Services Agreement

TERMS AND CONDITIONS

1. Definitions and interpretation

1.1 This Agreement consists of these Agreement Provisions, together with the Agreement Particulars and the Key information about your Settify service (*"Key Information"*).

1.2 In this Agreement:

"Application" means the Settify client intake and engagement web application in respect of the Practice Areas;

"Client Materials" means the materials provided by the Client to Settify for the purposes of skinning the Application for the Client, being the Client's trade marks, business names, logos, photographs, lawyer biographies, graphics, colour schemes, precedent legal documents, brochures, and rate sheets, and excluding any amendments to the Application blueprints or modifications to the Application under clause 5;

"Commencement Date" means the date of signature of this Agreement by both parties;

"Customisation and Rollout Fee" means the fee payable by the Client to Settify, as set out in the Agreement Particulars, in consideration for Settify modifying the Application with the Client's name, logo, colour scheme, fonts, imagery, and lawyer information, and customisation of the Application blueprints limited to wording changes. The Customisation and Rollout Fee does not cover structural changes to the Application blueprints, such as new questions, changes to the application flow, additional features, or data integrations;

"Embed Code" means code provided to the Client by Settify which, when properly implemented on the Client's website or in a communication to a person, will provide the person with access to the Application;

"Fees" means all fees payable to Settify by the Client under this Agreement, including, but not limited to, the Customisation and Rollout Fee, the Licence Fee, the Per Use Fees, the Support Fee, the Training Fee, and Modification Fees, where applicable;

"Force Majeure Event" means inclement weather, industrial action, fire, flood, natural disaster or any other cause beyond the control of Settify;

"Intellectual Property Rights" means all intellectual property rights of whatever nature and however they arise throughout the world, including rights in respect of or in connection with copyright, inventions (including patents), designs, trade marks, service marks, trade names, goodwill, confidential information, trade secrets, and know-how and similar industrial, commercial and intellectual property rights, licences, whether or not registered or registrable, and including in all cases the right to apply for the registration of such rights and all associated rights of use;

"Jurisdiction" means Victoria if the Client's address is in Australia, and otherwise means the legal jurisdiction in which the Client's address is located;

"Licence Fee" means the fee payable by the Client to Settify in consideration of the right to access the Service as set out in the Agreement Particulars;

"Modification Fee" means the fee set out in Clause 5.5;

"Modification Request" has the meaning given in Clause 5.1;

"Per Use Fee" means the fee payable to Settify as set out in the Agreement Particulars (if any);

"Privacy Law" means all applicable laws relating to the collection, use, processing and storage of data, including personal information, in the Jurisdiction. This may include the General Data Protection Regulation (GDPR) (Europe), Privacy Act 1988 (Australia/New Zealand), the Personal Information Protection and Electronic Documents Act 2000 (Canada), and the Data Protection Act 2018 (UK).

"Service" means the Settify service as set out in Clause 3;

"Settify Servers" means servers operated for or by Settify;

"Support Fee" means the fee set out in the Key Information (if any);

"Tax" means a tax, duty, levy, charge or deduction imposed by or under relevant legislation of the Jurisdiction;

"Term" means the term of this Agreement as set out in the Agreement Particulars;

"Training Fee" means the fee set out in the Key Information (if any);

"Unit" means a single whole unit of the local currency of the Jurisdiction (e.g. dollar/pound/euro)

"User" means a person who accesses the Application via the Embed Code or via an invitation from the Client;

"User File" means the information collected by the Application in respect of a User;

1.3 In this Agreement, unless the context otherwise requires:

(a) a reference to natural person includes a corporation, partnership, government body or any other legal entity;

(b) where the day on or by which any act matter or thing is to be done is a Saturday, Sunday or public holiday celebrated in Melbourne, Australia or the Jurisdiction, such act matter or thing may be done on the next day which is not a Saturday, Sunday or public holiday celebrated in Melbourne, Australia or Jurisdiction; and

(c) 'include' and similar expressions are not words of limitation.

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2. Term

2.1 This Agreement commences on the Commencement Date and will remain in force for the duration of the Term, unless terminated earlier in accordance with this Agreement.

3. The Service

3.1 In consideration of the payment of the Fees by the Client and subject to the terms of this Agreement, Settify will, during the Term:

(a) provide access to the Application for Users who click-through to the Application via the Embed Code on the Client's website, or in a communication from the Client;

(b) collect the information entered into the Application by each User; and

(c) provide the Client with a User File in respect of each User who has expressly authorised Settify to disclose its User File to the Client (once the Client confirms that it is not conflicted and wishes to see the User File),

collectively, the "*Service*".

3.2 To facilitate the provision of the Service, Settify will:

(a) provide the Client with the Embed Code for the Client's website, and a function in the Application to invite prospective Users via email; and

(b) create a unique instance of the Application for the Client on Settify Servers, and skin the Application using the Client Materials (as further set out in the definition of the Customisation and Rollout Fee).

4. Training, Maintenance and Support

4.1 In consideration of the Training Fee, Settify will provide the Client with the Training Service set out in the Agreement Particulars.

4.2 In consideration of the Support Fee, Settify will provide the Client with the Maintenance and Support Service set out in the Agreement Particulars.

4.3 Settify may upgrade, or implement bug fixes or corrections to, the Application from time to time during the Term. The Client acknowledges that the Application may be temporarily unavailable to Users while such upgrades, fixes or corrections take place. Settify will use all reasonable efforts to ensure that unavailability of the Application arising out of such upgrades, fixes and corrections is kept to a minimum.

5. Application Modifications

5.1 In addition to the modifications covered by the Customisation and Rollout Fee, the Client may request further modifications to the Application from time to time during the Term (each a "*Modification Request*").

5.2 Modification Requests must be made in writing, setting out the specific wording or additional functionality requested to be incorporated into the Application.

5.3 Settify may agree to make the modifications set out in a Modification Request in its absolute discretion.

5.4 In the event that Settify agrees to make the modifications set out in a Modification Request, Settify will provide the Client with a written quote and timeline for the completion of the modifications, which quote may be accepted by the Client within 5 business days of receipt. Quotes are normally prepared on a time and materials basis, at a rate of $300 per hour.

5.5 Upon receipt of acceptance of the quote, Settify will issue an invoice for the amount set out in the quote (the "*Modification Fee*") and upon receipt of the Modification Fee will commence work on the modification.

5.6 For the avoidance of doubt, all modifications made by Settify in connection with a Modification Request will be owned by Settify in accordance with Clause 7.1 below.

6. Client Obligations

6.1 The Client agrees that it will:

(a) only utilise the Embed Code on the Website or in communications to prospective Users in accordance with the reasonable instructions given by Settify from time to time;

(b) provide Settify with the Client Materials and instructions to enable Settify to comply with its obligations under clause 3.2(b) above;

(c) pay the Fees in accordance with the terms of this Agreement;

(d) comply with all applicable laws, including Privacy Laws;

(e) implement a privacy policy which covers the collection, storage and use of User Files as contemplated under this Agreement;

(f) **not attempt to access, modify, reverse engineer, decompile or otherwise attempt to obtain the source code of the Application via any means (except to the extent that source code is necessarily downloaded and run as part of a web browser's normal operation); and**

(g) **notify Settify as soon as reasonably practicable if it discovers any bugs or errors in the Application.**

6.2 The Client acknowledges that it will not be provided with a copy of the Application nor any source code and that nothing in this Agreement grants the Client any rights in the Application or the Service other than those expressly set out herein.

7. **Intellectual Property**

7.1 Subject to clause 7.5, the Client acknowledges and agrees that all right, title and interest (including Intellectual Property Rights) in the Application, the Embed Code, all materials provided by Settify to the Client, and all materials created by Settify under this Agreement (including any modifications, adaptations and amendments of any of the foregoing unless agreed otherwise in writing) will be owned by Settify worldwide and in perpetuity. To the extent that the Client at any time owns or controls any rights in any of the foregoing the Client hereby assigns all such rights to Settify worldwide and in perpetuity, including as a present assignment of future copyright.

7.2 The Client will execute any documents reasonably required by Settify to fully secure its ownership of the rights set out in Clause 7.1 above.

7.3 The Client warrants that the use of works, material or content it provides to Settify in connection with the provision of the Services will not infringe the rights (including copyright) of any third party.

7.4 The Client consents to Settify using the Client Materials and any amendments to the Application without attributing a particular author, provided the use is in connection with the performance of Settify's obligations under this Agreement. The Client warrants that it has obtained appropriate consents from all relevant persons to the extent this may be required.

7.5 Settify acknowledges that all right, title and interest (including Intellectual Property Rights) in and to the Client Materials is owned by the Client and nothing in this Agreement will operate to transfer title in the Client Materials.

7.6 The Client grants Settify a non-exclusive, non-transferable, royalty-free licence during the Term to use the Client Materials solely for the purpose of fulfilling its obligations under this Agreement.

7.7 Settify grants the Client a perpetual, irrevocable, worldwide, royalty-free licence to use all outputs validly obtained from the System, for the purposes of operating a law firm, and providing legal services to Users.

8. **Data and Access**

8.1 The Client acknowledges that all data collection and processing will occur on Settify Servers.

8.2 The Client acknowledges that all information, documents, and materials provided by a User through the Application remain the property of the User, and are to be treated in the same manner as information, documents and materials provided to the Client by its clients from time to time.

8.3 Settify does not warrant the accuracy of any information provided to the Client in a User File and any use of the User File by the Client will be at the Client's sole risk and liability.

8.4 Each party agrees that it will comply with the Privacy Law.

8.5 Each party agrees that it will comply with the Data Processing Agreement annexed to this Agreement at Schedule 1.

8.6 Settify warrants that it will adhere to the Settify Privacy Policy (UK) annexed to this Agreement at Schedule 2 if that schedule applies.

8.7 In accordance with the Users' rights under the Privacy Law, the Client acknowledges and agrees that the terms of use for the Application, as between Settify and the Users, will entitle Settify to:

(a) provide individual Users with a copy of their User File, if requested.

(b) use User Files for the purposes of:

(i) providing the Service to the Client and to the User, including providing support services and troubleshooting assistance; and

(ii) analysing, evaluating and improving the overall functioning of the Application, and improving the service for Settify's users, including through use of data analysis.

(c) use desensitised information in User Files (being User Files with personal or identifying information removed) for the purposes of research and to market Settify's services and future products.

Explanatory note to clause 8.7(c): This clause would allow Settify to approach partner firms with information about the types of people using the Application, such as average property pools for family law matters, proportion of singles vs couples for estate planning, etc.

8.8 Settify will not provide, sell, or licence User Files to unrelated third parties, except as directed by the User or the Client at the User's express direction.

8.9 Settify will own any metadata arising from the use of the Application. Metadata means information and records about how and when the Application is used. For the avoidance of doubt, metadata includes information such as the fact that a User accessed the Application, the time at which they accessed it, and how long they spent on each page.

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8.10 Settify will ensure that the terms of use for the Application as between Settify and the User are consistent with this Agreement.

9. Confidentiality

9.1 Each party agrees that it will not disclose, or authorise the disclosure of, the terms of this Agreement, any matter relating to any of the terms of this Agreement or any other confidential information relating to the operations or business of the other party to any other person, except to its advisors or as it may be required to do so by law.

9.2 Each party may use the other party's name and (subject to reasonable usage guidelines) logo in connection with communicating that the Client has engaged Settify to provide the Service.

10. Payments

10.1 In consideration of the provision of the Services in accordance with this Agreement, the Client will pay the Fees to Settify in accordance with the terms of the Agreement Particulars.

10.2 All amounts payable by the Client under this Agreement are exclusive of Tax, which shall be paid in addition to any amount specified as payable.

10.3 If this Agreement provides for a Per Use Fee, Settify may request a reconciliation of the Client's records where there is reason to suspect that amounts owing to Settify under this Agreement have not been properly invoiced. Settify may not request such a reconciliation more than once in any six month period. The Client may elect to provide the reconciliation to an independent accountant. All reconciliation data will be subject to appropriate confidentiality obligations.

10.4 If this Agreement provides for a Per Use Fee, Settify will, on or around the 1st of each month, provide the Client a list of all Users who have requested an appointment or completed the induction process following an invitation, during the previous month. The Client will, within 10 business days of that notice, use the Settify online billing portal to notify Settify which particular User File(s) should attract a Per Use Fee, and Settify will issue an invoice accordingly

10.5 The Fees will be paid by the Client via electronic transfer to an account nominated by Settify within 7 days of receipt of a validly constituted tax invoice.

11. Force Majeure

11.1 Settify may suspend this Agreement in respect of any period where the Service cannot be usefully provided due to any Force Majeure Event. The Client will not be liable to make any payments in respect of the suspension period, but payments will recommence at the resumption of the Service. Either party

may terminate this Agreement where suspension under this clause persists for a period in excess of one calendar month.

12. Termination

12.1 Either party may terminate this Agreement immediately if the other party:

(a) becomes, or threatens or resolves to become, subject to any form of insolvency administration;

(b) where the other party is a partnership, dissolves, threatens or resolves to dissolve or is in jeopardy of dissolving;

(c) breaches any term of this Agreement which is capable of remedy and, having been given 20 business days' notice in writing to rectify that breach, fails to do so; or

(d) breaches any term of this Agreement which is not capable of remedy.

12.2 Upon termination of this Agreement, each party will remain entitled to all rights accrued up to the date of termination pursuant to this Agreement.

12.3 Upon termination of this Agreement:

(a) Settify will immediately cease to provide the Client with access to the Service;

(b) the Client will immediately remove the Embed Code from the Website;

(c) Users will no longer be given access to the Application; and

(d) subject to the payment of any outstanding Fees by the Client, any User Files which have been authorised by the relevant User to be disclosed to the Client, but which have not been so disclosed as of the date of termination, will be disclosed to the Client.

13. Dispute Resolution

13.1 If a dispute arises in relation to or out of this Agreement, the parties must endeavour in good faith to settle the dispute in accordance with this Clause 13. A party must not commence any legal proceedings relating to a dispute unless it has complied with the provisions of this Clause except where a party seeks urgent injunctive relief or the dispute relates to compliance with this clause.

13.2 A party claiming that a dispute has arisen must immediately notify the other party in writing, setting out the basis of the dispute and that party's proposed resolution. If the dispute is not resolved by the parties within 10 business days of notice of the dispute being given, then the parties agree to attempt to

settle the dispute via mediation utilising an independent mediator appointed by agreement of the parties. In the event that the parties cannot agree on appointment of the mediator a mediator will be appointed by the President of the Law Society of the Jurisdiction or that person's designated representative. The costs of such mediation will be shared equally between the parties.

13.3 In the event that the parties are unable to resolve the dispute via a good faith attempt at mediation either party may institute legal proceedings without further notice and take such other action as they are entitled to under this Agreement.

14. Liability and Indemnity

14.1 Subject to the remainder of this clause 14, the Client hereby indemnifies and will keep indemnified Settify, and the officers, employees and agents of Settify against any action, suit, claim, demand, cost or expense arising directly out of a breach by the Client of this Agreement.

14.2 At no time will either party be liable to the other for any special, incidental, consequential or indirect damage or loss, nor for any loss of profits or goodwill, loss of contracts, loss of future opportunity, or loss from business interruption whether arising directly or indirectly out of a breach of this Agreement.

14.3 The Client's total aggregate liability to Settify under or in connection with this Agreement, over and above the Fees payable under clause 10, will not exceed the total amount of Fees paid or payable by the Client to Settify in the 12-month period immediately preceding the date on which the act or omission giving rise to the Client's liability to Settify occurred.

14.4 Settify's total aggregate liability to the Client under or in connection with this Agreement will not exceed the total amount of Fees paid by the Client to Settify in the 12-month period immediately preceding the date on which the act or omission giving rise to Settify's liability to the Client occurred.

15. Miscellaneous

15.1 The Training Service includes demonstrations of the Application, interactive training on the client experience and the lawyers' experience, and broader sessions on the use of technology in modern legal practice. The first 10 hours of training each year are free. Following that, training is charged at an hourly rate of 300 Units per hour per trainer.

15.2 At the Client's request, Settify can export User data in any reasonable standard data file format (including XML, CSV and JSON) to enable integration with the Client's other software and systems. Settify cannot warrant that the Client's other software and systems will accept external data input. If Settify is required to undertake bespoke work to develop integrations, Settify will provide the Client with written quotes before such work is carried out.

15.3 Settify will fix bugs in the Application and perform other maintenance at no cost. Settify will also provide free technical support (within reason) by email to Users and to the Client's personnel.

16. General

16.1 This Agreement constitutes the entire agreement between the parties relating to the provision of the Services and cannot be altered except in writing signed by both parties.

16.2 The parties enter this Agreement as independent contractors and not as employer and employee, partners or joint venturers, or in any other capacity.

16.3 The warranties, indemnities and obligations of confidentiality contained in this Agreement are continuing obligations and will survive the termination or conclusion of this Agreement.

16.4 Neither party may assign this Agreement and/or any of its rights under this Agreement to any person without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.

16.5 Any provision of this Agreement which is or becomes unenforceable in any jurisdiction will be ineffective without invalidating any other provision of this Agreement, and such unenforceability will not invalidate that provision in any other jurisdiction.

16.6 This Agreement may be executed by any number of counterparts and those counterparts taken together form one instrument. This Agreement will not be deemed effective until it has been executed by all proposed parties to it. Delivery of a signed counterpart of this Agreement by facsimile or other electronic means (including PDF) will be effective as delivery of a manually executed counterpart of this Agreement.

16.7 This Agreement will be governed by and construed in accordance with the laws of the Jurisdiction and the parties submit to the exclusive jurisdiction of the courts of the Jurisdiction.

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Schedule 1: GDPR Data Processing Agreement for UK Clients

1. **Definitions**

1.1 For the purposes of this Schedule 1, the term "processor" means Settify to the extent it is a 'processor' under the GDPR with respect to the Service, and the term "controller" means the Client to the extent it is a 'controller' under the GDPR with respect to the Service.

1.2 Unless a contrary intention is apparent, references within this Schedule to Articles are references to Articles of the GDPR.

1.3 This Schedule applies where the Jurisdiction is in the United Kingdom.

2. **Processing of client information**

2.1 **Subject matter and duration of processing:** The processor will collect biographical information for the controller, from the controller's clients and prospective clients, to assist in the provision of legal services by the controller to its clients. Processing occurs instantaneously, information is accessible for 60 days, and completely anonymised after 2 years.

2.2 **Nature of the processing:** Information is collected from the controller's clients and prospective clients via a web app, accessible on a computer, laptop, tablet, or smartphone. The information consists of biographical information that would be useful for a lawyer to receive in advance of a first meeting with a client.

2.3 **Purposes of the processing:**

(a) to provide clients and prospective clients with information about the legal system as it might apply to their case, so they know what to expect from their first meeting with a lawyer, reducing anxiety and confusion;

(b) to provide clients and prospective clients with a convenient, cost-effective way to provide background information to their lawyer, rather than providing it in conference at the lawyer's hourly rate;

(c) to provide lawyers with a convenient way to receive background information from their clients and prospective clients;

(d) to continually improve the Settify service for lawyers and for clients and prospective clients.

2.4 **Type of personal data:** biographical information, contact details, relationship history, information about spouse and children, parenting information, asset and liability information. No credit card details or bank account numbers are collected.

2.5 **Categories of data subject:** the controller's clients and prospective clients.

3. **Processing of employee information**

3.1 **Subject matter and duration of processing:** The processor will collect basic professional information about the controller's legal personnel and legal assistants. This information will be retained for so long as the processor provides the Service to the controller.

3.2 **Nature of the processing:** Information is collected from the controller's practice manager or similar, and used to pre-populate the list of lawyers and legal assistants that is presented to the controller when using the admin features in the Application. This information is sent to Australia to be processed by Settify employees.

3.3 **Purposes of the processing:**

(a) to provide the controller with the ability to select which lawyer will be assisting which client;

(b) to automatically CC the lawyer's assistant when an email is generated from the Application to the lawyer;

(c) to allow the creation and sending of emails (including automated emails) by the Application, for and on behalf of lawyers and legal assistants;

3.4 **Type of personal data:** names, contact information, professional biographies, headshots and workgroup allocations. This data is often available on a law firm's website, but may or may not be available on the controller's website.

3.5 **Categories of data subject:** the controller's partners, directors, and employees.

4. **Compulsory terms**

4.1 The processor must only act on the written instructions of the controller (unless required by law to act without such instructions) and for the avoidance of doubt, execution of this Agreement constitutes written instructions from the controller to the processor to provide the Service as set out in this Agreement;

4.2 The processor must ensure that people processing the data are subject to a duty of confidence;

4.3 The processor must take appropriate measures to ensure the security of processing;

4.4 The processor must only engage a sub-processor with the prior consent of the data controller and a written contract;

4.5 The processor must assist the data controller in providing subject access and allowing data subjects to exercise their rights under the GDPR;

4.6 The processor must assist the data controller in meeting its GDPR obligations in relation to the security of processing, the notification of personal data breaches and data protection impact assessments;

4.7 The processor must delete or return all personal data to the controller as requested at the end of the contract (alternatively, the controller may elect for the processor to continue to store personal data on its behalf, at no charge); and

4.8 The processor must submit to audits and inspections, provide the controller with whatever information it needs to ensure that they are both meeting their Article 28 obligations, and tell the controller immediately if it is asked to do something infringing the GDPR or other data protection law of the EU or a member state.

4.9 The processor must co-operate with supervisory authorities (such as the ICO) in accordance with Article 31;

4.10 The processor must ensure the security of its processing in accordance with Article 32;

4.11 The processor must keep records of its processing activities in accordance with Article 30.2;

4.12 The processor must notify any personal data breaches to the controller in accordance with Article 33;

4.13 The processor must employ a data protection officer if required in accordance with Article 37; and

4.14 The processor must appoint (in writing) a representative within the European Union if required in accordance with Article 27.

5. Own compliance

5.1 Nothing in this Agreement or this Schedule relieves the processor or the controller of their own direct responsibilities and liabilities under the GDPR.

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Schedule 2: Settify Privacy Policy (UK)

Settify's current Privacy Policy can be accessed at the following link:

https://www.dropbox.com/sh/vxvbu4d7fig5plh/AADUUk0dPjk2FyZ-KxXdaSq_a?dl=0