Plattar

PLATTAR PTY LTD **ABN 90 606 090 322**

APP TERMS OF SERVICE

INTRODUCTION

The Company provides the Plattar mobile application for viewing and interacting with augmented reality media. Use of the App is subject to these App Terms of Service.

DEFINITIONS

The following terms are used regularly throughout these App Terms of Service and have a particular meaning:

(a)   **ABN** means Australian Business Number.

(b)   **ACN** means Australian Company Number.

(c)   **Agreement** means the agreement formed between the Users and the Company under, and on the terms of, these App Terms of Service.

(d)   **App** means the Plattar mobile application accessible from:

   i   **Mobile.** From Apple's AppStore, GooglePlay and any other native or web-based mobile applications made available from time-to-time; and/or

   ii   **Web.** From the URL #URL (or any other domain used by the Company from time-to-time).

(e)   **App Terms of Service** means theses terms and conditions of using the App, as updated from time-to-time, which can be found at #URL.

(f)   **AR** means augmented reality.

(g)   **Asset** means any digital media element that can be accessed, viewed, or interacted-with via the App as an AR element, and includes without limitation:

   i   2D or 3D images, whether animated, moving or static;

   ii   Computer games (or elements of games);

   iii   Video;

   iv   Audio;

   v   2D or 3D text whether animated, moving or static;

   vi   A combination of the above; and

   vii   Any other form of audio-visual media capable of being accessed via the App.

(h)   **Business Day** means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Melbourne, Australia.

(i)   **Company** means Plattar Pty Ltd ABN 90 606 090 322.

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

(k)   **Content** means any media content accessible via the App and includes each Asset and Trigger.

(l)   **Customer** means a customer of the Company that uses the App to make Assets available to Users.

(m)   **Intellectual Property** means all copyright, patents, inventions, trade secrets, know-how, product formulations, designs, circuit layouts, databases, registered or unregistered trademarks, brand names, business names, domain names and other forms of intellectual property;

(n)   **Marker** means a two dimensional image used to project an Asset onto via the App.

(o)   **Privacy Act** means the *Privacy Act* 1989 (Cth).

(p)   **Privacy Policy** means the Company's privacy policy as updated from time-to-time, which can be found at #URL.

(q)   **Site** means the Company's website accessible at #URL.

(r)   **Trigger** means any contextual data that will trigger the deployment of an Asset when entered into the App, and includes without limitation a Marker and geo-location data.

(s)   **User** means any user that uses the App.

(t)   **User Content** means any designs, graphics, wireframes, images, videos, audio, information, documents or other data that is uploaded into, or created using the App by the User, or that otherwise forms part of the User's Intellectual Property.

1   USING THE APP

1.1   General

(a)   The User agrees that all use of the App is subject to these App Terms of Service.

(b)   Anyone over the age of 18 may use Plattar. People under 18 years of age must not use Plattar without their parent or guardian's consent.

(c)   The App is free to use subject to the User's compliance with this Agreement.

(d)   The Company may update these App Terms of Service from time-to-time at its discretion. The Company will notify the User of any such changes, which will apply from the next time the User uses the App. If the User does not accept the updated App Terms of Service, the User must immediately stop using the App.

1.2   Features. The App may enable a User to:

(a)   View and interact with AR Assets via their mobile device, by:

i   Aiming the camera of their mobile device at a Marker; or

ii   Otherwise providing the App with any other Trigger.

(b)   View any other Content provided by a Customer.

1.3 Using the App.

(a) In order to view and interact with an Asset via the App, the User must provide the App with a Trigger.

(b) The most common way that a User may interact with an Asset is by aiming the camera of their mobile device at a Marker.

(c) The App may require permissions to use various services and features of the User's mobile device to function correctly, including but not limited to access to the mobile device's camera, microphone or GPS data. Failure to grant the App permission to those services may result in the User not being able to use the App.

(d) Triggers may be provided to the User by a Customer, and the Customer may impose additional rules on the use by the User of the Customer's Triggers, Assets and other Content.

(e) The Company shall not be responsible for any Trigger, Asset or other Content made available to a User by a Customer.

(f) The Company is under no obligation to provide the User with a Trigger in order to use the App, but may make Markers or other Triggers available via the Site from time-to-time at the Company's discretion.

(g) The correct functioning of the App depends on the hardware used by the Customer and the environment conditions at the time of operation.

(h) The User must exercise caution and maintain an awareness of their surroundings when using the App, as hazards may exist in the User's immediate environment that may not be detectable via the App.

(i) The Company accepts no responsibility if a User cannot use the App due to:

  i Environmental conditions;

  ii Failure by the User to provide the App access to the various services and features of the mobile device required for the App to operate correctly;

  iii Incorrect operation by the User;

  iv Lack of access to a Trigger, Asset or any other Content.

(j) For the avoidance of doubt, the user acknowledges that the App will only present the User access to an Asset when the App is:

  i Correctly operated by the User;

  ii Has access to all necessary services of the mobile device; and

  iii Provided with a Trigger.

(k) The Company is under no obligation to provide any User with an AR experience.

1.4 Limitations on Use

The Company may limit or restrict access to the App from time-to-time on any basis as it sees fit, including (but not limited to):

(a) **Location.** The Company may restrict access to the App from any location;

(b) **Use of Content:** The Company may restrict access to the App, or hold the User liable if the User downloads or posts any material that the User knows, or ought to know cannot be legally distributed.

2   CONTENT

2.1   Content is the sole responsibility of the person or entity that contributed the content to the App (including a Customer) by uploading or otherwise posting, inserting or providing it.

2.2   The User may not modify, rent, lease, loan, sell, distribute or create derivative works based on any of the Content (either in whole or in part) unless:

(a)   The User is the owner of the Content; or

(b)   The User has been authorised to do so by the owners of that Content in a separate agreement.

2.3   The User acknowledges that User accesses Content via the App at its own risk, and that by using the App that the User may be exposed to Content that may be offensive, indecent or objectionable.

2.4   To the extent permitted by law, under no circumstances will the Company be liable in any way for any Content, including but not limited to:

(a)   Errors or omissions in any Content;

(b)   Editing, restricting or removing Content; or

(c)   Loss or damage of any kind incurred as a result of the use of any Content accessed via the App.

2.5   If the User uploads or provides any User Content to the App in the course of accessing or using the App, the User agrees that such User Content will be available to the Company to use (or remove or alter) in any manner it thinks fit, subject to applicable provisions of any legislation including, without limitation, privacy legislation.

3   GENERAL CONDITIONS

3.1   Licence

(a)   By accepting the terms and conditions of this Agreement, the User is granted a limited, non-exclusive and revocable licence to access and use the App for the duration of this Agreement, in accordance with the terms and conditions of this Agreement.

(b)   The Company may issue the licence to the User on the further terms or limitations (including the number of users or volume of use or transactions) as it sees fit.

(c)   The Company may revoke or suspend the User's licence(s) in its absolute discretion for any reason that it sees fit, including for breach of the terms and conditions in this Agreement by the User.

3.2   Modification of Terms

(a)   The terms of this Agreement may be updated by the Company from time-to-time.

(b)   Where the Company modifies the terms, it will provide the User with written notice, and the User will be required to accept the modified terms in order to continue using the App.

3.3   Software-as-a-Service

(a)   The User agrees and accepts that the App is:

   i   Hosted by the Company and shall only be installed, accessed and maintained by the Company, accessed using the internet or other connection to the Company servers and is not available 'locally' from the User's systems; and

   ii   Managed and supported exclusively by the Company from the Company servers and that no 'back-end' access to the App is available to the User unless expressly agreed in writing.

(b)   As a hosted and managed service, the Company reserves the right to upgrade, maintain, tune, backup, amend, add or remove features, redesign, improve or otherwise alter the App.

3.4   Support

(a)   The Company provides user support for the App via the email address #Email.

(b)   The Company shall endeavour to respond to all support requests within 5 Business Days.

3.5   Use & Availability

(a)   The User agrees that it shall only use the App for legal purposes and shall not use it to engage any conduct that is unlawful, immoral, threatening, abusive or in a way that is deemed unreasonable by the Company in its discretion.

(b)   The User agrees that the Company shall provide access to the App to the best of its abilities, however:

   i   Access to the App may be prevented by issues outside of its control; and

   ii   It accepts no responsibility for ongoing access to the App.

3.6   Privacy

(a)   The Company maintains the Privacy Policy in compliance with the provisions of the Privacy Act for data that it collects about the User and other customers.

(b)   The Privacy Policy does not apply to how the Customer handles personal information. If necessary under the Privacy Act, it is the Customer's responsibility to meet the obligations of the Privacy Act by implementing a privacy policy in accordance with law.

(c)   The App may use cookies (a small electronic file) to improve a User's experience while browsing, while also sending browsing information back to the Company. The User may manage how it handles cookies in its own browser settings.

3.7   Data

(a)   **Security.** The Company takes the security of the App and the privacy of its Users very seriously. The User agrees that the User shall not do anything to prejudice the security or privacy of the Company's systems or the information on them.

(b)   **Transmission.** The Company shall do all things reasonable to ensure that the transmission of data occurs according to accepted industry standards. It is up to the User to ensure that any transmission standards meet the User's operating and legal requirements.

(c)   **Storage.** Data that is stored by the Company shall be stored according to accepted industry standards.

(d)   **Backup.** The Company shall perform backups of its entire systems in such manner, at such times and intervals as is reasonable for its business purposes. The Company does not warrant that it is able to backup or recover specific User Content from any period of time unless so stated in writing by the Company.

3.8   Intellectual Property

(a)   **Trademarks.** The Company has moral & registered rights in its trade marks and the User shall not copy, alter, use or otherwise deal in the marks without the prior written consent of the Company.

(b)   **Proprietary Information.**   The Company may use software and other proprietary systems and Intellectual Property for which the Company has appropriate authority to use, and the User agrees that such is protected by copyright, trademarks, patents, proprietary rights and other laws, both domestically and internationally. The User warrants that it shall not infringe on any third-party rights through the use of the App.

(c)   **The App.** The User agrees and accepts that the App is the Intellectual Property of the Company and the User further warrants that by using the App the User will not:

i   Copy the App or the services that it provides for the User's own commercial purposes; and

ii   Directly or indirectly copy, recreate, decompile, reverse engineer or otherwise obtain, modify or use any source or object code, architecture, algorithms contained in the App or any documentation associated with it.

(d) **Content.** All content submitted to the Company, whether via the App or directly by other means, becomes and remains the Intellectual Property of the Company, including (without limitation) any source code, analytics, insights, ideas, enhancements, feature requests, suggestions or other information provided by the User or any other party with respect to the App.

3.9 Disclaimer of Third Party Services & Information

(a) The User acknowledges that the App Is dependent on third-party services, including but not limited to:

i Banks, credit card providers and merchant gateway providers;

ii Telecommunications services;

iii Hosting services;

iv Email services; and

v Analytics services.

(b) The User agrees that the Company shall not be responsible or liable in any way for:

i Interruptions to the availability of the App due to third-party services; or

ii Information contained on any linked third party website.

3.10 Liability & Indemnity

(a) The User agrees that it uses the App at its own risk.

(b) The User acknowledges that the Company is not responsible for the conduct or activities of any User and that the Company is not liable for such under any circumstances.

(c) The User agrees to indemnify the Company for any loss, damage, cost or expense that the Company may suffer or incur as a result of or in connection with the User's use of or conduct in connection with the App, including any breach by the User of these Terms.

(d) In no circumstances will the Company be liable for any direct, incidental, consequential or indirect damages, personal injury, death, damage to property, loss of property, loss or corruption of data, loss of profits, goodwill, bargain or opportunity, loss of anticipated savings or any other similar or analogous loss resulting from the User's access to, or use of, or inability to use the App, whether based on warranty, contract, tort, negligence, in equity or any other legal theory, and whether or not the Company knew or should have known of the possibility of such damage, loss, personal injury or death, or business interruption of any type, whether in tort, contract or otherwise.

(e) Certain rights and remedies may be available under the *Competition and Consumer Act 2010* (Cth) or similar legislation of other States or Territories and may not be permitted to be excluded, restricted or modified. Apart from those that cannot be excluded, the Company and the Company's related entities exclude all conditions and warranties that may be implied by law. To the extent

permitted by law, the Company's liability for breach of any implied warranty or condition that cannot be excluded is restricted, at the Company's option to:

i   The re-supply of services or payment of the cost of re-supply of services; or

ii   The replacement or repair of goods or payment of the cost of replacement or repair.

3.11   Termination

(a)   Either party may terminate this Agreement by giving the other party written notice.

(b)   Termination of this agreement is without prejudice to and does not affect the accrued rights or remedies of any of the parties arising in any way out of this agreement up to the date of expiry or termination.

(c)   Termination does not affect any of the rights accrued by a party prior to termination, and he rights and obligations under clauses 3.9, 3.12 and 3.13 survive termination of this Agreement.

3.12   Dispute Resolution

(a)   If any dispute arises between the parties in connection with this Agreement (**Dispute**), then either party may notify the other of the Dispute with a notice (**Dispute Notice**) which:

i   Includes or is accompanied by full and detailed particulars of the Dispute; and

ii   Is delivered within 10 Business Days of the circumstances giving rise to the Dispute first occurring.

(b)   Within 10 Business Days after a Dispute Notice is given, a representative (with the authority to resolve the dispute) parties must meet (virtually or otherwise) and seek to resolve the Dispute.

(c)   Subject to clause (d), a party must not bring court proceedings in respect of any Dispute unless it first complies with the requirements of the dispute resolution mechanism outlined in this clause.

(d)   Nothing in this clause prevents either party from instituting court proceedings to seek urgent injunctive, interlocutory or declaratory relief in respect of a Dispute.

(e)   Despite the existence of a Dispute, the parties must continue to perform their respective obligations under this document and any related agreements.

3.13   Electronic Communication, Amendment & Assignment

(a)   The words in this clause that are defined in the *Electronic Transactions Act 1999 (Cth)* have the same meaning.

(b)   The User can direct notices, enquiries, complaints and so forth to the Company as set out in this Agreement. The Company will notify the User of a change of details from time-to-time.

(c)   The Company will send the User notices and other correspondence to the details that the User submits to the Company, or that the User notifies the Company of from time-to-time. It is the User's responsibility to update its contact details as they change.

(d)   A consent, notice or communication under this Agreement is effective if it is sent as an electronic communication unless required to be physically delivered under law.

(e)   Notices must be sent to the parties' most recent known contact details.

(f)   The User may not assign or otherwise create an interest in this Agreement.

(g)   The Company may assign or otherwise create an interest in its rights under this Agreement by giving written notice to the User.

3.14   General

(a)   **Special Conditions.** The parties may agree to any Special Conditions to this Agreement in writing.

(b)   **Prevalence.** To the extent this Agreement is in conflict with, or inconsistent with, the terms of any Special Conditions made under this Agreement or other agreement between the User and the Company, as relevant, the terms of those other agreements or Special Conditions shall prevail.

(c)   **Disclaimer.**   Each party acknowledges that it has not relied on any representation, warranty or statement made by any other party, other than as set out in this Agreement.

(d)   **Relationship.**   The relationship of the parties to this Agreement does not form a joint venture or partnership.

(e)   **Waiver.**   No clause of this Agreement will be deemed waived and no breach excused unless such waiver or consent is provided in writing.

(f)   **Further Assurances.**   Each party must do anything necessary (including executing agreements and documents) to give full effect to this Agreement and the transaction facilitated by it.

(g)   **Governing Law.**   This Agreement is governed by the laws of Victoria, Australia. Each of the parties hereby submits to the non-exclusive jurisdiction of courts with jurisdiction there.

(h)   **Severability.** Any clause of this Agreement, which is invalid or unenforceable, is ineffective to the extent of the invalidity or unenforceability without affecting the remaining clauses of this Agreement.