

KWOTA TERMS AND CONDITIONS

1. OUTLINE OF THESE TERMS

- 1.1. **Services:** Kwota App Limited (company number 6120167) (326 New North Road, Kingsland, Auckland, 1021) (support@kwota.co.nz) (**Kwota, we, our or us**) allows users (**User or you**) to connect and perform business and personal services and outsource tasks and buy and sell goods (the **Services**) through our platform (**Kwota Platform**), which includes but is not limited to our:
- a. iPhone application;
 - b. Android application;
 - c. website, www.kwota.co.nz; or
 - d. any other platform that may be introduced by us in the future.
- 1.2. **Users:** Kwota connects people who have tasks that need doing, or who need to purchase a particular item (**Job Posters**) with those who are willing to do the job or provide the item (**Kwota Workers or Contractors**). A reference to User in these terms and conditions (**Terms**) includes Job Posters, Kwota Workers, Contractors and any other person that visits or views the Kwota Platform.
- 1.3. **Binding terms:** By accessing and using the Kwota Platform, all Users agree to be bound by these Terms. Any User that does not agree to these Terms is not authorised to access and use the Kwota Platform and must immediately cease doing so. All rights not expressly granted to Users in these Terms are expressly reserved by Kwota.
- 1.4. **Last update:** These Terms were last updated as at 7th August 2017.

2. REGISTRATION AND ACCESS

- 2.1. **Free:** Registering an account with Kwota through the Kwota Platform is free of charge.
- 2.2. **Eligibility:** You may only register for an account if you are resident in New Zealand and can enter into a legally binding contract that is enforceable by us against you. You must be at least 18 years old. By registering an account, you warrant and represent that you can enter into a legally binding contract.
- 2.3. **Access to Kwota Platform:** Kwota is permitted (in its sole discretion) to alter, suspend, discontinue or restrict access to any Kwota Platform with or without notice to Users and shall incur no liability for doing so.

3. STANDARD SERVICE DESCRIPTION

- 3.1. **Job poster:** A Job Poster with a requirement for a service to be provided or a good to be acquired may:
- a. create an account with Kwota; and
 - b. post through the Kwota Platform a description of the good to be acquired or service to be provided (including, but not limited to, the payment offered to the Kwota Worker), provided that the description is true, accurate and complete (**Posted Task**).
- 3.2. **Kwota worker:** A Kwota Worker with an ability to perform services and/or to provide the goods may:
- a. create an account with Kwota; and
 - b. review Posted Tasks uploaded by Job Posters.
- 3.3. **Offer:** If a Kwota Worker wishes to provide services or sell goods to a Job Poster, the Kwota Worker must make an offer in response to the Posted Task (**Offer**). By making an Offer, the Kwota Worker confirms that he or she is legally entitled to and capable of supplying the goods or services described in the Posted Task.
- 3.4. **Cancellation of offer:** If a Job Poster in any way updates a Posted Task after it has been published on the Kwota Platform, and before an offer has been accepted, then Kwota may (at its discretion) cancel all Offers for that Posted Task that were made prior to the update and recommence the offer process.
- 3.5. **Payment into escrow:** If the Job Poster agrees to accept a Kwota Worker's offer, the Job Poster will do so by using the functionality on the Kwota Platform and paying the agreed price into the payment facility escrow account accessible via the Kwota Platform (**Escrow Account**).

- 3.6. **Task Contract:** Once a Job Poster has accepted an offer from a Kwota Worker and paid the agreed price into the Escrow Account, the Job Poster and the Kwota Worker will be deemed to have entered into a contract under which the Job Poster agrees to purchase, and the Kwota Worker agrees to provide the Job Poster, the relevant services or goods (**Task Contract**).
- 3.7. **Terms of the Task Contract:** The terms of the Task Contract incorporate these Terms (to the extent that they apply to the Job Poster and the Kwota Worker) and any additional terms and conditions agreed between the Job Poster and the Kwota Worker, including the description and price of the services or goods to be provided. You agree not to enter into any contractual provisions in a Task Contract that conflict or which are inconsistent with these Terms. All Terms incorporated into a Task Contract take priority over any other terms agreed between a Job Poster and a Kwota Worker in the Task Contract to the extent of any inconsistency.
- 3.8. **Notification of completion:** Once a Kwota Worker has provided the goods or services requested by a Job Poster in accordance with the Task Contract, the Kwota Worker must provide notice that the task is complete by using the function on the Kwota Platform. If a Kwota Worker is supplying goods, he or she must not provide notice that a task is complete until the goods have actually been delivered to the address specified by the Job Poster.
- 3.9. **Release of payment:** Once a Kwota Worker has provided the relevant goods or services in accordance with the Task Contract and has provided notice that the task is complete relating to a particular Posted Task, the Job Poster must release the agreed price for the goods or services supplied to the Kwota Worker by using the function on the Kwota Platform.
- 3.10. **Payment:** Once the Job Poster has released the payment, the fee will be paid from the Escrow Account to the Kwota Worker, after the deduction of the service fee for that Posted Task, as listed on Kwota's fees page (**Service Fee**).

4. POSTING TASKS AND MAKING OFFERS

- 4.1. **Required information:** A Posted Task must include the following details in order to be accepted by Kwota:
- a. the deadline for completion of the task or delivery of the goods;
 - b. the price that the Job Poster is prepared to pay for the goods or services required; and
 - c. a description of the goods or services.
- 4.2. **Job posters:** Job Posters must describe the service or goods fully and accurately and include all terms of sale or supply that you want to apply, as well as any information required by law. Posted Tasks may include text, photos or other graphics.
- 4.3. **Kwota workers:** In making an Offer, the Kwota Worker agrees to provide the relevant goods or services within the timeframe and on the terms and conditions specified in the Posted Task (or as agreed between the Kwota Worker and the Job Poster).
- 4.4. **Discretion:** Job Posters may withdraw any Posted Task at any time prior to accepting an offer from a Kwota Worker in accordance with clause 3.5.

5. PRO-KWOTA SERVICE DESCRIPTION

- 5.1. **Pro-Kwota Service:** A Job Poster with a requirement for a service to be provided by a contractor with specialist knowledge (**Contractor**) may post through the Kwota Platform an accurate and complete description of the service to be provided (**Pro-Kwota Task**).
- 5.2. **Posting fee:** It is currently free to post a Pro-Kwota via the Kwota platform.
- 5.3. **Contractors:** A Contractor with an ability to perform Pro-Kwota Tasks may:
- a. create an account with Kwota; and
 - b. receive notifications through the Kwota Platform when a Pro-Kwota Task that aligns with their specialist knowledge is uploaded by a Job Poster.
- 5.4. **Offer:** If a Contractor is notified and desires to provide services to a Job Poster for their Pro-Kwota Task, the Contractor must make a bid through the Kwota Platform (**Bid**) and provide a timeframe for completion of the Pro-Kwota Task to the Job Poster. By making a Bid, the Contractor confirms that he or she is legally entitled to and capable of supplying the services described in Pro-Kwota Task.

- 5.5. **Payment into escrow:** If the Job Poster agrees to a Contractor's Bid, the Job Poster will do so by using the functionality on the Kwota Platform and paying the agreed price into the Escrow Account.
- 5.6. **Task Contract:** Once a Job Poster has accepted a Bid from a Contractor and paid the agreed price into the Escrow Account, then the Job Poster and the Contractor will be deemed to have entered into Task Contract.
- 5.7. **Terms of the Task Contract:** The terms of the Task Contract incorporate these Terms (to the extent they apply to the Job Poster and the Contractor) and any additional terms and conditions agreed between the Job Poster and the Contractor, including the description and price of the services to be provided. You agree not to enter into any contractual provisions in a Task Contract that conflict or which are inconsistent with these Terms. All Terms incorporated into a Task Contract take priority over any other terms agreed between a Job Poster and a Contractor in the Task Contract to the extent of any inconsistency.
- 5.8. **Notification of completion:** Once a Contractor has provided the services requested by a Job Poster in accordance with the Task Contract, the Contractor must provide notice that the task is complete by using the function of the Kwota Platform.
- 5.9. **Release of payment:** Once a Contractor has provided the relevant services in accordance with the Task Contract and has provided notice that the task is complete relating to a particular Pro-Kwota Task, the Job Poster must release the agreed price for the services supplied to the Contractor by using the function on the Kwota Platform.
- 5.10. **Payment:** Once the Job Poster has released the payment, the fee will be paid from the Escrow Account to the Contractor, after the deduction of the Service Fee.

6. BREAKDOWN AND MALFUNCTIONS

- 6.1. Kwota will try to promptly address (during normal business hours) all technical issues that arise on the Kwota Platform. However, Kwota will not be liable for any loss or damage suffered as a result of any partial or total breakdown of the Kwota Platform or any technical malfunctions on it, the Kwota Platform being unavailable or performing slowly, or any viruses or other forms of interference that may damage any User's computer system.

7. PAYMENT, REFUNDS AND CREDIT

- 7.1. **Payment:** Where a Job Poster pays an agreed price for goods or services into the Escrow Account in respect of a Posted Task or Pro-Kwota Task (**Task Payment**), that Task Payment will be used to pay the Kwota Worker or Contractor (as the case may be) and Kwota in accordance with these Terms. If that payment cannot be made for any reason the Task Payment moneys will be handled in accordance with this clause 7.
- 7.2. **Refund:** If the parties to the Task Contract mutually agree to cancel the Task Contract, or if:
- a. the Job Poster makes reasonable attempts to contact the Kwota Worker or Contractor (as applicable) to perform the Task Contract; and
 - b. Kwota is satisfied that the Task Payment should be refunded and there is no dispute between the Job Poster and the Kwota Worker or Contractor,
- then Kwota will refund the Task Payment back into the Job Poster's debited account.
- 7.3. **Credit:** If, for any reason:
- a. the Task Payment cannot be transferred or otherwise made to the Kwota Worker, Contractor or the Job Poster (as the case may be); or
 - b. no claim is otherwise made for a Task Payment,
- the Task Payment will remain in the Escrow Account until it is paid or for up to three months from the date the Job Poster initially paid the Task Payment into the Escrow Account.
- 7.4. **Conversion:** Following the period under clause 7.3, and provided that there is still no dispute in respect of the Task Payment, the Task Payment will be automatically converted into Kwota credit and credited to the relevant Job Poster or Kwota Worker or Contractor. The credit will be to the account of the Job Poster except where the Kwota Worker or Contractor has claimed the Task Contract has been completed but (for whatever reason) the Task Payment was not able to be transferred.

8. PAYMENT FACILITY AND ESCROW ACCOUNT

- 8.1. **Payment facility:** Kwota may use a related entity or a third party service provider to provide payment services and act as a payment facilitator and escrow agent on behalf of the Job Poster and Kwota Worker or Contractor (**Escrow Provider**).
- 8.2. **Escrow privacy:** By purchasing or selling goods or services using the Kwota Services you agree to be bound by the Escrow Provider's applicable privacy policy and hereby consent to and authorise Kwota and the Escrow Provider to share any information and payments instructions you provide with one another and, to the extent required to complete your transaction, with any other third party service provider.
- 8.3. **Escrow terms:** By registering and creating an account with Kwota, you agree to be bound by the Escrow Provider's applicable terms and conditions.
- 8.4. The name that will appear on your statement will be **Kwota App Limited**.
- 8.5. Your account will be charged in **NZD**.

9. THIRD PARTY SERVICES

- 9.1. **Third party services:** Kwota may from time to time include on the Kwota Platform promotions for and links to services offered by third parties (**Third Party Services**). These Third Party Services are not provided by Kwota. Third Party Services are offered to you pursuant to terms and conditions of that third party.
- 9.2. **Engagement:** If you engage with any Third Party Service provider, your agreement will be directly between you and that Third Party Service provider.
- 9.3. **No representation or warranty:** Kwota makes no representation or warranty in relation to any Third Party Services.
- 9.4. **Disclaimer:** To the extent permitted by law, Kwota specifically disclaims all liability for any loss or damage incurred by you in any manner due to the performance or non-performance of Third Party Services.

10. USER'S OBLIGATIONS

- 10.1. **Responsibility:** Each User will be responsible for all activity that occurs through its use of the Kwota Platform. Kwota shall not be liable for any content, representations, statements, services, products or other information or data posted to the Kwota Platform by any User.
- 10.2. **Use of the Kwota Platform on behalf of another person or entity:** Any User that accesses and uses the Kwota Platform on behalf of another person or entity confirms that he, she or it is fully authorised to do so and agrees to these Terms on that person or entity's behalf.
- 10.3. **Content uploaded:** User content is not pre-screened prior to upload on the Kwota Platform. Kwota reserves the right to remove any content posted to the Kwota Platform that it considers (in its sole discretion) to be offensive, objectionable or otherwise unlawful.
- 10.4. **User information:** Upon registering to use the Kwota's products and/or services via the Kwota Platform, all Users agree to provide true, accurate, current and complete information about themselves as prompted by the Kwota Platform (**User Information**), and to promptly notify Kwota of any changes to their User Information in order to ensure that it remains true, accurate, current and complete.
- 10.5. **No illegal use:** No User may use the Kwota Platform for any illegal or unauthorised purpose, or post any information or data that is in breach of any confidentiality obligation, copyright, trade mark or other intellectual property or proprietary rights of any person or entity.
- 10.6. **No malicious use:** Users must not use the Kwota Platform for any malicious means or abuse, harass, threaten, intimidate or impersonate any other User.
- 10.7. **Interference with the Kwota Platform:** Users must not introduce (or cause the introduction of) any virus, spyware or other similar feature that in any way compromises or may compromise the Kwota Platform.
- 10.8. **Accessing the Kwota Platform:** Users may only access the Kwota Platform through standard web browsers, and not via methods such as scraping, data mining, the use of a robot or spider, automation or any similar method of extraction or monitoring.

11. FEES

- 11.1. **Payment to Kwota:** The Service Fee will be deducted and paid to Kwota when the agreed price is released from the Escrow Account to the Kwota Worker or Contractor.
- 11.2. **Changes:** Kwota reserves the right to change the Service Fee and the terms applying to its payment. Any change relating to the Service Fee is effective 14 days after Kwota notifies you of that change by sending a message to your Kwota account.
- 11.3. **Non-refundable:** All fees and charges payable to Kwota are non-refundable.
- 11.4. **New services:** If Kwota introduces a new service on the Kwota Platform, the fees applying to that service will be payable as from the launch of the service and will also be a "Service Fee" under these Terms.

12. PRIVACY

- 12.1. **Application of policy:** Kwota's privacy policy (which can be viewed by clicking [here](#)) shall apply to all information, data or other content which is generated through each User's use of the Kwota Platform.

13. INTELLECTUAL PROPERTY

- 13.1. **Owner of existing rights:** All Users agree that Kwota owns all of the intellectual property rights existing in the Kwota Platform.
- 13.2. **Licence:** Users grant to Kwota an unrestricted, worldwide, royalty-free licence to use, reproduce, modify and adapt any content and information posted on the Kwota Platform for the purpose of including that material and information on the Kwota Platform and as otherwise may be required to provide the Services, for the general promotion of the Services and as permitted by these Terms.
- 13.3. **Branding:** No User may publish or use Kwota's trade marks, brand, branding or logos without Kwota's prior written consent.

14. LIMITATION OF LIABILITY

- 14.1. **Limitation of liability:** Except for liability in relation to breach of any implied condition, warranty or guarantee, the exclusion of which from a contract would contravene any statute or cause any part of these Terms to be void (**Non-excludable Condition**), to the maximum extent permitted by law Kwota specifically disclaims all liability for any loss or damage (actual, special, direct, indirect and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed (including, without limitation, loss or damage relating to any inaccuracy of information provided, or the lack of fitness for purpose of any goods or service supplied), arising out of or in any way connected with any transaction between:
 - a. Job Posters and Kwota Workers;
 - b. Job Posters and Contractors; and
 - c. you and any Third Party Service Provider who may be included from time to time on the Kwota Platform.
- 14.2. **Total amount:** Except for liability in relation to a breach of any Non-excludable Condition, Kwota's liability to any User is limited to the total amount of fees paid by that User to Kwota during the twelve month period prior to any incident for which Kwota is liable.
- 14.3. **Liability for non-excludable conditions:** Kwota's liability to you for a breach of any Non-excludable Condition (other than a Non-excludable Condition that cannot be limited by law) is limited at our option to any one of:
 - a. resupplying, replacing or repairing; or
 - b. paying the cost of resupplying, replacing or repairing,goods in respect of which the breach occurred, or supplying again or paying the cost of supplying again, services in respect of which the breach occurred.

15. NO WARRANTY

- 15.1. **"As is" basis:** Except for liability in relation to any Non-excludable Condition, Kwota's service is provided on an "as is" basis, and without any warranty, representation or condition, whether express or implied. To the extent permitted by law, we and our suppliers specifically disclaim any implied

warranties of title, merchantability, fitness for a particular purpose and non-infringement to extent allowed by law.

16. DISPUTE RESOLUTION

- 16.1. **No obligation to assist:** Kwota has no obligation to any User to assist or involve itself in any way in any dispute between a Job Poster and a Kwota Worker or Contractor.
- 16.2. **Information for proceedings:** If you wish to take Disputes Tribunal (or other) proceedings against another User, you can contact Kwota for a statutory declaration form, which must be completed before we will consider releasing anyone else's information to you. You may only request contact details for the sole purpose of making a claim.
- 16.3. **Withholding of payment:** Kwota has the right to hold any Task Payment the subject of any dispute in the Escrow Account, until the dispute has been resolved.

17. TERMINATION OR SUSPENSION

- 17.1. **Breach of Terms:** If a User does not abide by these Terms, Kwota may terminate or suspend that User's account with Kwota and refuse to provide its Services to that User for any reason and at any time.
- 17.2. **Termination:** Either party to these Terms may terminate a Kwota account and these Terms (so far as they relate to that User) at any time for any reason. Termination of these Terms does not affect any Task Contract that has been entered into between Users. Third Party Services are subject to Third Party Service provider terms and conditions.
- 17.3. **Survival of termination:** Clauses 11 (fees), 14 (limitation of liability) and 16 (dispute resolution) will survive any termination of these Terms, together with any other terms which by their nature should continue to apply after termination.

18. GENERAL

- 18.1. **Amendments:** Kwota reserves the right to amend these Terms at any time with or without notice to Users. Any User who continues to use the Kwota Platform after any amendments will be deemed to have agreed to such amendments.
- 18.2. **Assignment:** No User shall be permitted to assign or transfer any of their rights or obligations under these Terms without Kwota's prior written consent. Kwota shall be entitled (in its sole discretion) to assign and transfer any of its rights or obligations under these Terms, and the consent of Users shall not be required for any such assignment or transfer.
- 18.3. **User indemnity:** Each User hereby indemnifies, and will keep indemnified, Kwota against all forms of liability, actions, proceedings, demands, costs, charges and expenses which Kwota may incur or be subject to or suffer as a result of that User's use of the Kwota Platform.
- 18.4. **No waiver:** Kwota will not be deemed to have waived any right under these Terms unless the waiver is in writing and signed by Kwota. A failure to exercise or delay in exercising any right by Kwota under these Terms will not operate as a waiver of that right. Any such waiver will not constitute a waiver of any subsequent or continuing right or of any other provision in these Terms.
- 18.5. **No agency:** No agency, partnership, joint venture, employee-employer or other similar relationship is created by these Terms. In particular you have no authority to bind Kwota, its related entities or affiliates in any way whatsoever.
- 18.6. **Entire agreement:** These Terms constitute the entire agreement and understanding of the parties relating to the matters dealt with in these Terms and supersedes and extinguishes any previous agreement (whether oral or written) between the parties in relation to such matters.
- 18.7. **Severability:** If any provision in these Terms becomes invalid or unenforceable, the remainder of these Terms will remain valid and enforceable to the fullest extent permitted by law.
- 18.8. **Foreign use of the Kwota Platform:** Kwota makes no warranty or representation that the Kwota Platform is appropriate or available for use in all countries or that the content satisfies the laws of all countries. All Users are responsible for ensuring that their access to and use of the Kwota Platform are not illegal or prohibited in their relevant country.
- 18.9. **Governing law and jurisdiction:** These Terms will be governed by and construed in accordance with the laws of New Zealand. All Users and Kwota irrevocably submit to the exclusive jurisdiction of the courts of New Zealand for any matter arising under or relating to these Terms.