

CLC DELIVERIES PTY LTD (“CLC”)

(A.C.N. 002 243 085)

“E-GO” AFFILIATE PROGRAM : TERMS & CONDITIONS

(A) Section One - General

1. Legal Effect and Capacity: These Terms & Conditions (“Conditions”) will constitute the substance of a legally binding agreement (“this Agreement”) that will come into effect between an applicant for appointment as an Affiliate (“Affiliate” which includes an applicant and a former Affiliate and is referred to herein by neuter gender) pursuant to the abovementioned Program (“Program”) and CLC upon the application (“Application”) being approved by CLC.

Submission via the *e-go* website (“Website”) of an Application posted on the Website shall be deemed to evidence acceptance of these Conditions and accordingly these Conditions should be read carefully and the Affiliate should obtain all advice it considers appropriate before proceeding to make application.

If the applicant is a natural person, it must be of not less than 18 years of age and otherwise of full contractual capacity.

Reference in this Agreement to “*e-go*” shall, unless inconsistent with or repugnant to the context in which it appears, mean the so-named computerised on-line booking system owned and operated by CLC.

2. Variation of Terms:

- (a) CLC may vary the contents or format of this Agreement and these Conditions from time to time and at any time in its sole discretion by posting an amended version of this Agreement on the Website whereupon the variations shall be and be deemed to be incorporated in the expression “this Agreement”.
- (b) If any variation is unacceptable to the Affiliate the only recourse available to it is to terminate this Agreement in accordance with these Conditions. Continued participation of the Affiliate in the Program following posting of an amended version on the Website shall be deemed to constitute enforceable acceptance by it of any and all variations.

3. Approval and Rejection of Applications: Approval and rejection of an Application is at the sole and absolute discretion of CLC which is not obliged to provide cause or reason for its decision. A rejected Affiliate may reapply for appointment to the Program at any time.

4. Registration Code: Following approval of an Application, CLC by e-mail shall notify the Affiliate of a unique registration code to enable the Affiliate to obtain access to reports compiled by CLC from data to be entered by CLC into its computer database with respect to business generated by the Affiliate’s participation in the Program and revenue earned by CLC from that business from which commission payable to the Affiliate is calculated (“Affiliate Activity Data”). Each Affiliate shall at any one time be entitled to only one registration code.

5. Referral Commission - Calculation & Payment:

- (a) Affiliates will be paid a commission calculated on the revenue to CLC generated from jobs done for customers who place job bookings via *e-go* (and not otherwise) referred to CLC by the Affiliate (“Referred Jobs”).

- (b) The commission paid will be 5% of the revenue (excl. GST) received by CLC from those customers (“Referees”) and will be paid quarterly in arrears by electronic funds transfer to the credit of a bank account nominated by the Affiliate. At or about time payment is made, CLC will forward a statement to the Affiliate indicating how commission has been calculated. The statements will be sent to the Affiliate’s e-mail address last known to CLC and it shall be the absolute responsibility of the Affiliate to advise CLC of changes to that bank account or address from time to time.
- (c) Customers who have registered with *e-go* prior to the time of referral (as to which CLC’s records shall be final and conclusive) will not qualify as Referees for commission purposes. “Time of referral” means date of registration, or attempted registration, of the customer in the *e-go* database as referred to in Clause 10.

6. Time Limit on Payment of Commission: CLC’s obligation to pay commission pursuant to Clause 5 with respect to each Referee shall cease upon the expiration of two (2) years from the date that the respective Referee becomes registered with *e-go* in accordance with Clause 10.

7. GST & A.B.N: The Affiliate must at the time of making Application inform CLC as to whether it is registered for GST and if so its registration number for the purposes of GST. At that time the Affiliate must also inform CLC of its Australian Business Number if it has one. If the Affiliate is registered for GST, commission paid will have GST added, if not, no GST will be added.

8. Minimum Payment: Except for the last quarter prior to the expiration of the term of this Agreement, Affiliates must have accumulated unpaid commission (including GST) of at least \$100 for the preceding quarter or quarters (as the case may be) before CLC is obliged to make a payment of commission. Subject to this Agreement, at or as soon as reasonable after expiration of the term all unpaid commission shall be payable and the minimum amount of \$100 (incl. GST) shall not apply.

9. Recovery of Overpaid Commission:

- (a) If for any reason CLC is required to refund moneys received from any Referees, any commission paid to the Affiliate in respect of moneys refunded including GST (“Overpaid Commission”) will become immediately due and payable by the Affiliate to CLC and will be deducted from future commission payments.
- (b) If no further commission is payable from which Overpaid Commission can be recovered, or the following two payments of commission are insufficient to enable CLC to the recover the full amount of Overpaid Commission, CLC shall forthwith be entitled to forward an invoice to the Affiliate for the full or unpaid amount of Overpaid Commission (as the case may be) to be paid in full within 14 days of invoice date.
- (c) If the invoice is not paid in full within that period CLC shall immediately become entitled, without necessity for demand, to commence proceedings to recover the unpaid amount as well as costs and other moneys allowed by the rules of court.

10. Linking of Affiliates & Referees and Identifying Referred Jobs: Following approval of the Affiliate’s Application, the Affiliate will be able to e-mail invitations to prospective Referees to register their details on the Website to become customers of CLC using *e-go*. It is CLC’s objective that by selecting the “*e-go*” registration hyper-link on the invitation e-mail, the Affiliate’s registration code will be automatically

embedded in the prospective Referee's *e-go* registration particulars and consequently on all job bookings placed by the Referee through *e-go* thereby linking the Affiliate with Referred Jobs for commission purposes.

11. Up-Dating Affiliate Activity Data: Both CLC and the Affiliate shall be reliant on CLC's computer hardware and software systems to ensure that Affiliate Activity Data is captured and recorded against the name and registration code of the Affiliate to enable production of accurate customer activity and revenue reports, calculation of commission payable to the Affiliate and production of statements referred to in sub-clause 6(b).

12. Exclusion from and Limitation of Liability:

- (a) CLC will use its best endeavours to ensure the proper functioning of its hardware and software systems and the accuracy of the data entered, produced and stored but gives no warranty and accepts no liability whatsoever for any real or alleged inaccuracies or errors arising from operation of its systems. In the absence of manifest and demonstrable error, information, reports and statements produced from Affiliate Activity Data, including but not limited to the amount of commission earned by the Affiliate, shall be binding and conclusive.
- (b) CLC will also use its best endeavours to ensure the proper functioning of the Website and *e-go* systems but gives no warranty and accepts no liability whatsoever for break-downs, interruptions and other malfunctions in the operation of the Website and *e-go* systems as may occur from time to time.
- (c) CLC will not be liable for any direct, indirect, incidental, special or consequential damages or any other remedy claimed by the Affiliate as arising under this Agreement or the Affiliate's participation in the Program. In any event, CLC's aggregate liability arising under or with respect to this Agreement and the Program shall never exceed total commission paid or payable to the Affiliate in accordance with this Agreement.
- (d) CLC will not accept responsibility or liability to the Affiliate for innocent or deliberate action on the part of a prospective Referee which circumvents the linking mechanism outlined in Clause 10 (e.g. where a prospective Referee after being directed to the Website via the *e-go* registration hyper-link does not enter particulars to effect registration but does so later after gaining access to the Website independently of the Affiliate).

13. Indemnity: The Affiliate irrevocably indemnifies and holds harmless CLC from and against any and all claims, losses, liabilities damages or expenses of any kind whatsoever made or brought against or incurred or suffered by CLC which arise out of or are based on breach of this Agreement by the Affiliate.

14. Obligations and Responsibilities of Affiliate:

- (a) The Affiliate shall use its best endeavours to actively and effectively promote *e-go* and shall only engage in such activities that do not violate any law and that reflect favourably on the image and reputation of CLC and *e-go*.
- (b) Without limiting the generality of (a), in engaging in such promotional activities the Affiliate shall not and shall not cause or permit the use of illegal, indiscriminate, bulk or mass marketing or "junk" e-mail practices such as use of "bots", "spamming" and "spamvertising", "phishing" and "spoofing". When in any doubt as to the acceptability of any such activity the Affiliate shall either not engage in that activity or obtain the prior written consent of CLC (which shall not be

- unreasonably withheld).
- (c) The Affiliate shall not make or cause or permit to be made, published, distributed or issued any verbal or written representation, statement or material about *e-go*, the Program, CLC or any service supplied by CLC without being certain of the truth and accuracy thereof, and unless certain, shall obtain the prior written consent of CLC (which shall not be unreasonably withheld) to do so.
 - (d) Otherwise than for the proper purposes of this Agreement, the Affiliate shall not by statement or action hold out or represent to any third party that it has the authority to represent CLC in any way.
 - (e) The Affiliate shall be responsible for all costs and expenses incurred in connection with such activities and generally its participation in the Program.
 - (f) The Affiliate shall not use the Program to earn commission on jobs carried out with respect to bookings placed by it or on its behalf.
 - (g) The Affiliate will generally comply with the letter and spirit of this Agreement.

15. Confidentiality: During the currency of this Agreement CLC may disclose or the Affiliate through participation in the Program may otherwise obtain access to confidential information and material (including but not limited to business and financial information, information about CLC customers, pricing and sales information relating to CLC and other Affiliates). Confidential information shall remain strictly confidential and secret and shall not be used or dealt with, directly or indirectly, by the Affiliate for its own commercial purposes or for any other purpose except and solely to the extent that such information and material is generally known by or available to the public, or is required by law. Where the Affiliate has any doubt as to whether information or material is confidential it shall either assume that it is confidential or obtain the determination of CLC which shall be conclusive and final.

16. Termination:

- (a) Either party may, with or without cause and without incurring liability to the other, terminate this Agreement, and in the case of the Affiliate participation in the Program, by e-mailing to the other at least 30 days' prior written notice.
- (b) Either party may by written notice terminate this Agreement forthwith in the event:
 - (i) that party is reasonably of the belief that the other is in substantial breach of this Agreement and without necessity to give the other party an opportunity to remedy that breach; or
 - (ii) the other party being a corporation has a liquidator, manager, receiver, controller or other external administrator appointed, enters into a deed of company arrangement or similar form of compromise or settlement with creditors; or
 - (iii) the other party being a natural person dies or becomes bankrupt.
- (c) The Affiliate may by written notice terminate this Agreement forthwith in the event it is not prepared to accept a variation of these Conditions pursuant to Clause 2.

17. Non-Waiver By Time or Indulgence: The Affiliate acknowledges and agrees that if CLC does not exercise or enforce any right or remedy contained in or arising from the provisions of this Agreement or any applicable legislation or common law or equitable principle, or extends time or other indulgence to the Affiliate, this shall not and shall not be deemed to constitute a waiver of that right or remedy which may still be invoked by CLC.

18. After Termination:

- (a) The Affiliate will be entitled to:
 - (i) unpaid commission earned on or prior to the date termination takes effect; and
 - (ii) on Referred Jobs with respect to each Referee from the date of termination to the expiration of the two years' period referred to in Clause 6;except where the Affiliate has committed what CLC determines to constitute a substantial breach of this Agreement or some other breach which has caused or has the potential to cause economic or other loss or damage to CLC in which case the unpaid commission, or such part thereof as CLC reasonably believes to be adequate to compensate it for such loss or damage, will be forfeited and CLC will advise the Affiliate accordingly in writing.
- (b) For the purposes of sub-clauses 16(b) and 18(a), a substantial breach by the Affiliate shall include but not be limited to a breach of any of Clauses 14, 15 and 27 and sub-clauses 21(b), 28(c), 30(b) and 30(c) and shall be deemed to be constituted by the occurrence of any of the events referred to in sub-clauses 9(c), 16(b)(ii) and (iii), and, 16(c).
- (c) Such forfeiture shall not:
 - (i) be in the nature of (and voidable as) a penalty but shall be in the nature of a genuine liquidated sum necessary to compensate or partly compensate (as the case may be) CLC for that loss or damage; and
 - (ii) prejudice or otherwise affect the entitlement of CLC to take whatever action it deems appropriate to obtain compensation for loss or damage not covered by the amount forfeited.
- (d) Commission properly due to the Affiliate will be paid by CLC within one month of the date upon which termination takes effect.
- (e) CLC and the Affiliate will be released from all obligations and liabilities to each other occurring or arising after that date except with respect to those obligations and liabilities that by their nature and whether expressly or implicitly are intended to survive termination including but not limited to the obligations imposed on the Affiliate under sub-clauses 30(b) and 30(c).
- (f) Termination will not relieve the CLC or the Affiliate from any liability arising from any breach of this Agreement which occurred prior to that date.

19. Status of Parties and Referees:

- (a) CLC and the Affiliate are independent contractors. Nothing in this Agreement shall create or shall be construed as creating any partnership, joint venture, agency, franchise, sales representative or employment relationship between the parties.
- (b) As against the Affiliate and in respect of services supplied to Referees by CLC, Referees shall become the exclusive customers of CLC. The Affiliate shall not or not attempt to induce or solicit or otherwise cause any Referee introduced by the Affiliate to CLC, or any other Referee, to cease or suspend its custom to CLC. The force and effect of this sub-clause shall survive termination of this Agreement.
- (c) During the currency of this Agreement CLC reserves the right at its discretion to refuse to accept job bookings from Referees and cancel their registration with *e-go*.

20. Entire Agreement: The terms of this Agreement constitute the entire agreement between the parties with respect to the subject matter hereof. No statement, inducement or representation with respect to that subject matter not contained in this Agreement shall be binding on or enforceable by either party.

21. Assignment and Succession:

- (a) CLC may, following written notice to the Affiliate, assign its rights and obligations under this Agreement to a third party.
- (b) The Affiliate may only assign, sell or transfer its rights and obligations with prior written consent from CLC which CLC may give or refuse to give in its absolute discretion.
- (c) Subject to the foregoing, this Agreement will be binding on, and enforceable against and enure to the benefit of CLC and the Affiliate and their respective successors and assigns.

22. Applicable Law, Jurisdiction & Severability:

- (a) This Agreement shall be governed by and construed in accordance with the law in New South Wales and the parties irrevocably consent to the jurisdiction of the courts of that State in respect of any proceedings arising from or in any way related to the provisions hereof.
- (b) Each provision of this Agreement is severable from the others and no severance of a provision shall affect any other provision.

(B) Section Two – Use of Affiliate’s Website in Program-Related Activities

23. Introduction & Interpretation:

- (a) In addition to or instead of utilising the method outlined in Clause 10, the Affiliate may, subject to the approval and on-going consent of CLC and compliance by the Affiliate with all relevant provisions in these Conditions, use its own website to promote the services of *e-go* and facilitate the registration of prospective Referees on the Website and for other activities relating to its participation in the Program.
- (b) Except where and only to the extent that the provisions of Section One of these Conditions is inconsistent with or repugnant to the provisions of this Section Two or are otherwise incapable of practicable application to the prevailing circumstances, the provisions of Section One shall also apply to the use by the Affiliate of its website for Program-related activities (“PRA”).

24. Linking of Affiliates & Referees and Identifying Referred Jobs: If the Affiliate obtains CLC’s approval to the use by the Affiliate of its website for PRA then, so long as CLC maintains its consent to that use, Clause 10 will apply except that “logo” should be read in substitution for “registration hyper-link” where appearing in line four of that Clause.

25. Application to Use Affiliate’s Website: Application by the Affiliate to use its website for PRA shall be made in the Website Particulars section of the Application (“Particulars”) and CLC’s approval for use of that website for activities relating to those purposes shall be deemed to have been given by CLC’s approval of the Application containing those Particulars.

26. Limited Approval: CLC’s approval shall only apply to the Affiliate’s website of which Particulars have been supplied in the Application made by the Affiliate. Use or attempted use by the Affiliate of another website for PRA shall constitute a substantial breach for the purposes of sub-clause 16(b)(i).

27. Rejection of Application & Withdrawal of Consent: Without limiting the force and effect of Clause 3, CLC may reject an application or withdraw its consent to use of a website for PRA in the event that in its

sole and absolute discretion it forms the view that the website is or has become unsuitable for use by the Affiliate with respect to PRA. Criteria of unsuitability may include, but not be limited, to:

- (a) infringement of trademark rights of CLC or a third party or other rights of a third party;
- (b) presence of sexually explicit material;
- (c) presence of hateful, violent or offensive material;
- (d) promotion of discrimination based on race, sex, religion, nationality, disability, sexual orientation or age;
- (e) promotion of illegal activities or activities that violate any applicable laws or involve use of privacy-intrusive practices and software, including, but not limited to, those referred to in sub-clause 14(b);
- (f) violation of intellectual property rights of CLC or a third party.

28. Non-Exclusive Licence:

- (a) As an automatic consequence of CLC's approval, but subject to its on-going consent, the Affiliate will be granted a non-exclusive licence to use *e-go's* logo on its website to enable prospective Referees to gain access to the Website for the purposes referred to in Clauses 10 and 24. The Affiliate will also be given a non-exclusive licence to gain access to and display on its website promotional and instructional material from time to time made available to Affiliates on the Website for those purposes ("*e-go* material").
- (b) The granting of a licence by CLC does not constitute any transfer of ownership of the *e-go* material and all rights over the *e-go* material not expressly granted hereunder remain the property of and are reserved to CLC.
- (c) The Affiliate agrees that the continued benefit of the licence is conditional upon the Affiliate:
 - (i) up-dating *e-go* material with replacement *e-go* material made available by CLC from time to time;
 - (ii) not altering any of the *e-go* material without the prior written consent of CLC;
 - (iii) only using *e-go* material in connection with promotion of *e-go* and in connection with PRA;
 - (iv) not using *e-go* material for purposes other than promoting and encouraging proper use of *e-go*;
 - (v) not using *e-go* material in any unlawful or offensive manner or in any way reasonably likely to detrimentally affect CLC; and
 - (vi) not displaying material on the Affiliate's website supplied or made accessible by any corporation, organisation, group of individuals or individual engaged in or proposing to engage in commercial activities reasonably capable of being considered to be in competition with *e-go* or other services supplied by CLC.

29. Exclusion from and Limitation of Liability:

- (a) The Affiliate will be solely responsible for ensuring that its website is properly formatted and configured to enable the proper tracking of sales to Referees introduced to *e-go* through the Affiliate's website and CLC will not be liable for the consequences of any failure on the part of the Affiliate to do so.
- (b) Without limiting the force and effect of the provisions of Clause 12, the Affiliate acknowledges and accepts that, subject to these Conditions, CLC will not be liable for any failure of its software

or hardware systems to track sales and credit Commission to Affiliates and will not be liable for any losses or other adverse effects suffered by the Affiliate including, but not limited to, those resulting from:

- (i) failure by the Affiliate to properly format and configure its website and related hardware and software systems as aforesaid and to properly maintain those systems;
 - (ii) deliberate or innocent action by prospective Referees which circumvents the tracking system;
 - (iii) “bugs”, “glitches” and “crashes” of, in or to CLC’s systems from time to time; and
 - (iv) random and unattributable occurrences
- (c) CLC will not accept responsibility or liability to the Affiliate for innocent or deliberate action on the part of a prospective Referee which circumvents the linking mechanism outlined in Clause 24 (e.g. where a prospective Referee after being directed to the Website via the *e-go* logo does not enter particulars to effect registration but does so later after gaining access to the Website independently of the Affiliate).

30. Upon Termination:

- (a) All rights and licences with respect to *e-go* material shall terminate immediately.
- (b) The Affiliate shall remove from its website all *e-go* logos and other *e-go* material appearing on its website.
- (c) The Affiliate shall immediately disable all links from its website to the Website.
- (d) In accordance with sub-clauses 18(e) and (f), the rights and remedies available to and enforceable by CLC in respect of any breach or continuing breach of this Agreement, including but not limited to sub-clauses (b) and (c) of this Clause 30, shall remain in full force and effect and enure for the benefit of CLC notwithstanding termination.