



# TERMS AND CONDITIONS

1 June 2018

# Terms and Conditions

## time2u

1 June 2018

time2u is a web based service that provides a customised scheduling and time management solution for mobile workforces.

This Agreement is entered into between time2u PTY LTD ('time2u') ABN 41 614 929 734 and the Customer (as defined below).

### 1. DEFINITIONS

<b>Confidential Information</b>	means any information, any Customer data, or information which a reasonable person would deem sensitive or private in nature. Confidential Information can be provided verbally, written or any data uploaded into the time2u Applications
<b>Customer</b>	means the legal entity and individual(s) that accept the terms on any Order Form submitted to time2u
<b>Order Form</b>	means any signed or agreed order for time2u to provide a service to the Customer. In submitting the Order Form, the Customer agrees to the terms set out in this Agreement
<b>Third Party Application</b>	means any product, service, system, application or Internet site which communicates to a time2u Application
<b>time2u Application</b>	means any version of the time2u software made available to the Customer and their related Users
<b>Users</b>	means any employees, agents, contractors or any other representatives of the Customer, who has been provided with a User Identification and password to access the time2u Application

### 2. SUBSCRIPTION SERVICE & FEES

#### 2.1 Monthly subscription service

The Customer may start its subscription on a free trial. This will last for one month, or as otherwise specified during the registration process. After the free trial period, time2u will start charging the subscription fee.

The subscription fee is the amount agreed to on any Order Form. The Customer agrees to pay for any User who has access to time2u during the month prior, on the 1st of each month, or next business day.

#### 2.2 Users

Users can be **added** at any time during the month, with the subscription fee payable for that User in the next monthly billing cycle.

Users can be **removed** at any time during the month, however the Customer acknowledges that the full subscription fee will be charged for that month.

The Customer agrees to a monthly minimum fee, where the number of Users falls below ten (10). This fee is available on the rates & fees section of the time2u website.

#### 2.3 Other fees

The Customer agrees to a setup and an implementation fee, as outlined in the Order Form.

The Customer may request additional training and/or customised features, which will attract a fee, agreed to by both parties prior to commencement of the request.

time2u reserves the right to introduce additional fees at any time. These will be made available through the time2u website.

#### 2.4 Fee changes

time2u may change the fees charged at any time. time2u agrees to provide the Customer with written notification thirty (30) days prior to the effective date.

#### 2.5 Payment

The Customer agrees to provide time2u with details of its Payment Facility and authorise time2u to direct debit the subscription fee payable each month.

Where the Payment Facility is unavailable, a Tax Invoice will be issued and sent to the Customer for payment.

## 2.6 Failure to pay

Where time2u has tried unsuccessfully to receive payment through the nominated Payment Facility and issues are not rectified within five (5) business days, time2u may issue the Customer with a Tax Invoice. If the Customer fails to pay the outstanding amount within five (5) business days of receiving the Tax Invoice, time2u may suspend User access to the time2u Application until payment is received. time2u may also charge a late payment fee of 1.5% on the outstanding balance.

time2u will not be liable for any loss incurred by the Customer as a result of the Customer's failure to pay.

## 2.7 Customised subscription service

time2u may agree to a customised subscription service for the Customer. This may be an upfront payment for a set period, with a maximum number of Users. Specific details of this service will be defined and agreed on the Order Form. Where the Customer reaches the maximum number of Users, the monthly subscription fee will be charged for those additional Users, if an arrangement has not been agreed to by both parties.

At the end of the customised subscription service, the Customer may wish to enter into another customised subscription service. A new Order Form will be drafted and agreed to by both parties. Alternatively, the Customer will revert to the monthly subscription service.

The Customer is bound by this Agreement, regardless of payment frequency.

## 2.8 No refunds

Except when required by law, the Customer is not entitled to any refunds or part refunds for subscriptions part used or not used.

## 3. CUSTOMER'S RESPONSIBILITIES AND OBLIGATIONS

The Customer agrees that:

- The time2u Applications are for internal business use only. It is not to be made available for public use.
- Each User Identification and password is created for an individual. It is non-transferable and cannot be shared within the Customer. The Customer may not sublicense, resell or sell the time2u Applications. And the Customer may not supply the time2u Applications for use in or for the benefit of any other organisation, entity, business or enterprise.
- All data uploaded manually or extracted

electronically from a Third Party Application is true and accurate.

- All data uploaded into the time2u Applications complies with all applicable laws, regulations and codes of conduct.
- time2u may need access to the Customer's systems, during the setup process and to provide support services. This may be remotely or onsite. The Customer acknowledges and agrees to such access.
- The time2u Applications are web based and as such must maintain its own contractual arrangement with an Internet provider. time2u will not be responsible for any loss that may result from the Customer's use of the Internet through its provider.
- time2u retains sole discretion of any of the features, functions and other benefits made available to the Customer through the time2u Applications. Nothing in this Agreement requires time2u to provide or maintain the features, functions or other benefits and agrees time2u has the right to modify and or discontinue these at any time or from time to time.
- Any amendments, upgrades, or customisations arising from a request or suggestion by the Customer is the Intellectual Property of time2u. As such, the Customer agrees that time2u is free to make, use, sell, reproduce any amendments, upgrades, or customisations related to any requests, or from any suggestions or feedback the Customer gives on the time2u Applications.
- It will never attempt to alter nor reverse engineer any function available in the time2u Applications.
- It will never build, or provide access to another party to build, a competitive product or service, adhering to clause 8 (Intellectual Property).
- If time2u believes unacceptable content has been uploaded into a time2u Application, it may request the Customer and/or its User(s) to remove the content. time2u also reserves the right to immediately disable access of the user until the unacceptable content is removed. time2u will not be liable for any loss incurred by the Customer as a result of the User's access being disabled.

## 4. SUPPORT

time2u offers email support during normal business hours (admin@time2u.com.au). time2u will use its best commercial endeavours to respond to queries.

Other support may be offered to the Customer, which is outlined in the Order Form.

## 5. TERMINATION

The Customer may terminate the Agreement by providing time2u with written notification of its intent, thirty (30) days prior to termination. The Customer agrees to pay all outstanding fees by the termination date specified by the Customer.

time2u may terminate this Agreement by providing written notification of its intent, no less than thirty (30) days prior to termination.

Either party may terminate this Agreement immediately if there is a significant breach of the Agreement which cannot be rectified.

## 6. THIRD PARTY APPLICATIONS

The time2u Application may interact with Third Party Applications. Where this interaction is in place, the Customer agrees that:

- time2u makes no representations, warranties or accepts no liabilities relating to the Third Party Providers or the Third Party Applications. This includes availability of the Third Party Providers' service, communication to time2u from the Third Party Applications and export of information to the Third Party Applications.
- time2u has no legal business relationships with these Third Party Providers.
- its Access Credentials are passed onto time2u. The Customer also acknowledges that Data captured within the Third Party Applications are exported into the time2u Application.
- access to time2u through the Third Party Applications and export to the Third Party Applications, is at the Customer's risk. time2u will not be responsible for any loss that may result from the Customer's use of Third Party Applications.
- it will maintain its own independent contractual Agreement with the Third Party Applications. The Customer agrees that all assistance and support for the Third Party Applications are to be directed to the Third Party Applications, not time2u.

## 7. INDEMNITY

### 7.1 Liability

To the maximum extent permitted by law, and notwithstanding any other provision of this Agreement, the total aggregate liability of time2u in connection with the time2u Application (whether arising under this Agreement or otherwise) will not exceed A\$150.

time2u will have no liability to the Customer in respect of any loss or damage that the Customer may suffer or incur or which may arise directly

or indirectly in respect of the time2u Application (including the Customer's access to and use of the time2u Application). This includes any loss of profits, wasted expenditure, business interruption, anticipated savings, loss of goodwill, loss of data or for any indirect, consequential or special loss or damage whether or not the loss or damage was foreseeable or contemplated or ought to have been foreseeable or contemplated, by time2u or if time2u were advised of the possibility of such loss or damage.

### 7.2 Indemnity by the Customer

The Customer indemnifies time2u against all losses, costs, expenses (including legal expenses), demands or liability, incurred or suffered by the Customer or time2u (or the Customer's Users) arising from or in connection with:

- the Customer's negligent act or omission, or
- any failure by the Customer to comply with these terms and conditions.

## 8. INTELLECTUAL PROPERTY

All Intellectual Property, past, present and future, remains the sole property of time2u. The Customer agrees that any Intellectual Property arising from any recommendations, suggestions or customised features requested by them in relation to the time2u Applications are owned by time2u.

Intellectual Property includes inventions, improvements, functions, trademarks, designs, copyright, time2u Applications, time2u website, time2u documentations, policies and Agreements.

## 9. SECURITY

time2u has implemented industry standard security to safeguard its Customer's data to prevent unauthorised access.

Online payments are made through a third party Payment Facility. All financial information is securely encrypted and sent to the third party. time2u does not store any financial information.

Security and data sharing is also outlined in clause 3 (Customer's Responsibilities and Obligations).

The Customer acknowledges that time2u does not accept any liabilities or losses that is beyond the responsible control of time2u if a security breach occurs.

## 10. PRIVACY AND CONFIDENTIAL INFORMATION

Privacy and security is important to time2u. time2u will only share its Customer's confidential information with contracted third parties, to specifically perform a function within the time2u Applications.

Where a Customer requests for information to be shared with a third party, express consent is required.

From time to time, time2u may use a Customer's activity for reporting purposes. This data will be in aggregated form only and no identifiable individual or business information will be presented.

## **11. GOVERNING LAW**

The law in force in New South Wales governs these terms and conditions and the parties submit to the non-exclusive jurisdiction of the courts of New South Wales.

## **12. MISCELLANEOUS**

### **12.1 Force Majeure**

In the event which is beyond the control of both parties, neither party will be liable for any delay or failure to perform any obligation under this Agreement. This includes, but is not limited to, natural disaster, industrial action, lockout, riot, war, diminishment of power or telecommunications or data networks or services, or refusal of license by a government agency.

### **12.2 Marketing**

During the term of the Agreement, the Customer agrees to the usage of its logos and trademarks in marketing material, both online and in print to identify them as a Customer of time2u. Where the Customer is represented further, such as case studies, express consent will be requested.

## **13. TERMS OF USE**

This Agreement may change from time to time. Where major changes are made, time2u agrees to provide the Customer with written notification thirty (30) days prior to the effective date.

THIS PAGE IS INTENTIONALLY BLANK



[time2u.com.au](http://time2u.com.au)