articles;
- (c) analyses, tags and categorises Articles;
- (d) performs styling and clean-up of Content for conversion to an Article, ready for sale; and
- (e) confirms image and text rights with a Publisher,

together, the **Services**.

- 2.2 Partica reserves the right to change or remove features of the Services from time to time.
- 2.3 Partica sells Articles to businesses or users on the Platform for a fee (the **Article Fee**). The Article Fee is set out on the Platform and may differ depending on factors including but not limited to whether an Article is sold individually or as part of a bundle of Articles sold to businesses or users as part of Partica subscription offering.
- 2.4 You understand and agree that Partica is not an employment agency or labour hire business and Publishers are not Partica employees, contractors or agents.

### 3 Registration

- 3.1 A Publisher must create an account in order to submit Content to Partica (**Account**). Publishers must ensure that any information provided when creating an Account is accurate and up-to-date.
- 3.2 When a Publisher creates an Account, Partica will provide account details to the Publisher. It is the Publisher's responsibility to keep its account details confidential. A Publisher is liable for all activity on its Account.
- 3.3 A Publisher may register for an Account using its Google+, Facebook or other social media network account (**Social Media Account**). If a Publisher signs in to its Account using its Social Media Account, the Publisher authorises Partica to access certain information on its Social Media Account.
- 3.4 The Publisher will immediately notify Partica of any unauthorised use of its Account.
- 3.5 At Partica's sole discretion, Partica may refuse to allow any person to register or create an Account.

### 4 Fees and Payments

- 4.1 It is free to register an Account on the Platform and submit Content to Partica. Partica does not charge a fee for providing the Services.
- 4.2 Any payment of the Article Fees to Publishers will be made through Partica's third party payment processor or by any other payment method set out on the Platform.
- 4.3 At some time after the end of each month, Article Fees will be remitted to a Publisher for the all the Articles created from the Publisher's Content which have been sold during previous month, less Partica's service fee (**Service Fee**). Partica's Service Fee is set out on the Platform.
- 4.4 Partica may change the fee and payment terms applying to the Platform and the sale of Articles at its sole discretion and any change is immediately effective upon Partica publishing the change on the Platform and will apply to any use of the Platform or sale of Articles following the change.

## 5 Limited Payment Collection Agent

- 5.1** Each Publisher appoints Partica as the Publisher's limited payment collection agent solely for the purpose of accepting the Article Fees from purchasers of Articles.
- 5.2** Publishers agree that payment of Article Fees by purchaser of Articles to Partica (as the Publisher's limited payment collection agent) is to be considered the same as payment made directly by the purchaser of Articles to the Publisher.
- 5.3** As the limited payment collection agent for the Publisher, Partica agrees to facilitate the payment of Article Fees. In the event that Partica does not remit Article Fees as set out in the Fees and Payment clause above, Publishers will only have recourse against Partica.

## 6 Content Licensing / Intellectual Property Rights

### 6.1 Licence

- (a) The Publisher grants Partica a perpetual, non-exclusive, world-wide, royalty free (except as otherwise permitted under these Terms) licence to the Content for the Purpose in accordance with the terms set out in these Terms (**Content Licence**).
- (b) The Publisher acknowledges and agrees that the Content Licence:
- (1) applies to each individual piece of Content provided by the Publisher to Partica;
  - (2) allows Partica in its sole discretion to alter, modify and stylise Content for the purpose of creating Articles; and
  - (3) allows Partica to sell Articles and sublicense Content on the Platform.
- (c) Once these Terms expire or terminate between the Publisher and Partica in accordance with clause 12, Partica's rights in clauses 6.1(b)(2) and 6.1(b)(3) will also terminate. For the avoidance of doubt, any sub-licence granted by Partica in accordance with clause 6.3 will last in perpetuity. This clause survives the termination of these Terms.

### 6.2 Ownership

These Terms do not transfer ownership of any Intellectual Property Rights to Partica unless otherwise agreed.

### 6.3 Sub-Licence

- (a) Partica may sublicense the Content, in part or whole, or otherwise deal in any other way with any of its rights under these Terms;
- (b) The sublicense granted to a Third Party will be perpetual licence and may be the standard Partica licence set out in the Buyer Terms and conditions on the Platform or it may be a different licence as displayed to the Third Party prior to their purchase of the Article; and

- (c) the Publisher acknowledges and agrees that in the event that Partica sublicences Content to a Third Party, Partica, to the maximum extent permitted by law, will not be held liable for any infringement of any rights held by the Publisher in relation to the Content. This clause survives the termination of these Terms.

**6.4** In addition to any other rights and licences granted in this Agreement, the Publisher also grants to Partica a limited licence to copy, transmit, store and back-up or otherwise access, use or make reference to any Intellectual Property Rights in the Data:

- (a) to supply the Platform and any services on it including to enable the Publisher to access and use the services;
- (b) for diagnostic purposes;
- (c) to test, enhance and otherwise modify the services offered on the Platform whether requested by the Publisher or not;
- (d) to develop other services or products; and
- (e) as reasonably required for the performance of Partica's obligations under these Terms.

## 7 Publisher's Responsibilities and Obligations

**7.1** A Publisher must, at the Publisher's own expense:

- (a) provide all reasonable assistance and cooperation to Partica in order to enable Partica to supply the Services in an efficient and timely manner including but not limited to obtaining any consents necessary to allow Partica to provide the Services and transform Content into Articles; and
- (b) use reasonable endeavours to ensure the integrity of any Data or Content.

## 8 Prohibited Use

**8.1** Publishers must not, and must not attempt to do, anything that is unlawful; anything prohibited by any laws which apply to the Platform or which apply to the Publisher or the Publisher's use of the Platform; anything which Partica would consider inappropriate; or anything which might bring Partica or the Platform into disrepute, including (without limitation):

- (a) anything that would constitute a breach of an individual's privacy (including uploading private or personal information without an individual's consent) or any other legal rights;
- (b) using the Platform to defame, harass, threaten, menace or offend any person;
- (c) interfering with any user on the Platform;
- (d) tampering with or modify the Platform, knowingly transmit viruses or other disabling features, or damage or interfere with the Platform, including (without limitation) using

trojan horses, viruses or piracy or programming routines that may damage or interfere with the Platform;

- (e) anything that might violate any local, state, national or other law or regulation or any order of a court;
- (f) using the Platform to find Articles and then completing a transaction independent of the Platform in order to circumvent the obligation to pay any fees related to our provision of the Services;
- (g) using the Platform to send unsolicited email messages; or
- (h) facilitating or assisting a third party to do any of the above acts.

## 9 Privacy

**9.1** Each Party and its Personnel agrees to comply with its obligations under the *Privacy Act 1988* (Cth) and any other applicable legislation or privacy guidelines as amended from time to time in relation to personal information collected, used or disclosed by that Party or its Personnel in connection with the Services and these Terms.

**9.2** This clause 9 will survive the termination or expiry of these Terms.

## 10 Representations and Warranties

### 10.1 Partica

Partica does not warrant that the Services or the Content will be error-free or will operate without interruption or that, except as set out in these Terms, the Services will be performed in the manner intended by the Publisher or the Services will meet the requirements of the Publisher.

### 10.2 Publishers

On every day during the term of these Terms, the Publisher warrants that, for any Content posted, uploaded, submitted or otherwise transmitted to Partica:

- (a) the Content is fit for the Purpose;
- (b) the Publisher is the sole and exclusive owner of the Content and the Publisher has all rights, licences, consents and releases that are necessary to grant to Partica the rights in the Content as contemplated by these Terms, including but not limited to obtaining all Third Party consents and waivers to Intellectual Property Rights and Moral Rights in the Content;
- (c) where the Publisher has not formally obtained all Intellectual Property Rights in relation to the Content, it warrants that identifying the owner of such rights would be unreasonably difficult; and

- (d) neither the Content nor the posting, uploading, publication, submission or transmission of the Content or Partica's use or sale of the Content on, through or by means of the Platform will infringe, misappropriate or violate a third party's Intellectual Property Rights and Moral Rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation.

## 11 Indemnity and liability

**11.1** Despite anything to the contrary (but subject to clause 11.2), to the maximum extent permitted by the law:

- (a) Partica's maximum aggregate Liability arising from or in connection with these Terms (including the Services and/or the subject matter of these Terms) will be limited to, and must not exceed the aggregate amount of the Article Fees paid to the Publisher in the three-month period immediately preceding the event that gave rise to the Liability or \$100 if no such Article Fees have been paid; and
- (b) Partica will not be liable to the Publisher for any loss of profit (including anticipated profit), loss of benefit (including anticipated benefit), loss of revenue, loss of business, loss of goodwill, loss of opportunity, loss of savings (including anticipated savings), loss of reputation, loss of use and/or loss or corruption of Data or Content, whether under statute, contract, equity, tort (including negligence), indemnity or otherwise.

**11.2** Clause 11.1 will not apply to Partica's Liability to the Publisher under these Terms for any liability which cannot be excluded or limited by applicable law, including:

- (a) fraud or criminal conduct; or
- (b) death or personal injury.

**11.3** Despite anything to the contrary, to the maximum extent permitted by the law, Partica will have no Liability, and the Publisher releases and discharges Partica from all Liability, arising from or in connection with any:

- (a) Third Party liability arising from any dispute, allegation or claim in relation to ownership of the Intellectual Property Rights in the Content;
- (b) failure or delay in providing the Services; or
- (c) breach of these Terms, where caused or contributed to by any:
- (d) event of Force Majeure; or
- (e) act or omission of the Publisher or its Personnel.

- 11.4** Partica uses third-party service providers such as Azure to host the Platform. Partica will not be liable for any interruption to the Platform, unavailability or outage, or any interruption, caused by any such third-party service provider.
- 11.5** Publishers agree that, to the maximum extent permitted by the law, these Terms exclude all terms, conditions and warranties implied by statute, in fact or on any other basis, except to the extent such terms, conditions and warranties are fully expressed in these Terms.
- 11.6** To the maximum extent permitted by law, the Publisher must indemnify Partica, and hold Partica harmless, against any Liability suffered by Partica arising from or in connection with the Publisher's use of the Platform or any breach of these Terms or any third party's claim in relation to Intellectual Property or any applicable laws by the Publisher. This indemnity is a continuing obligation, independent from the other obligations under these Terms, and continues after these Terms end. It is not necessary for Partica to suffer or incur any Liability before enforcing a right of indemnity under these Terms.
- 11.7** This Clause 11 will survive the termination or expiry of these Terms.

## 12 Term and Termination

- 12.1 Term:** The initial term of these Terms will commence on the date the Publisher accepts these Terms in accordance with clause 1.1 and will continue for a period of 2 years (**Initial Term**) unless terminated earlier in accordance with these Terms. After the Initial Term, a Party may, by written notice to the other, terminate these Terms.
- 12.2** Partica may immediately suspend, terminate or limit a Publisher's access to and use of the Platform and (where applicable) the Publisher's Account if the Publisher breaches the Terms and the breach cannot be remedied or is not remedied within 5 Business Days of Partica notifying the Publisher of the breach.
- 12.3** A Publisher may stop using the Platform at any time for any reason.
- 12.4** Partica may stop making the Platform (or any part of it) available without prior notice.

## 13 Events Following Termination

- 13.1** Upon termination of these Terms:
- (a) Partica will immediately stop performing the Services; and
  - (b) if a Publisher breaches these Terms, Partica may take down or otherwise remove any Articles, created from Content provided by a Publisher.
- 13.2** The expiry or termination of these Terms for any reason will be without prejudice to any rights or liabilities which have accrued prior to the date of expiry or termination of these Terms.
- 13.3** Expiry or termination of these Terms for any reason does not affect any licence rights of the Third Parties who have purchased Articles.

**13.4** This clause 13 will survive the termination or expiry of these Terms.

## 14 General

**14.1 Disputes:** Neither Party may commence court proceedings relating to any dispute arising from, or in connection with, these Terms without first meeting with a senior representative of the other Party to seek (in good faith) to resolve that dispute (unless that Party is seeking urgent interlocutory relief or the dispute relates to compliance with this clause).

**14.2 Notices:** Any notice given under these Terms must be in writing and addressed to Partica at the details set out below or to a Publisher at the details provided when the Publisher registers for an Account. Any notice may be sent by standard post or email, and will be deemed to have been served on the expiry of 48 hours in the case of post, or at the time of transmission in the case of email.

**14.3 Waiver:** Any failure or delay by a Party in exercising a power or right (either wholly or partly) in relation to these Terms does not operate as a waiver or prevent a Party from exercising that power or right or any other power or right. A waiver must be in writing.

**14.4 Relationship of parties:** These Terms are not intended to create a partnership, joint venture or agency relationship between the parties.

**14.5 Severance:** If a provision of these Terms is held to be void, invalid, illegal or unenforceable, that provision is to be read down as narrowly as necessary to allow it to be valid or enforceable, failing which, that provision (or that part of that provision) will be severed from these Terms without affecting the validity or enforceability of the remainder of that provision or the other provisions.

**14.6 Assignment:** A Publisher must not assign any rights or obligations under these Terms, whether in whole or in part, without Partica's prior written consent.

**14.7 Entire agreement:** The Terms contain the entire understanding and agreement between a Publisher and Partica in respect of their subject matter.

**14.8 Amendment:** Partica may, at any time and at Partica's discretion, vary these Terms by publishing varied terms on the Platform.

**14.9 Governing law:** These Terms are governed by the laws of New South Wales. The Platform may be accessed in Australia and overseas. Partica makes no representation that the Platform complies with the laws (including intellectual property laws) of any country outside of Australia. If a Publisher accesses the Platform from outside Australia, the Publisher does so at its own risk and is responsible for complying with these laws in the place the Publisher accesses the Platform.

## 15 Definitions and Interpretation

### 15.1 Definitions

In these Terms, unless the context otherwise requires:

**Business Day** means a day on which banks are open for general banking business in New South Wales, excluding Saturdays, Sundays and public holidays.

**Claim** means any actual, contingent, present or future claim, demand, action, suit or proceeding for any Liability, restitution, equitable compensation, account, injunctive relief, specific performance or any other remedy of whatever nature and however arising, whether direct or indirect, and whether in contract, tort (including but not limited to negligence) or otherwise.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Data** means all of the information, documents and other data provided by the Publisher or their Personnel to Partica, any content uploaded by the Publisher or Personnel to the Platform, or otherwise accessed by Partica in providing the Services.

**Force Majeure** means any event or circumstances beyond the reasonable control of a Party including any fire, lightning strike, flood, earthquake, natural disaster, sabotage, nuclear contamination, terrorism, war or civil riot that occurs to the extent that it:

- (a) would be unreasonable to expect the affected Party to have planned for, avoided or minimised the impact of such circumstance by appropriate risk management, disaster recovery or business resumption plan; and
- (b) results in a Party being unable to perform an obligation under these Terms on time.

**Insolvency Event** means the occurrence of any one or more of the following events in relation to a Party:

- (a) the Party is or states that it is insolvent or is deemed or presumed to be insolvent under any applicable laws;
- (b) an application or order is made for the winding up, bankruptcy or dissolution of the Party or a resolution is passed or any steps are taken to pass a resolution for its winding up or dissolution;
- (c) an administrator, provisional liquidator, liquidator or person having a similar or analogous function under the laws of any relevant jurisdiction is appointed in respect of the Party or any action is taken to appoint any such person and the action is not stayed, withdrawn or dismissed within 10 Business Days;
- (d) a controller is appointed in respect of any of the Party's property;
- (e) the Party is deregistered under the Corporations Act or other legislation or notice of its proposed deregistration is given to it;
- (f) a distress, attachment or execution is levied or becomes enforceable against the Party or any of its property;

- (g) the Party enters into or takes action to enter into an arrangement, composition or compromise with, or assignment for the benefit of, all or any class of its creditors or members or a moratorium involving any of them;
- (h) a receiver or manager (or both) or trustee in bankruptcy is appointed in respect of the Party or its property;
- (i) a petition for the making of a sequestration order against the estate of the Party is presented and the petition is not stayed, withdrawn or dismissed within 10 Business Days or the Party presents a petition against itself; or
- (j) anything analogous to or of a similar effect to anything described above under the law of any relevant jurisdiction occurs in respect of the Party.

**Intellectual Property** means any:

- (a) copyright;
- (b) registered or unregistered design, patent, trade mark rights;
- (c) trade, business, company or domain names;
- (d) know-how, inventions, processes, trade secrets or confidential information;
- (e) circuit layouts, databases or source codes; or
- (f) similar rights in any part of the world,
- (g) relating to a Party and/or the operation of its business, including any application, or right to apply, for registration of, and any improvements, enhancements or modifications of, the foregoing.

**Intellectual Property Rights** means all present and future rights to:

- (a) copyright;
- (b) registered or unregistered designs, patents, trade marks;
- (c) trade, business, company or domain names;
- (d) know-how, inventions, processes, trade secrets;
- (e) circuit layouts, databases or source codes; and
- (f) any similar rights in any part of the world,

including any application, or right to apply, for registration of, and any improvements, enhancements or modifications of, the foregoing.

**Liability** means any expense, charge, cost, liability, loss, damage, Claim, demand or proceeding (whether under statute, contract, equity, tort (including negligence), indemnity or otherwise), howsoever arising, whether direct or indirect and/or whether present, unascertained, future or contingent.

**Moral Rights** has the meaning given in the *Copyright Act 1968* (Cth).

**Party** means a party to these Terms from time to time, including Publishers and **Parties** means all of them.

**Personnel** means in relation to a Party, any employee, contractor, officer and agent of that Party.

**Third Party** means a person other than Partica or the Publisher.

## 15.2 Interpretation

In these Terms, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) headings are for convenience only and do not affect interpretation;
- (c) a reference to a clause, paragraph, schedule or annexure is a reference to a clause, paragraph, schedule or annexure, as the case may be, of these Terms;
- (d) if any act which must be done under these Terms is to be done on a day that is not a Business Day then the act must be done on or by the next Business Day;
- (e) a reference to any legislation or law includes subordinate legislation or law and all amendments, consolidations, replacements or re-enactments from time to time;
- (f) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (g) a reference to a natural person includes a body corporate, partnership, joint venture, association, government or statutory body or authority or other legal entity and vice versa;
- (h) includes and similar words mean includes without limitation;
- (i) no clause will be interpreted to the disadvantage of a Party merely because that Party drafted the clause or would otherwise benefit from it;
- (j) a reference to a party to a document includes that party's executors, administrators, successors, permitted assigns and persons substituted by novation from time to time;
- (k) a reference to these Terms or any other document includes the document, all schedules and all annexures as novated, amended, supplemented, varied or replaced from time to time;
- (l) a reference to a covenant, obligation or agreement of two or more persons binds or benefits them jointly and severally;
- (m) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (n) a reference to time is to local time in New South Wales, Australia; and

(o) a reference to \$ or dollars refers to the currency of Australia from time to time.

**For any questions and notices, please contact us at:**

Realview Technologies Pty Ltd ABN 60 085 790 834

Email: [info@realview.com.au](mailto:info@realview.com.au)

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