

Wageloch Supply Conditions

These Supply Conditions, together with the Customer Contract signed by the Customer are accepted by the parties as governing the supply of all services by Wageloch and the granting of a licence by Wageloch to the Customer.

1. DEFINITIONS AND INTERPRETATION

- 1.1. **"Additional Services"** means any goods supplied or services performed of a type and nature not specifically referred to in the Customer Contract;
- 1.2. **"Additional Services Pricing List"** means Wageloch's standard pricing list as may be attached or referred to in the Customer Contract;
- 1.3. **"Agreement"** means the documents comprising the Customer Contract and Supply Conditions;
- 1.4. **"Business Day"** means a day other than Saturday, Sundays and public or statutory holidays in South Australia, Australia;
- 1.5. the **"Commencement Date"** is the date agreed between the parties and recorded in the Customer Contract;
- 1.6. **"Customer"** means the person identified in the Customer Contract;
- 1.7. **"Customer Contract"** means the customer agreement signed by the Customer containing an overview of the Agreement;
- 1.8. **"CPI"** means the change in Consumer Price Index as published by the Australian Bureau of Statistics over the preceding 12-month period.
- 1.9. **"Fingerprint Scanner"** is model Uare4500, and may be substituted by Wageloch in its discretion;
- 1.10. **"Goods"** means the goods supplied by Wageloch to the Customer;
- 1.11. **"Initial Cost"** means the initial cost payable for the Services set out in the Customer Contract;
- 1.12. **"Intellectual Property Rights"** are defined in clause 5;
- 1.13. **"Licence"** is defined in clause 6;
- 1.14. **"Manual Administration Fee"** is defined at clause 11.4;
- 1.15. **"Minimum Term"** is 1 year from the Commencement Date;
- 1.16. **"Person"** includes companies;
- 1.17. **"Services"** means the activities, work and services described in the Customer Contract;
- 1.18. **"Software"** means the software provided to the Customer comprising the Wageloch Cloud software and the Wageloch Time Kiosk software (and Wageloch HR software if ordered);
- 1.19. **"Software Licence Fee"** means the fee payable for licence of the Software as set out in the Customer Contract;
- 1.20. **"Billable Employees"** means the number of Persons who will be appearing on rosters or timesheets, or clocking in or out using the Software on a monthly basis;
- 1.21. Headings are for convenience only and do not form part of these Supply Conditions;
- 1.22. Reference to the singular includes the plural and the plural includes the singular; and
- 1.23. References to legislation are references to Australian legislation in force and include any subordinate legislation, by-law, regulation, order, statutory instrument or determination made under it, any re-enactment of, or amendment to, that legislation and all legislation passed in substitution for that legislation.

2. PLACING AN ORDER

- 2.1. The Customer is deemed to have confirmed the accuracy of the Agreement, to have read and accepted the Supply Conditions by signing the Customer Contract.

3. SERVICES

- 3.1. Wageloch will perform the Services in accordance with the

Customer Contract and these Supply Conditions.

- 3.2. If Wageloch agrees, at the Customer's request, to perform Additional Services, they will be performed in the manner agreed. Unless otherwise agreed in writing, the Customer will pay for such Additional Services in accordance with the Additional Services Pricing List.
- 3.3. Wageloch will exercise due care and skill in providing its Services, however, given the nature of the telecommunications systems (including Wageloch's services' reliance on systems and services that Wageloch does not own or control), Wageloch cannot promise that its services will be continuous or fault-free.

4. TIME

- 4.1. Wageloch will use reasonable endeavours to complete the services in accordance with any timetable set out in the Customer Contract. Any such timetable is, however, an anticipated timeframe only and Wageloch makes no warranty or representation that the Services will be provided according to that timeframe.
- 4.2. If Wageloch is unable to adhere to the timetable because of the Customer's act or omission:
 - 4.2.1 the Customer will pay any reasonable additional charge required by Wageloch, which will be calculated having regard to the increased time, commitment of resources and costs and expenses resulting directly or indirectly from such act or omission;
 - 4.2.2 If such act or omission causes delay exceeding eight (8) weeks beyond the due date, Wageloch may terminate the agreement.

5. INTELLECTUAL PROPERTY

- 5.1. All intellectual property rights (including those subsisting in any computer programs, databases and documentation) in any subject matter developed or supplied by or on behalf of Wageloch in the course of performing the Services (together, the **"Intellectual Property Rights"**) are owned by Wageloch and/or their agents. The information and data recorded by the Customer in any computer programs and databases will be owned by the Customer.
- 5.2. In no circumstances may any subject matter developed or supplied by or on behalf of Wageloch to the Customer be disclosed to any third party or used via or in connection with an outsourcing, service bureau or facilities management transaction without Wageloch's prior written consent.
- 5.3. The obligations contained in this clause 5 will survive the expiration or termination of this Agreement.

6. LICENCE

- 6.1. If the Customer has fully complied with this Agreement, Wageloch grants the Customer a personal, non-exclusive, non-transferable licence to use the Software stated in the Customer Contract, for the internal operational purposes of the Customer.
- 6.2. The licence only permits the Customer to use the licensed number of copies of the Software, at the Customer Site/s and on the designated equipment. The licence only permits the Customer to use the object code version of any subject matter which is a computer program.
- 6.3. In the event of the non-payment by the Customer of any sum due to Wageloch under this Agreement, or the failure to remedy a material breach of this Agreement after notice by Wageloch, Wageloch reserves the right to suspend or terminate the licence by temporarily or permanently disabling

the Software.

7. ACCESS

- 7.1. Under no circumstances will the Customer permit any third party to access, use, reproduce or adapt any subject matter delivered by or on behalf of Wageloch pursuant to this agreement without authorisation by Wageloch.

8. SECURITY

- 8.1. The Customer will ensure that all property (including all intellectual property) provided in the course of Wageloch providing the Services, is protected at all times from access, misuse, damage or destruction by any person.

9. MAINTENANCE AND REPAIR

- 9.1. Where use of the Services at the Customer's site involves equipment that does not belong to Wageloch the Customer is responsible for carrying out any maintenance or repairs to that equipment that Wageloch reasonably requires within a reasonable timeframe.
- 9.2. Where the Customer's equipment causes a fault in the Services that requires repair, Wageloch can charge the Customer the applicable fees as set out in the Additional Services Pricing List.
- 9.3. Wageloch can suspend or restrict the Services temporarily if it reasonably believes it is desirable or necessary to do so to maintain or restore any part of the Wageloch network. Wageloch will attempt to perform maintenance and repair work at times that will cause the least inconvenience to the Customer.

10. TRAINING

- 10.1. Wageloch will provide the Customer with training in the use of the software as follows:
 - 10.1.1 At the time of installation, up to one hour of complimentary training to a person nominated by the Customer; and
 - 10.1.2 up to eight hours total of customer support per annum between the hours of 8.00am and 6.00pm ACST on business days. Customer support can be accessed by emailing the Helpdesk (helpdesk@wageloch.com.au) or check the website (wageloch.com.au/helpdesk) for your local phone number.
- 10.2. At the reasonable request of the Customer, Wageloch will also:
 - 10.2.1 Install patches and upgrades to the Software, as they become available (internet connection required);
 - 10.2.2 Rectify any errors in the Software.

11. FEES

- 11.1. In consideration of Wageloch's Agreement to perform the Services, the Customer will pay to Wageloch the fees set out in the Customer Contract in the manner and at the times set out therein. Where the charge for a deliverable is not specified in the Customer Contract or otherwise agreed in writing, the Customer must pay a reasonable charge for that deliverable as reasonably determined by Wageloch.
- 11.2. Invoices will be sent to the Customer's nominated email address. All fees are payable by direct debit and the Customer agrees to do everything necessary to establish a direct debit facility. Where a direct debit is unsuccessful because of the Customer's act or omission, the Customer agrees to pay an administration fee of \$5 plus GST. The Software Licence Fee will be debited on the due date following processing of the Customer's payroll. All other fees will be debited on the due date specified in the relevant Wageloch

invoice.

- 11.3. Wageloch requires Customers to enter into a Direct Debit arrangement through GoCardless or Stripe (or such other billing provider used from time to time). Stripe charges a credit card processing fee, which will be passed on by Wageloch as an additional cost to the Customer. Wageloch will however cover the GoCardless fees for direct debits from bank accounts.
- 11.4. Should the Customer be unable to set up a direct debit arrangement, Wageloch will charge a Manual Administration Fee of \$20 plus GST per invoice to cover the administration costs of processing.
- 11.5. Payment of the Initial Cost will be due and payable on acceptance of this Contract by the Customer.
- 11.6. The direct debit will commence on the date listed in the Customer Contract notwithstanding that the installation of the software may not have commenced or been completed. Delays in installation that are due to the Customer are not grounds for delay in payment to Wageloch of the agreed sum.
- 11.7. Unless otherwise stated in the Customer Contract all fees payable by the Customer are exclusive of GST and other taxes, duties, levies and charges, whether governmental or otherwise, payable in respect of all or any part of the Services or this Agreement.
- 11.8. All amounts payable by the Customer to Wageloch will be paid within the timetable for payment set out in the Customer Contract.
- 11.9. Without limiting Wageloch's right to terminate this Agreement or any other rights that it may have, the Customer will pay interest at the rate of four per cent per annum (4%) on all overdue amounts owing to Wageloch for each day during which the Customer is in arrears.
- 11.10. Wageloch may, in its absolute discretion, seek and recover from the Customer and the Customer agrees to pay any costs and expenses incurred in collecting or attempting to collect any amounts that are not paid by the Customer when due including debt collector's expenses and legal fees on a solicitor-client basis.

12. VARIATIONS IN PRICES

- 12.1. Subject to the below provisions, all prices in the Customer Contract shall remain current for the first 12 months of the Agreement.
- 12.2. Wageloch may increase prices annually beginning at the expiry of the Minimum Term by no more than CPI without the need for any further notification. Any such price adjustment cannot be a negative adjustment.
- 12.3. After the expiry of the Minimum Term, and on giving 30 days written notice to the Customer, Wageloch will be entitled to vary any of these Supply Conditions.
- 12.4. After the expiry of the Minimum Term, and on giving 30 days written notice to the Customer, Wageloch will be entitled to vary any prices for Goods and Services in the Customer Contract in addition to any CPI price adjustment pursuant to Section 12.2.
- 12.5. Wageloch may increase prices commensurate with the rates set forth in the Customer Contract at any time should the Billable Employees increase during any given month of Service. Prices shall never decrease below those agreed for the minimum number of Billable Employees set forth in the Customer Contract.
- 12.6. Wageloch shall be entitled to vary any prices in the Customer Contract during the Minimum Term if:
 - 12.6.1 the Customer provides incomplete or inaccurate information to Wageloch preventing Wageloch from providing an accurate quote;

- 12.6.2 Wageloch experiences delays in providing the Services by virtue of any action or inaction on the part of the Customer where such delay is in excess of thirty days from the Commencement Date;
- 12.6.3 any works previously carried out by third parties interfere with or prevent Wageloch from providing the Services in accordance with the timeframe as required by this Agreement;
- 12.6.4 Wageloch experiences price increases in acquiring any Goods required in respect of providing the Goods and/or Services to the Customer after the date of this Agreement;
- 12.6.5 the Customer is in breach of its obligations as set out in this Agreement causing Wageloch to incur loss for any reason directly or indirectly; or
- 12.6.6 any cause occurs beyond Wageloch's control causing the necessary variation.

13. CONFIDENTIAL INFORMATION

- 13.1. The Customer will treat all information supplied to it by Wageloch (including information comprised in any computer programs, databases and documentation) as confidential, except to the extent that such information becomes public knowledge or is required, by law, to be disclosed. Wageloch will treat all Customer confidential information as confidential.
- 13.2. **Pricing Confidentiality:** Quotes and pricing terms are negotiated between the Customer and Wageloch and may be unique to the Customer. Therefore, and except as otherwise provided by law, the Customer hereby agrees to keep the pricing arrangement confidential. The Customer will not use this confidential information in furtherance of its business, or the business of anyone else, whether or not in competition with Wageloch.
- 13.3. The obligations contained in this clause 13 will survive the expiration or termination of this agreement.

14. COMPLETION AND WARRANTY

- 14.1. Any warranty as to the Goods on the part of the Customer shall be limited to the written warranty provided by the manufacturer to the Customer on or before installation of the Goods.
- 14.2. Wageloch reserves the right to revoke the warranty should the Goods be modified, altered, damaged or put to any undue stress other than in the way the Goods were designed to perform.
- 14.3. The Customer may not assert any right of set off, counterclaim or abatement in respect of alleged defects concerning the Goods and Services and must pay all amounts due under this Agreement in full to Wageloch before pursuing any remedial or rectification claims.

15. LIMITATION OF LIABILITY

- 15.1. Wageloch will not be liable for any circumstances affecting Wageloch's performance of the Services which are caused by factors beyond Wageloch's reasonable control. This includes but is not limited to the Customer's failure to provide direction to Wageloch in relation to the Services or to test or use subject matter delivered pursuant to this Agreement. This also includes the Customer's sub-contractors' acts or omissions, fire, flood, tempest, earthquake, riot, civil disturbance, theft, vandalism, crime, strike, lockout, breakdown, war and the inability of Wageloch's normal suppliers to supply the necessary material.
- 15.2. Where any third-party consents are in the opinion of Wageloch necessary to enable Wageloch to perform the Services, the Customer will obtain those consents within such times as will enable Wageloch to perform the Services in

accordance with this Agreement.

- 15.3. The Customer acknowledges that the Software uses a rules-based award interpreter which is based on the relevant award rules **provided to Wageloch by the Customer. If the Customer does not provide Wageloch with award rules, then the Customer agrees that Wageloch will install a standard set of award rules based on interpretation of the award by Wageloch. In all events it is the responsibility of the Customer to check that the amounts calculated by the Software are correct.** The Customer is responsible for advising Wageloch of any Award provisions or industrial agreements or arrangements that may apply to its business or that constitute variations to standard award arrangements, and to check that the amounts calculated by the software are correct. In the case of any changes to the customer's Award provisions or industrial agreements or arrangements, the customer must provide Wageloch with notification at least seven (7) business days prior to the date that the changes become effective.
WAGELOCH WILL NOT BE LIABLE FOR ANY CLAIMS ARISING FROM THE CUSTOMER'S FAILURE TO PERFORM ITS OBLIGATIONS UNDER THIS SUB-CLAUSE 15.3 AND/OR IN RELATION TO LOSSES SUFFERED BY THE CUSTOMER AS A CONSEQUENCE OF THE INCORRECT CALCULATION OF EMPLOYEE ENTITLEMENTS BY THE SOFTWARE.
- 15.4. All liability and obligations imposed under statute are expressly excluded but only to the extent that this exclusion does not contravene the statute or cause any part of the Agreement to be void.
- 15.5. To the maximum extent permitted by law:
 - 15.5.1. Wageloch will not be liable to the Customer or any other person or third party in respect of any consequential or other loss or damage (including loss of profit, loss of income or loss to reputation) arising directly or indirectly from the provision of Services under this Agreement;
 - 15.5.2. Wageloch's liability arising out of a connection with this Agreement whether under the law of contract, in tort, in equity under statute or otherwise shall be limited in aggregate to an amount equal to the total cost payable in the first year of the Agreement;
 - 15.5.3. Wageloch shall not be liable to the Customer for any statements, representations, guarantees, conditions or warranties not expressly contained in this Agreement.

16. SUPPORT

- 16.1. Wageloch agrees to provide support as set out in the Customer Contract to the Customer for the period set out in the Customer Contract subject to the Customer:
 - 16.1.1 notifying Wageloch of any problem for which it requires support within 24 hours of the problem occurring; and
 - 16.1.2 if requested by Wageloch, ceasing to use Services affected by the problem alleged until the problem is rectified by Wageloch.

17. ASSIGNMENT

- 17.1. The Customer will not in any way assign or deal with interests under this agreement without Wageloch's prior written consent. The Customer is deemed to have assigned this agreement if there is a change in control of the shareholding in the Customer.
- 17.2. Wageloch may assign or subcontract the performance of its rights and obligations under the agreement without seeking and obtaining the permission of the Customer.

18. TERMINATION

- 18.1. Termination of this Agreement will terminate any licence granted under it.
- 18.2. This Agreement continues for the Minimum Term and after the expiry of the Minimum Term until terminated by either party giving 30 days' notice, such notice not to expire before the expiry of the Minimum Term.
- 18.3. Wageloch may terminate this Agreement at any time by notifying the Customer in writing if the Customer is in material breach of any term of the agreement and:
- 18.3.1 Wageloch has notified the Customer in writing of the breach and the Customer has failed to remedy it within 14 days of receipt of such notice; or
- 18.3.2 The breach is something which cannot be remedied.
- 18.4. The Customer will be in material breach of a term of the agreement if the Customer:
- 18.4.1 breaches its obligation to pay the fees for the Services;
- 18.4.2 commits an act of bankruptcy or goes into liquidation or has a receiver or administrator appointed to control its affairs, is deemed to be unable to pay its debts or has a petition presented for its winding up or for an administrative order; or
- 18.4.3 does any act which might materially prejudice interests in intellectual property rights subsisting in subject matter delivered pursuant to this agreement.

19. NOTICE

- 19.1. Notice may be given under this Agreement either by direct mail sent to the registered office of the relevant party or email sent to the email addresses contained in the Customer Contract.

20. CHANGES AND ADDITIONAL ITEMS

- 20.1. If the Customer requests an alteration to any matter affecting this Agreement after the Commencement Date, Wageloch may agree, subject to conditions including:
- 20.1.1 the Customer giving detailed particulars of the alterations; and
- 20.1.2 the payment of such additional charge, calculated by Wageloch having regard to increased time, and commitment of resources to such alterations.

21. WAIVER

- 21.1. Wageloch will not be deemed to have waived any of its rights under this agreement unless such waiver is in writing and signed by Wageloch.

22. ENTIRE AGREEMENT

- 22.1. The Customer Contract and these Supply Conditions constitute the entire agreement between the parties with respect to the Services.

23. SEVERABILITY

- 23.1. If any provision of this Agreement is held invalid, unenforceable or illegal for any reason, this Agreement will remain otherwise in full force, apart from such provision, which will be deemed to be deleted. The remaining terms continue to have full effect.

24. LAWS

- 24.1. This agreement will be governed by and construed according to the laws in force in the State of South Australia, and the parties agree to submit to the exclusive jurisdiction of courts and tribunals of that State.

25. PRIVACY

- 25.1. The Customer hereby authorises Wageloch to collect, retain,

record, use and disclose consumer and/or commercial information about the Customer, in accordance with the Privacy Act 1988 (Cth), to persons and/or legal entities who are a solicitor, or any other professional consultant engaged by Wageloch, a Debt Collector, Credit Reference Organization and/or any other individual or organization which maintains credit references and/or default listings.

26. DISPUTE RESOLUTION

- 26.1. Without prejudice to either party's rights both parties agree that:
- 26.1.1 the Customer and Wageloch will initially use all reasonable endeavors to resolve any dispute arising under this Agreement within 10 Business Days of a party being advised by written notice of such a dispute;
- 26.1.2 in the event that the parties are unable to resolve the dispute within the timeframe specified at clause 26.1.1 above, the parties may either agree to refer the matter to mediation or some other form of alternative dispute resolution or commence legal proceedings;
- 26.1.3 to the extent possible, both parties shall continue to comply with their respective obligations under this Agreement whilst the dispute is being addressed by the procedure as set out in this clause 26.1;
- 26.1.4 nothing in this Agreement shall prevent Wageloch from seeking injunctive relief at any time if it is deemed necessary.

27. INSTRUCTIONS AND COMMUNICATIONS

- 27.1. Wageloch shall receive instructions from the person signing this Agreement only. If the Customer authorises any other employee or agent to give Wageloch instructions in lieu of or in addition to the person signing this Agreement, the Customer must inform Wageloch of that person's details in writing.
- 27.2. Wageloch shall not be liable in any way for any losses incurred by the Customer in accepting instructions from the persons contemplated by this clause 27.
- 27.3. Wageloch may elect to communicate by electronic mail or such other form as is convenient and does not warrant that any such communication will be free from defect, virus or shall be otherwise secure. The Customer hereby acknowledges and agrees to accept such communications and releases Wageloch from all liability in respect of any losses that may be incurred by the Customer by virtue of such communications.

28. CONDUCT

- 28.1. The Customer will not bully, abuse, harass, intimidate or otherwise engage in threatening or offensive behaviour towards Wageloch's employees and representatives.
- 28.2. Wageloch reserves the right to terminate any phone call and/or communication with the Customer in the event of behaviour set out in clause 28.1.