

# PLATFORM TERMS OF USE

## WEWORKBOOK AND STUDENT LEARNING PORTAL SOFTWARE APPLICATION & WEBSITE

The **Weworkbook** web-based software platform is owned, controlled and operated by DNA Progression Pty Ltd ATF the Trustee for DNA Progression Trust ABN 52 484 829 128 (“DNA Progression”).

The terms and conditions set out below (“**Terms of Use**”) apply to any person who visits, accesses or otherwise uses the **Platform**, whether as a **Subscriber**, a **Subscriber Representative** or a **Student** (collectively, “**Users**”). Bold terms are defined in the ‘definitions’ section below or elsewhere in these Terms of Use.

DNA Progression reserves the right to amend these Terms of Use at any time. Notice of any amendments will be displayed on the Platform and may also be displayed on the website located at [www.Weworkbook.com](http://www.Weworkbook.com) (the “**Website**”). Users should familiarise themselves with these Terms of Use and check for updates regularly. **If any person does not agree to these Terms of Use, that person should stop accessing or using the Platform immediately.**

### ATTENTION ALL USERS:

#### THIS IS A LEGALLY BINDING AGREEMENT

These Terms of Use contain some clauses which limit or impact on your legal rights, including as follows:

- Our liability for any kind of loss or damage caused by using the Platform is significantly restricted (see clause 11).
- You give us a licence to use any content uploaded to the Platform (see clause 10).
- Your fee for using the Platform may increase depending on whether you need additional functionality or support and you may not always receive prior notice of increases (see Schedule 1).
- We do not guarantee that any data exported from the Platform will be accurate or meet any applicable reporting standards, because this depends entirely on the data input to the Platform, and there may also be technical problems that affect the accuracy of any such data;
- If you are the Subscriber, you are responsible for the conduct of all your Representatives on the Platform (see clause 3.7).

## A. DEFINITIONS

Where a definition is used for the first time in these Terms of Use, it will appear in **Bold Capitals**.

“**Charges**” for a Subscriber means all fees and charges payable by the particular Subscriber to DNA Progression in accordance with Schedule 1, including (where applicable for certain Subscribers) the SLP Add-on Charges defined in Annexure A.

“**Commencement Date**” for a **Subscriber** means the date the Subscriber pays the **Initial Access Fee** (as defined in Schedule 1).

“**Content**” includes (without limitation) text, word documents, photographs, logos, names, designs, information, **Personal Information**, data, drawings, links, video recordings and audio recordings.

“**Insolvent**” means unable to pay debts as and when they fall due (in the reasonable opinion of DNA Progression) and for a company, includes the situation where any step has been taken towards the winding up or administration of the company or where any assignment has been made for the benefit of creditors of the company.

“**Intellectual Property**” means all intellectual property and quasi-intellectual property rights (past, present and future) conferred by law (whether registered or unregistered) including without limitation business names, trade marks, patents, designs, trade secrets, computer programs, databases, inventions, copyright, circuit layout, moral rights and all proprietary rights and all other intellectual property defined in Article 2 of the Convention establishing the World Intellectual Property Organisation (July 1967).

“**Personal Information**” has the same meaning as in the **Privacy Policy**.

“**Platform**” means the Weworkbook web-based software platform and includes where applicable to certain Subscribers, the Student Learning Portal.

“**Platform Content**” means all Content on the Platform which is not Subscriber Content.

“**Privacy Act**” means the Privacy Act 1988 (Cth) as amended from time to time.

“**Privacy Policy**” means the privacy policy for the Platform as amended or updated from time to time, a copy of which can be found on the following webpage: [Privacy Policy](#).

“**Registered Training Organisation**” means a training provider registered with the Australian Skills Quality Authority or a state regulator to deliver vocational education and training services.

**“SLP Add-on Charges”** means the fees set by DNA Progressions for access to the Student Learning Portal (defined in Annexure A) as updated from time to time. At the time of writing these SLP Terms, the SLP Charges are:

- a. A one-off fee of \$2,000.00 plus GST for construction of a Subscriber-specific Student Learning Portal interface, with the Subscriber’s branding and image; and
- b. A one-off fee of \$1,000.00 plus GST per block of 100 Student Accounts.

**“Student Learning Portal”** means the student learning portal defined at the start of Annexure A.

**“Subscriber”** means an entity, usually a **Registered Training Organisation**, which is entitled to, and does, register an account and receive access to the **Services** upon payment of the applicable **Charges** and **“Subscriber Account”** is an account registered by a **Subscriber**.

**“Subscriber Content”** means any Content submitted or uploaded to the Platform by a Subscriber or their Representatives.

**“Subscriber Representative”** means any employee, contractor, agent, affiliate, client or other authorised representative of a Subscriber, including a trainer or teacher who works for the Subscriber.

**“Term”** means the duration of these Terms of Use commencing on the Commencement Date until these Terms of Use are terminated in accordance with clauses 3.8 or 14.

**“Third Party”** means an individual who is identified or identifiable by Third Party Personal Information.

**“Third Party Personal Information”**, means Personal Information supplied by a User that relates to an individual who is not that User.

## B. TERMS OF USE

### 1. Application of Terms of Use and Additional Access

1.1 These Terms of Use apply to all Users. By visiting, accessing or otherwise using the Platform, Users accept and agree to comply with these Terms of Use.

1.2 Where a Subscriber wishes to access additional features of the Platform (being the **Student Learning Portal** ) and pays the SLP Add-on Charges, the additional terms contained in Annexure A (the **“SLP Terms”** ) will apply to that Subscriber’s use of the Platform (which includes use of the Student Learning Portal). The SLP Terms will prevail to the extent of any inconsistency between the SLP Terms and the Terms of Use.

## 2. Description of Platform

- 2.1 The Platform is a customer relations management, course scheduling and reporting system designed for use by Registered Training Organisations.
- 2.2 In exchange for payment of the Charges, DNA Progression provides to the Subscriber the following services and functionality on the Platform (each Subscriber's level of access will depend on the Charges paid by the Subscriber):
- a. The means for enquiries from prospective students and other enquirers received by a Subscriber on their website to be directed straight to Weworkbook, which will then respond with an email sent to the enquirer containing details about the course provided by the Subscriber, also known as an 'InfoPAK';
  - b. Storage of data, on behalf of Subscribers, relating to individual Students (including contact details, dates of birth, disability status and prior learning), courses and units offered by the Subscriber, schedules, enrolment details, Student activity and outcomes;
  - c. Integration with government-provided and stored 'Unique Student Identifiers';
  - d. Exporting of data to text files ("**Output Data**") which the Subscriber may use in an effort to meet national reporting requirements under the Australian Vocational Education and Training Management Information Statistical Standard ("**AVETMISS**").
  - e. Access to training and support in accordance with clause 5.3;
  - f. Other related and subsidiary services and functionality not listed above in clause 2.2.a – 2.2.g.

(the provision of access to the Platform, and the functionality and services listed above, are collectively referred to as the "Services" and "Services" for a Subscriber means the Services available to that Subscriber).

- 2.3 DNA Progression reserves the right to alter or remove any Services or introduce new functionality or services at any time without notice to Users.
- 2.4 The Student Learning Portal is not available to all Subscribers. Subscribers wishing to access and utilise the Student Learning Portal should contact [support@Weworkbook.com](mailto:support@Weworkbook.com) for further information. Additional charges (being the SLP Charges) apply to access the Student Learning Portal.

## 3. Subscriber Account

- 3.1 Subject to the Subscriber making full payment of all **Charges** on time and meeting all other obligations under these Terms of Use, DNA Progression agrees to grant Subscribers (and their Subscriber Representatives, where applicable and subject to any relevant access permissions) during the Term a limited, personal, non-

exclusive, non-transferable, conditional and revocable license to view, access and use the Platform and the Services (“**Platform License**”). The Subscriber acknowledges and agrees that the terms and conditions of the Platform Licence are subject to change by DNA Progression.

- 3.2 Subscribers agree to the terms and conditions regarding Charges as set down in Schedule 1, which forms part of these Terms of Use.
- 3.3 When a Subscriber registers a Subscriber Account, they must provide details including the following:
  - a. Name of trading entity;
  - b. Business Name;
  - c. ABN;
  - d. Contact Person;
  - e. Business address;
  - f. E-mail address;
  - g. Telephone number; and
  - h. Other details requested by DNA Progression from time to time.
- 3.4 Subscribers will be required to create a unique password to obtain access to their Subscriber Account (“**Password**”) and must maintain the confidentiality of their Password.
- 3.5 Users agree that DNA Progression may send e-mails to their nominated e-mail address for the purpose of receiving any notifications from the Platform.
- 3.6 Subscribers agree to not transfer any Subscriber Account to any other person, or allow access to their Subscriber Account except their authorised Subscriber Representatives. DNA Progression maintains the right in its sole unfettered discretion to refuse to register a Subscriber Account. Each Subscriber must actively monitor and set appropriate permissions for each Subscriber Representative using the Platform and the relevant Subscriber Account.
- 3.7 Subscribers agree to remain entirely responsible and liable at all times for all conduct connected with their Subscriber Account, including all conduct of Subscriber Representatives.
- 3.8 In addition to the termination rights contained in clause 13 below, DNA Progression reserves the right to suspend access to a Subscriber Account without notice until all outstanding Charges are paid.

## 4. Training, Support and Help Files

- 4.1 After the **Commencement Date**, DNA Progression will provide initial web-based training to the Subscriber on the use of the Platform and will provide the Subscriber with access to user help files for training purposes (the “**Help Files**”).
- 4.2 The Subscriber agrees to ensure all Representatives who use the Platform have read the Help Files and received adequate training on the use of the Platform.

- 4.3 During the Term and subject always to the Subscriber meeting all obligations under these Terms of Use, DNA Progression will provide limited access to technical support as follows:
- a. Email and telephone support on technical issues relating to the access and use of the Platform during 9am – 5pm AEDT;
  - b. Access to any updated versions of the Platform suitable for the Subscriber’s operating system; and
  - c. On-site support at the Subscriber’s place of business, if requested by the Subscriber, to be charged at the Hourly Rate in accordance with Schedule 1.
- 4.4 Access to additional support services will incur a further fee in accordance with Schedule 1.

## 5. Certificates and Output Data

- 5.1 Subscribers may use the Platform to generate reports regarding courses, enrolments, Students and other details (“**Output Data**”) in order to assist the Subscriber to meet AVETMIS requirements and/or other requirements under relevant laws and regulations (“**Legal Requirements**”).
- 5.2 DNA Progression has no control over, or input into, the Output Data, because this is automatically generated based on the Content that the Subscribers and Students themselves supply. Accordingly, DNA Progression cannot guarantee, warrant or represent that the Output Data will be accurate, complete, free from technical problems or meet any Legal Requirements and DNA Progression accepts no responsibility, and disclaims all liability for, any loss, damage, expense, cost or liability suffered or incurred by any person as a direct or indirect result of reliance on any Output Data.
- 5.3 It is the responsibility of each Subscriber to ensure the accuracy of all Subscriber Content.
- 5.4 DNA Progression may in its discretion provide assistance to Subscribers to amend Output Data to meet Legal Requirements, which may incur an additional fee in accordance with Schedule 1.

## 6. Faults and Maintenance

- 6.1 If access to the Platform is unavailable for a User due to a system malfunction caused by DNA Progression (“**System Malfunction**”), DNA Progression will use all reasonable endeavours to rectify that System Malfunction within 2 business days of being notified in writing of the System Malfunction by the affected User.
- 6.2 If a User is unable to access the Platform due to a System Malfunction for more than 2 business days, DNA Progression will use all reasonable endeavours to:
- a. Assist the User to access any required Content through other reasonable means; and
  - b. Rectify the System Malfunction as soon as possible to minimise any further disruption to the User.

6.3 DNA Progression reserves the right to perform maintenance of the Platform without notice to Users.

## 7. Users' Obligations

7.1 Users warrant to DNA Progression that they shall not:

- a. Use the Platform for any purpose that is illegal, unlawful or prohibited by these Terms of Use;
- b. Interfere or attempt to interfere with, or obtain or attempt to obtain unauthorised access to, the Platform or any Content through hacking, use of automated devices, scripts or bots, or other illegitimate means;
- c. Scrape or otherwise obtain any data from the Platform for any purpose or use any Content to spam third parties;
- d. Interfere or attempt to interfere with the proper working of the Platform, or with any other person's use of the Platform, including by transmission of viruses, malware or any code or other conduct of a disruptive or destructive nature;
- e. Impersonate any person or entity, solicit money from other Users or engage in any fraudulent activities via the Platform, either directly or via third-party software;
- f. Contribute or distribute any Subscriber Content via the Platform that infringes legislation or regulations of any applicable jurisdiction (including without limitation the jurisdiction in which a User is using the Platform). Users agree that any legal consequences arising from a claim or action for infringement of any such legislation or regulation are their sole responsibility and they are wholly liable.

7.2 Users warrant that their Subscriber Content does not contain any:

- a. Obscene, blasphemous, hateful, violent, bullying, discriminatory or threatening language, or content that creates a risk of personal injury or property damage or makes any threat to people or public safety;
- b. Illegal, false, fraudulent, misleading or deceptive conduct, including but not limited to blackmail, extortion, financial or personal scams and attempts to impersonate others;
- c. Content that infringes the personal or proprietary rights of others, including but not limited to intellectual property rights and rights to privacy; or
- d. Spam, publicity or promotion of commercial activities or commercial content not specifically authorised by us with our prior written consent.

7.3 Users warrant to DNA Progression that they have the full capacity to agree to be legally bound by these Terms of Use and to provide the warranties set out in this clause 7 and elsewhere in these Terms of Use.

7.4 Users must comply, and are solely responsible for complying, with all laws and regulations applicable or relevant to the use of the Platform ("**Laws**").

7.5 Users are solely responsible for their conduct in the course of using the Platform, including uploading and distribution of any Content by that User. Users will not

infringe the rights of any other person or act in a way that constitutes a breach of any agreement they may have with any person by contributing any Content to the Platform.

## 8. Privacy

- 8.1 DNA Progression handles Personal Information in accordance with its Privacy Policy, which is incorporated into these Terms of Use by reference.
- 8.2 Users must not input **Third Party Personal Information** into the Platform unless the relevant **Third Party** first consents to DNA Progression collecting, handling and using their Third Party Personal Information in accordance with its Privacy Policy.
- 8.3 Users must also comply with the **Privacy Act** when collecting, handling and using Personal Information in connection with the Platform and should also maintain and comply with their own privacy policy when dealing with Personal Information in relation to the Platform.

## 9. Security

- 9.1 DNA Progression periodically creates back-up copies of Platform Content and Subscriber Content; however, DNA Progression is not responsible for any loss of, or damage to, any Platform Content or Subscriber Content. DNA Progression shall on reasonable notice make the Subscriber Content and related data, documentation or records maintained on behalf of the Subscriber available for inspection by the Subscriber however this may incur an additional fee in accordance with Schedule 1.
- 9.2 DNA Progression will endeavor to notify Users in writing if there is any change to the way in which Content is hosted, backed up, stored, secured or encrypted.
- 9.3 DNA Progression will take reasonable steps to notify the relevant User of any breach relating to the security of their Subscriber Content, the extent of the breach, and the actions being taken by DNA Progression to resolve the breach and mitigate any future security breach. While DNA Progression will use reasonable endeavours to ensure the security of Subscriber Content, to the extent permitted by law, DNA Progression will not be responsible in any way for any breach in security.

## 10. Intellectual Property

- 10.1 The **Intellectual Property** subsisting in any aspect of the Platform Content and Output Data including without limitation text, graphics, artwork, logos, software, trade marks, designs, copyright, compilations, algorithms, video recordings and audio recordings, as well as the structure, layout, user interface and “look and feel” of the Platform (“**Platform IP**”), is exclusively owned by, licensed to and/or

otherwise controlled by DNA Progression and/or its third party affiliates, licensors and/or licensees, and is protected by Australian and international law governing intellectual property rights. The Platform IP remains DNA Progression's exclusive property throughout the world in perpetuity.

- 10.2 Users are not permitted to save, download, reproduce, display, copy, alter, conceal, adapt, perform, transmit, broadcast, sell, license or otherwise exploit any Platform IP unless it is Output Data (in which Users have the rights set out in clause 10.5) or unless they have express prior written authorization from DNA Progression. Any use of Platform IP by Users not permitted by this clause 10.2 is strictly prohibited.
- 10.3 Subject to the rights granted to DNA Progression under clause 10.4, Subscribers will retain their existing rights in and control over any Intellectual Property subsisting in their Subscriber Content.
- 10.4 Each User hereby grants to DNA Progression a perpetual, non-exclusive, fully paid, royalty-free, transferable, sub-licensable, non-revocable, worldwide licence to reproduce, exploit or otherwise use, copy, reproduce, process, adapt, modify, publish, transmit, exploit, display and distribute all Subscriber Content relating to that User in any and all media subject to any conditions set out in these Terms of Use that apply to DNA Progression when collecting, storing and otherwise using Subscriber Content. DNA Progression confirms that it will handle all Person Information in accordance with the Privacy Policy.
- 10.5 DNA Progression hereby grants to Subscribers (and their nominated Subscriber Representatives) a non-exclusive, fully paid, royalty-free, revocable, sub-licensable, worldwide licence to reproduce, exploit or otherwise use, copy, reproduce, process, adapt, modify, publish, transmit, exploit, display and distribute any accessible Output Data (a "**Subscriber IP Licence**"). DNA Progression grants the Subscriber IP Licence to Subscribers on the condition that Subscribers will comply in full with all relevant and applicable terms of these Terms of Use.

## 11. General Disclaimers & Limitation of Liability

- 11.1 Except for liability in relation to breach of any implied condition, warranty or guarantee including under the Competition and Consumer Act 2010 (Cth) the exclusion of which from a contract would contravene any statute or cause any part of these Terms of Use to be void ("**Non Excludable Conditions**"), to the extent permitted by law, DNA Progression, its officers, directors, shareholders, successors in interest, employees, agents, subsidiaries and affiliates disclaim all liability for all loss or damage (actual, special, direct, indirect and consequential) of every kind relating to a User's use of the Platform (regardless of whether liability is based on any breach of contract, tort (including negligence), warranty, statute, or any other basis) as well as all warranties, guarantees, representations or specific promises as to the functionality, reliability or availability of the Platform, including warranty of fitness for purpose. DNA Progression takes no responsibility for any error, interruption or defect resulting from technical fault or

otherwise, and Users acknowledge and agree that their use of the platform is on an “as-is” basis to the extent permitted by law. To the extent permitted by law, DNA Progression’s liability for breach of any Non-Excludable Condition is restricted, at DNA Progression’s option, to the re-supply or paying for the cost of re-supplying access to the Platform.

- 11.2 DNA Progression is not responsible for Subscriber Content or other material that is created or otherwise appears via the Platform. DNA Progression does not endorse, support, represent or guarantee the accuracy, completeness or reliability of Subscriber Content appearing on the Platform and takes no responsibility for Subscriber Content but maintains the right to remove, block, edit or monitor any Subscriber Content at DNA Progression’s sole discretion, whether publicly viewable or otherwise, without notice to any party.
- 11.3 The Platform may from time-to-time integrate with or host hyperlinks to third-party web services or host third-party information or content on the Platform. All third-party content is the responsibility of its author, and DNA Progression does not endorse or represent the views or opinions contained therein. DNA Progression is not responsible for any material contained on third-party web services and any dealings between Users and third parties are Users’ sole responsibility.
- 11.4 Notwithstanding clauses 11.1 – 11.3, the provision of access to, and use of, the Platform by Users is on an “as is” basis and entirely at their own risk. DNA Progression is not responsible in any way to Users in the event that the security of Content on the Platform is compromised in any way, and DNA Progression disclaims its liability in this regard as per clause 13.
- 11.5 Subject to the application of any Non Excludable Conditions, Users hereby release DNA Progression from all claims and DNA Progression is not responsible nor liable for any injury, illness, direct or indirect damage, loss (financial, reputational or otherwise) or consequential, exemplary or aggravated damages arising from any of the following matters (“**Platform Matters**”):
  - a. The use of, or inability to use, the Platform by Users;
  - b. Any failure by DNA Progression or other third parties to provide any information, service, feature or functionality via the Platform;
  - c. Any unauthorised submission of information to the Platform;
  - d. Statements or conduct of any third party using the Platform;
  - e. Use of third-party services in conjunction with the Platform by Users;
  - f. Any communication or interaction between Users via the Platform, whether online or offline;
  - g. Any Content that is created, or otherwise appears, via the Platform; and
  - h. Where a User fails to comply with any Law, Industry Regulation or the Privacy Act when dealing with Personal Information in connection with the Platform.
- 11.6 Users hereby acknowledge and confirm that they are on notice of DNA Progression’s disclaimer of warranties and limitation of liability set forth in this

clause 11 or elsewhere in these Terms of Use (“**Disclaimers & Limitations**”) and expressly agree to these Disclaimers and Limitations as a condition of using the Platform.

- 11.7 In the event any part of the Disclaimers & Limitations is not enforceable for any reason, then DNA Progression’s maximum aggregate liability arising from or relating to any claim (or series of related claims) by a User, howsoever arising (whether based in negligence or any other tort, contract, statutory liability or otherwise, and including from or relating to the provision by DNA Progression of the Platform or any associated services, or the conduct of any Users) shall not exceed the price paid for Fees by that User to DNA Progression to use the Platform in the past 12 months.

## 12. Indemnities

- 12.1 As a further condition of using the Platform, Users must indemnify DNA Progression against all quantifiable and reasonable loss and/or damage suffered by DNA Progression (whether based in negligence or any other tort, contract, statutory liability or otherwise) as a direct result of that User (and, in the case of a Subscriber, the Subscriber’s Representatives and relevant Students) breaching a term of these Terms of Use.

## 13. Termination & Retention of Data

- 13.1 Subscribers are permitted to cancel their Subscriber Account and terminate these Terms of Use at any time after the Commencement Date, provided that the Subscriber has provided DNA Progression with 3 months’ written notice (“**Notice Period**”), and these Terms of Use will terminate at the next anniversary of the Commencement Date following the expiration of the Notice Period. We may otherwise agree to allow a Subscriber to cancel their Subscriber Account in our discretion.

- 13.2 We may cancel a Subscriber Account and terminate these Terms of Use:

- a. Without cause, by giving 3 months’ written notice to the relevant Subscriber;
- b. Where the Subscriber is in breach of any term of these Terms of Use and does not remedy such breach within such reasonable period based on the nature of the breach, as set out in a written notice to be given by DNA Progression to the Subscriber setting out the nature of the breach; and;
- c. Immediately without notice where the Subscriber commits a breach of a material term of these Terms of Use that is not capable of remedy; or
- d. Immediately without notice where the Subscriber becomes **Insolvent**.

- 13.3 In the event that a Subscriber Account is terminated or cancelled:

- a. The Subscriber will be provided with 90 days from the date of termination or cancellation to extract all data it requires from the Platform;

- b. Should the Subscriber wish and only upon payment of the applicable Charges, DNA Progression will export and provide the Subscriber with a copy of all Subscriber Content and Output Data connected with their Subscriber Account; and
- c. After 90 days have elapsed from the date of termination or cancellation, subject to the Privacy Policy and subject to clause 13.4 below, DNA Progression will delete all Subscriber Content and Output Data connected with the relevant Subscriber Account from DNA Progression's servers (wherever reasonably practicable) and will provide confirmation of such destruction to the Subscriber.

13.4 DNA Progression is unable to delete encrypted back-ups of Subscriber Content from a specific Subscriber Account (if such back-ups exist) which is commingled with the Subscriber Content of other Subscriber Accounts. If there are encrypted back-ups for an Subscriber Account which are to be deleted, DNA Progression will continue its usual procedure for creating encrypted back-ups such that the Subscriber Content for the specific Subscriber Account in any existing encrypted back-ups is superseded and/or deleted, and DNA Progression will also undertake not to extract Subscriber Content from any encrypted back-ups.

13.5 Cancellation of a Subscriber Account does not relieve the Subscriber of any obligation to make payment of Charges incurred by that Subscriber prior to the date of termination.

## 14. Jurisdiction & Choice of Law

14.1 These Terms of Use are governed by and construed in accordance with the laws of the State of South Australia, Australia without giving effect to any conflict of laws principle applicable in other jurisdictions. Any claim, cause of action or dispute arising out of these Terms of Use or relating to the use of the Platform will be resolved exclusively in the Supreme Court of South Australia or applicable lower court, and Users agree to submit to the personal jurisdiction of such courts for the purpose of litigating such claims.

## 15. Miscellaneous

15.1 If DNA Progression is involved in a sale, merger or other restructuring, it may need to assign its position under these Terms of Use to a third party, which it will have the right to do so at its sole discretion. DNA Progression will also have the right to assign its position under these Terms of Use in other circumstances with the written consent of Users. Users may assign their position under these Terms of Use to a third party with DNA Progression's prior written consent.

15.2 All provisions of these Terms of Use which by their nature would survive termination continue to bind the parties post-termination, including but not limited to provisions regarding intellectual property, confidentiality, security and Personal Information; and the Privacy Policy continues to apply in respect of all

Personal Information and non-personal statistical information collected under these Terms of Use and the Privacy Policy.

- 15.3 In the event that any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other provisions of these Terms of Use and these Terms of Use shall be construed as if such provisions had never been contained herein.
- 15.4 The fact that a party fails to do, or delays in doing, something the party is entitled or obligated to do under these Terms of Use, does not amount to a waiver of any obligation of, or breach of obligation by, any other party.
- 15.5 Users agree that no agency, joint venture, employee-employer, partnership or other similar relationship is created between them and DNA Progression by virtue of these Terms of Use.

## SCHEDULE 1 – SUBSCRIBER CHARGES

- 1.1 In order to be entitled to register a Subscriber Account, a Subscriber must first pay a one-off installation charge (“**Installation Fee**”) as well as the first instalment of the Annual Access Fee in accordance with Item 1.4 below.
- 1.2 If a Subscriber Account is terminated or cancelled and the relevant Subscriber subsequently wishes to reinstate the Subscriber Account, they must proceed through the set-up process again (including payment of the Installation Fee again).
- 1.3 The Annual Access Fee will be calculated in accordance with the Services required by the Subscriber according to the pricing set at <https://www.weworkbook.com/pricing.php> as updated or amended from time to time or as otherwise notified to the Subscriber.
- 1.4 Payment of the applicable portion of the Annual Access Fee must be made in advance on or before the commencement of each billing period (which may be monthly or annually).
- 1.5 When the Subscriber chooses to make an upfront payment of the Annual Access Fee in full, DNA Progression may in its discretion discount the amount owing.
- 1.6 DNA Progression reserves the right to charge for all services requested or required in addition to the Services covered by the Annual Access Fee at the rate of \$121 per hour or such other rate as is agreed between DNA Progression and the Subscriber (the “**Hourly Rate**”). Wherever reasonably practicable, DNA Progression will seek the Subscriber’s approval before commencing to charge the Hourly Rate. However, the Subscriber is on notice that certain kinds of additional services will attract the Hourly Rate as listed below in Item 1.7 and seeking the Subscriber’s prior approval may not always be possible.

- 1.7 The following are examples only of the kinds of services which will attract the Hourly Rate:
- 1.8 Making modifications to the Platform requested by the Subscriber;
  - a. Providing Output Data requested by the Subscriber;
  - b. Providing data import services; and
  - c. Providing on-site, additional or after-hours support services or support.
  - d. DNA Progression further reserves the right to charge the costs of any travel and accommodation expenses incurred by DNA Progression where reasonably necessary, and will endeavour to provide the Subscriber with prior notice of such expenses where practicable.
- 1.9 DNA Progression reserves the right to review the Installation Fee, Annual Access Fee and the Hourly Rate:
  - a. Every 2 years based on the higher of the increase in CPI, the direct cost of providing access to the Platform or the Services or the commercial price of comparable applications or hourly rates;
  - b. On release of a new version of the Platform.
- 1.10 However, DNA Progression will not charge any Hourly Rate or increase under Item 1.6 above without first providing the Subscriber with notice of the change and will only commence to charge the relevant cost at the commencement of the next Billing Period.
- 1.11 Subscribers may pay an additional fee to gain access to the Student Learning Portal – see Annexure A for further details on the SLP Add-on Charges.
- 1.12 All Charges are in Australian dollars and are inclusive of GST where applicable.
- 1.13 DNA Progression will issue a tax invoice to Subscribers for all Charges to the email address nominated by the Subscriber. It is the Subscriber's responsibility to keep this e-mail account updated to ensure all invoices are received. Subscribers must pay all Charges within 7 days of receipt of the invoice, without any deduction or set-off.
- 1.14 Charges may be paid by electronic funds transfer, direct debit or credit card (where available).
- 1.15 Subscribers must provide true and accurate billing information (including where relevant, the name of the credit card holder, billing address, date of expiry and CVC code) and may also be required to provide a form of verification to establish that they are the genuine credit card holder, or otherwise have the authority to use that credit card.
- 1.16 It is the responsibility of all Subscribers to keep their credit card details secure when using the Platform. If a Subscriber suspects that an unauthorised person has accessed their Subscriber Account, they should notify DNA Progression and their

card issuer immediately.

- 1.17 A Subscriber's card issuer agreement will govern the use of their designated credit card with the Platform, and will determine their rights and liabilities as a card holder.

## **ATTENTION: THIS IS A LEGALLY BINDING AGREEMENT ANNEXURE A – STUDENT LEARNING PORTAL ADDITIONAL TERMS**

The “**Student Learning Portal**” is a web-based software platform which allows Students to view their enrolment status and subject outcomes, submit documents and communicate with their trainers through individual Student Accounts.

The Student Learning Portal is found with the Weworkbook platform. The Student Learning Portal is owned, controlled and operated by DNA Progression Pty Ltd ABN 52 119 970 357 atf the DNA Progression Trust.

These terms (the “**SLP Terms**”) apply to Subscribers who pay the SLP Add-on Charges for access to the Student Learning Portal.

The SLP Terms apply to Students and Subscribers in addition to the Terms of Use found at [INSERT LINK ONCE UPLOADED]. The Terms of Use also apply to all use of the Student Learning Portal. The SLP Terms will prevail to the extent of any inconsistency between the SLP Terms and the Terms of Use.

### **A. DEFINITIONS**

*Where a definition is used for the first time in these SLP Terms, it will appear in **Bold Capitals**. All other capitalised terms have the same meanings as in the Terms of Use.*

For the purpose of the SLP Terms:

“**Commencement Date**” for a Student means the date the Subscriber creates the Student Account for the Student.

“**Portal**” means the Student Learning Portal.

“**Portal Content**” means all Content on the Portal apart from Student Uploads.

“**SLP Add-on Charges**” means the fees set by DNA Progressions for access to the Portal as updated from time to time. At the time of writing these SLP Terms, the SLP Charges are:

- a. A one-off fee of \$2,000.00 plus GST for construction of a Subscriber-specific Portal interface, with the Subscriber's branding and image; and
- b. A one-off fee of \$1,000.00 plus GST per block of 100 Student Accounts.

“**Student**” means an enrolled student of a Subscriber who has registered an account on the Portal and “**Student Account**” is the account registered by the Subscriber for the Student.

“**Student Uploads**” means any Content submitted or uploaded to the Portal by a Student.

## **B. SLP TERMS**

### **1. Services**

1.1 Subject to payment of the SLP Add-on Charges, DNA Progression will provide the following services and functionality:

- a. The means for Subscribers to set up Student Accounts for Students to access a Portal interface for the Subscriber which allows Students to submit assignments and documents, send messages to trainers, view results and otherwise keep track of the courses and subjects they are enrolled in, and may be accessed through the Subscriber’s website or a link sent by DNA Progression to the Student’s nominated email address; and
- b. Access to the Portal by Representatives, to view and mark Student Uploads, and add other documents and correspondence.

### **2. Grant of Licence**

2.1 Subject to the Subscriber making full payment of all SLP Add-on Charges on time and meeting all other obligations under the Terms of Use and the SLP Terms, DNA Progression agrees to grant Subscribers and their Students (and their Subscriber Representatives) during the Term a limited, personal, non-exclusive, non-transferable, conditional and revocable licence to view, access and use the Portal subject to any applicable access permissions (“**Portal Licence**”). The Subscriber acknowledges and agrees that the terms and conditions of the Portal Licence are subject to change by DNA Progression. As part of the Portal Licence, Subscriber Representatives will have certain rights to use the Portal on behalf of the Subscriber and a Subscriber’s Students will have certain rights to access and use the Portal, as further described in these SLP Terms.

### **3. Student Accounts**

3.1 When a Subscriber registers a Student Account, the Portal will provide the means for the Subscriber to provide details about the Student including the following:

- a. Name;
- b. Residential address;
- c. E-mail address;

- d. Telephone number;
- e. Details of any disability of which the Subscriber should be made aware;
- f. Details of prior education and learning;
- g. Date of birth; and
- h. Other details requested by DNA Progression from time to time.

3.2 Students will be assigned a unique password to obtain access to their Student Account (“**Password**”). Passwords will be sent to the Student’s registered email address (as nominated by the relevant Subscriber) and Students must maintain the confidentiality of their Password.

3.3 Students agree that DNA Progression may send e-mails to their nominated e-mail address on behalf of the relevant Subscriber or for the purpose of receiving any notifications from the Portal.

3.4 Student agree to not transfer any Student Account to any other person, or allow access to their Student Account by another person unless expressly authorised by DNA Progression or these Terms of Use. DNA Progression maintains the right in its sole unfettered discretion to refuse to register a Student Account.

3.5 A Student’s right to use their Student Account is contingent at all times on the Subscriber making full payment of all Charges (including the SLP Add-on Charges) on time and meeting all obligations under these Terms of Use. DNA Progression reserves the right to suspend a Subscriber Account (thereby suspending access to all relevant Student Accounts) without notice until all outstanding SLP Add-on Charges are paid. DNA Progression may terminate a Subscriber Account in accordance with its rights under the Terms of Use, thereby terminating a Student’s right to access their Student Account, without any need to give notice to the affected Student. DNA Progression is not liable to any Student in any way for any loss or damage suffered by the Student as a result of DNA Progression exercising its right to terminate a Subscriber Account.

#### **4. Code of Conduct**

4.1 In addition to the obligations under clause 7.1 and 7.2 of the Terms and Conditions, Students agree that they will not upload or distribute any Student Uploads via the Portal that infringe legislation or regulations of any applicable jurisdiction (including without limitation the jurisdiction in which a User is using the Platform). Students agree that any legal consequences arising from a claim or action for infringement of any such legislation or regulation are their sole responsibility and they are wholly liable for such.

4.2 Students further warrant that their Student Uploads do not contain any:

- a. Obscene, blasphemous, hateful, violent, bullying, discriminatory or threatening language, or content that creates a risk of personal injury or property damage or makes any threat to people or public safety;
  - b. Illegal, false, fraudulent, misleading or deceptive conduct, including but not limited to blackmail, extortion, financial or personal scams and attempts to impersonate others;
  - c. Content that infringes the personal or proprietary rights of others, including but not limited to intellectual property rights and rights to privacy; or
  - d. Spam, publicity or promotion of commercial activities or commercial content not specifically authorised by us with our prior written consent.
- 4.3 It is the responsibility of each Student to ensure the accuracy of all Student Uploads.
- 4.4 Subscribers agree to remain entirely responsible and liable at all times for all conduct connected with their Subscriber Account, including all conduct of Subscriber Representatives and all conduct of Students on Student Accounts.

## **5. Security**

- 5.1 DNA Progression periodically creates back-up copies of Student Uploads; however, DNA Progression is not responsible for any loss of, or damage to, any Student Uploads. DNA Progression shall on reasonable notice make Student Uploads and related data, documentation or records maintained on behalf of the Subscriber available for inspection by the Subscriber; however, this may incur an additional fee in accordance with Schedule 1.
- 5.2 DNA Progression will endeavour to notify Users in writing if there is any change to the way in which Content is hosted, backed up, stored, secured or encrypted.
- 5.3 DNA Progression will take reasonable steps to notify the relevant User of any breach relating to the security of their Student Uploads (as the case may be), the extent of the breach, and the actions being taken by DNA Progression to resolve the breach and mitigate any future security breach. While DNA Progression will use reasonable endeavours to ensure the security of Student Uploads, to the extent permitted by law, DNA Progression will not be responsible in any way for any breach in security.

## **6. Intellectual Property**

- 6.1 Subject to the rights granted to DNA Progression under clause 6.2, Students will retain their existing rights in and control over any Intellectual Property in their Student Uploads.
- 6.2 Each User hereby grants to DNA Progression a perpetual, non-exclusive, fully paid, royalty-free, transferable, sub-licensable, non-revocable, worldwide licence to reproduce, exploit or otherwise use, copy, reproduce, process, adapt, modify, publish, transmit, exploit, display and distribute all Student Uploads relating to that User in any and all media subject to any conditions set out in these Terms of Use that apply to DNA Progression when collecting, storing and otherwise using

Student Uploads. DNA Progression confirms that it will handle all Personal Information in accordance with the Privacy Policy.

- 6.3 DNA Progression hereby grants to Students a non-exclusive licence or otherwise use, copy, reproduce, process, adapt, modify, publish, transmit, exploit, display and distribute any Content accessible to Students via the Portal for personal use only (a “**Student IP Licence**”). DNA Progression grants the Student IP Licence to Students on the condition that Students will comply in full with all relevant and applicable terms of these SLP Terms and the Terms of Use.

## **7. General Disclaimers & Limitation of Liability**

- 7.1 DNA Progression is not responsible for Student Uploads or other material that is created or otherwise appears via the Portal. DNA Progression does not endorse, support, represent or guarantee the accuracy, completeness or reliability of Student Uploads appearing on the Portal and takes no responsibility for Student Uploads but maintains the right to remove, block, edit or monitor any Student Uploads at DNA Progression’s sole discretion, whether publicly viewable or otherwise, without notice to any party.

## **8. Termination of Student Accounts**

- 8.1 DNA Progression may terminate a Student Account:
- a. Upon request by a Subscriber (in which case DNA Progression is under no obligation to conduct any enquiries into the reason why the Subscriber wishes to terminate the Student Account but may exercise its sole unfettered discretion as to whether or not the Student Account will be terminated); or
  - b. Where a Student who wishes to cancel their Student Account and notifies the relevant Subscriber which in turn notifies DNA Progression; or
  - c. Where DNA Progression has reasonable grounds to believe the Student is in breach of these SLP Terms or the Terms of Use.