

GroupQuality™ Paidfocusgroups™ Participant Agreement

Use of Paidfocusgroups™ and the receipt of Rewards from GQTool Pty Ltd ABN 34 122 251 576 (“GroupQuality”) is conditional upon you (“the Participant”) agreeing to the terms of this Agreement.

Choosing “I accept the terms and conditions of this Agreement when applying to install Paidfocusgroups™ shall be deemed to be your acceptance of the terms of this Agreement.

Operative Part

1. Definitions

1.1 In this Agreement, unless inconsistent with the context:

- (a) **Agreement** means this agreement, its recitals, provisions and any schedule of this agreement.
- (b) **Confidential Information** includes
 - (i) information which relates to Paidfocusgroups™;
 - (ii) account details, passwords and activation codes; and
 - (iii) all information supplied by you to GroupQuality save for the **Confidential Participant Information**.
- (c) **Clause** means a clause of this Agreement.
- (d) **Confidential Participant Information** means information which relates solely to Participant’s name, contact details and bank details.
- (e) **Duration** means the time from which you agree to this Agreement until GroupQuality terminates this agreement for convenience or otherwise.
- (f) **Force Majeure** means an act, omission or circumstance over which GroupQuality could not have reasonably exercised control including telecommunication failures.
- (g) **Intellectual Property Right** includes any right arising from or capable of arising from the: *Circuits Layout Act 1989* (Cth); *Copyright Act 1968* (Cth); *Designs Act 2003* (Cth); *Patents Act 1990* (Cth); *Trade Marks Act 1995* (Cth); any similar legislation outside the Commonwealth of Australia; any similar unregistered right and **Confidential Information**.
- (h) **Interest Rate** means the rate of 10% per annum calculated monthly in arrears and added to the outstanding sum.
- (i) **Party** and **Parties** means a party to this Agreement and their respective successors, trustees and permitted assigns.
- (j) **Rewards** means the rewards as published by GroupQuality as amended from time to time.
- (k) **Sub-clause** means a sub-clause of this Agreement.
- (l) **Taxes** includes taxes, duties and government charges, fees, levies, any penalty for not paying same and any liability for same.
- (m) **Website** means the website operated by GroupQuality as varied from time to time which is currently www.groupquality.com.au.

2. Interpretation

2.1 In this Agreement, unless inconsistent with the context:

- (a) Words denoting a person shall include corporations, statutory corporations, partnerships, joint ventures, associations, boards, governments or semi-government agencies or authorities.
- (b) Words denoting the singular number shall include the plural number and vice versa.
- (c) Words denoting any gender shall include all other genders.
- (d) A reference to a statute or a regulation also refers to any statute or regulation amending, or consolidating or re-enacting same.
- (e) Money references are references to Australian currency.
- (f) A reference to “**includes**”, “**including**” or “**inclusive**” is to be construed as being a reference to “includes, without limitation”, “including, without limitation”, and “inclusive, without limitation” respectively.
- (g) Headings used in this **Agreement** are for convenience and ease of reference only, and are not part of this **Agreement** and shall not be relevant or affect the meaning or interpretation of this **Agreement**.
- (h) Every obligation express or implied into this **Agreement** and entered into by more than one **Party** shall bind them jointly and each of them severally.
- (i) Every right express or implied into this **Agreement** granted in favour of one more or **Parties** shall be for the benefit of each of them jointly and severally
- (j) A provision of this **Agreement** shall not be construed adversely to the **Party** that drafted it.
- (k) If any provision or part provision of this **Agreement** is held invalid, unenforceable or illegal for any reason, this **Agreement** shall remain otherwise in full force apart from such provision or part provision which shall be deemed deleted.
- (l) No remedy, expressly granted to **GroupQuality** excludes or shall be deemed to exclude or modify any other right or remedy which would otherwise be available to **GroupQuality**.

3. Participant’s Right to participate in Paidfocusgroups™

- 3.1 Subject to the terms of this **Agreement** **GroupQuality** grants **Participant** a revocable non-exclusive right to participate in **Paidfocusgroups™** for the **Duration**.
- 3.2 **GroupQuality** shall, from time to time, provide access codes to permit **Participant** to use **Paidfocusgroups™**.
- 3.3 **Participant** accepts that his or her right to use **Paidfocusgroups™** may be suspended or limited in whole or part at any time by a facilitator in his or her sole discretion.

4. General Relationship

- 4.1 **Additional View** permits **Participant** to participate as an independent contracting party.
- 4.2 **Participant** and its employees and agent are not agents nor employees of **GroupQuality**.

5. Participant’s Responsibilities

5.1 Participant shall:

- (a) be over the age of 14 years;
- (b) if he or she is over the age of 14 years but less than 18 years ensure that their parent or guardian has read and agreed to these terms and conditions;

- (c) provide to **GroupQuality** upon request proof of identity;
- (d) only register one email address with **GroupQuality** notwithstanding that they may have multiple email addresses;
- (e) be a resident of Australia;
- (f) keep his or her accounts, passwords and activation codes details confidential and not disclose same to any other party. **Participant** shall be responsible for all use of same whether authorised by **Participant** or not. Should any such disclosure occur **Participant** shall report same to **GroupQuality** in writing as soon as possible;
- (g) provide his or her own equipment which **GroupQuality** considers suitable to use **Paidfocusgroups™**;
- (h) comply with **GroupQuality's** Publishing Policy which may be updated and changed from time to time and is currently located at <http://paidfocusgroups.com.au/integrity/>
- (i) apply, without delay, all applicable updates issued by **GroupQuality** from time to time;
- (j) agree to and comply with the terms and conditions of any third party software or services supplied by **GroupQuality** or made available with **Paidfocusgroups™** and or not use such third party software and services;
- (k) comply with all applicable laws;
- (l) conduct all appropriate virus and security checks;
- (m) supervise and control the use of **Paidfocusgroups™** in accordance with the terms of this **Agreement**; and
- (n) immediately advise **GroupQuality** in writing upon it becoming aware of any person using **Paidfocusgroups™** who is not authorised by **GroupQuality** to do so.

5.2 **Participant** shall not:

- (a) register to participate more than once;
- (b) copy, reproduce, translate, adapt, vary, modify, decompile, disassemble, reverse engineer, create derivative works of, sub-license, rent, lease, loan or distribute **Paidfocusgroups™** in whole or part other than as expressly authorised by this **Agreement**;
- (c) engage in password sharing, remote desktop access or port aggregation without the express permission of **GroupQuality**;
- (d) install, upload or execute any computer programs which have not been checked and are not expressly specified by **GroupQuality** as suitable;
- (e) interfere with the network or disrupt any other participant, service or equipment;
- (f) permit any act which infringes the **Intellectual Property Rights** which subsist in **Paidfocusgroups™** and which belong to **GroupQuality**.
- (g) provide or otherwise make available **Paidfocusgroups™** in any form to any other person;
- (h) use **Paidfocusgroups™** for any illegal, unauthorised or dangerous purpose including unsolicited commercial e-mail;
- (i) use **Paidfocusgroups™** for or in connection with a service bureau operation; or

- (j) use **Paidfocusgroups™** to publish any material for which it is not the **Intellectual Property Right** owner or licensed by the **Intellectual Property Right** owner or is defamatory.

6. **GroupQuality's rights**

6.1 **GroupQuality** may, whilst being under no obligation to do so and at its sole discretion, without notice or giving any reason or incurring any liability for doing so:

- (a) delete, remove or refuse to publish any material which is, in its sole opinion, without limitation,:
 - (i) dangerous;
 - (ii) found in an unauthorised area;
 - (iii) excessive in volume;
 - (iv) unauthorised;
 - (v) uncollected for an excessive period;
 - (vi) unlawful;
 - (vii) in breach of **GroupQuality's** Reasonable Use or Publishing Policy; and
- (b) take action if it suspects that malicious, illegal or unacceptable usage of **Paidfocusgroups™** is occurring or has occurred, including destruction or disposal of **Participant's** access passwords.

7. **Disclaimer & Acknowledgments**

7.1 **GroupQuality** is not responsible for:

- (a) ensuring that **Paidfocusgroups™** is suitable for **Participant's** requirements or fit for any purpose;
- (b) any interruption to **Paidfocusgroups™** due to equipment failure, the need for routine maintenance, peak demand etc;
- (c) the supply or maintenance of **Participant's** equipment, software or telephone lines;
- (d) monitoring, controlling or ensuring the accuracy, appropriateness or content of any information on the internet and does not do so; and
- (e) any software available on the internet or supplied by third parties.

8. **Intellectual Property Rights**

8.1 **GroupQuality** retains all the **Intellectual Property Rights** in **Paidfocusgroups™** and the trade mark **Paidfocusgroups**.

8.2 **Participant** hereby assigns all **Intellectual Property Rights** in all materials supplied by **Participant** to **GroupQuality**.

9. **Confidential Information**

9.1 To the extent that **Confidential Information** is not in the public domain (other than by way of breach of this **Agreement**) and is not known by the **Participant** at the time of disclosure, **Participant**:

- (a) shall:

- (i) keep such information confidential;
 - (ii) take all necessary precautions to prevent any disclosure of **Confidential Information** to unauthorised third parties; and
 - (iii) inform **GroupQuality** of any suspected or actual disclosure of **Confidential Information**; and
- (b) shall not, without the express written consent of **GroupQuality**:
- (i) directly or indirectly divulge or communicate or otherwise disclose any **Confidential Information**, in whole or part to any third party;
 - (ii) use any **Confidential Information**, other than for the express purpose set out in this **Agreement**; or
 - (iii) remove or cause to be removed from **GroupQuality's**, or their business partners' premises or systems any **Confidential Information**.

9.2 This **Clause** shall survive the termination of this **Agreement**.

10. Confidential Participant Data Information

10.1 To the extent that **Confidential Participant Information** is not in the public domain (other than by way of breach of this **Agreement** and is not known by **GroupQuality** at the time of disclosure, **GroupQuality**:

- (a) shall keep such information confidential;
- (b) shall not, without the express written consent of **Participant**:
 - (i) directly or indirectly divulge or communicate or otherwise disclose **Confidential Participant Information**, in whole or part to any third party; or
 - (ii) use **Confidential Participant Information** for its own purposes.

10.2 This **Clause** shall survive the termination of this **Agreement**.

11. Clearance

11.1 **Participant** warrants that no additional authorisation, consent, approval, filing or registration with any Court or government department, commission, agency or instrumentality is or shall be necessary or required for **Participant** to execute and perform this **Agreement**.

12. Fees

1.1 **GroupQuality** shall supply the **Participant** with the **Rewards** subject to the terms on which **Rewards** are applicable.

1.2 Except where expressly specified to the contrary, the **Rewards** are the total liability incurred by **GroupQuality** to the **Participant** for its services and all equipment and resources used.

13. Tax

1.3 Unless expressly stated to the contrary and to the extent permitted by law:

- (a) the **Rewards** are inclusive of all **Taxes** and entitlements which may arise in relation to the subject matter of this **Agreement**; and
- (b) the **Participant** shall indemnify and keep indemnified **GroupQuality** from payment of the **Taxes**.

14. Set-Off

- 14.1 **GroupQuality** shall be entitled to set off any claim, debt or damages (liquidated or otherwise, arising pursuant to this **Agreement**), or part thereof, owed by **Participant** to it against any **Reward GroupQuality** owes to **Participant**.

15. Suspension of Obligations

- 15.1 If **Participant** breaches any provision of this **Agreement** **GroupQuality** may, without further notice to **Participant**:
- (a) suspend all its obligations to **Participant** under this **Agreement**; and or
 - (b) disable **Paidfocusgroups**[™] using time out codes, remote access or other technological measures.

16. Force Majeure

- 16.1 **GroupQuality** shall not be liable for any delay or failure to perform its obligations if such a failure or delay is due to **Force Majeure**.

17. Limited Warranty

- 17.1 **GroupQuality** shall supply **Paidfocusgroups**[™] with all due care and skill.
- 17.2 **GroupQuality** shall re-supply **Paidfocusgroups**[™] which are not supplied in accordance with this **Clause** provided that **Participant** notifies **GroupQuality** of same within a reasonable time. This remedy shall be **Participant's** sole and exclusive remedy for breach of this **Agreement** or any other cause of action against **GroupQuality**.

18. Limitation of Liability

- 18.1 To the extent permitted by law and except as expressly provided to the contrary in this **Agreement**, all warranties whether express, implied, statutory or otherwise, relating in any way to the subject matter of this **Agreement** or to this **Agreement** generally, are excluded. Where legislation implies in this **Agreement** any condition or warranty and that legislation avoids or prohibits provisions in a contract excluding or modifying the application of or the exercise of or liability under such term, such term shall be deemed to be included in this **Agreement**. However, the liability of **GroupQuality** for any breach of such term shall be limited, at the option of **GroupQuality**, to any one or more of the following: if the breach related to goods: the replacement of the goods or the supply of equivalent goods; the repair of such goods; the payment of the cost of replacing the goods or of acquiring equivalent goods; or the payment of the cost of having the goods repaired; and if the breach relates to services the supplying of the services again; or the payment of the cost of having the services supplied again.
- 18.2 To the extent permitted by law and except as expressly provided to the contrary in this **Agreement**, **GroupQuality** shall not be under any liability (contractual, tortious or otherwise) to **Participant** in respect of any loss or damage (including consequential loss or damage) howsoever caused, which may be suffered or incurred or which may arise directly or indirectly in respect to the supply of goods or services pursuant to this **Agreement** or an act, failure or omission of **GroupQuality**.
- 18.3 **Participant** warrants that it has not relied on any representation made by **GroupQuality** or upon any descriptions or illustrations or specifications contained in any document including any catalogues or publicity material produced by **GroupQuality**.

19. Indemnity

- 19.1 To the extent permitted by law, **Participant** shall release, indemnify and keep indemnified **GroupQuality**, its officers, employees and agents, against any injury, death, damage, loss, costs (including legal costs on an indemnity basis), expenses, interest, taxes or liability whether direct or indirect and whether sustained by **GroupQuality**, **GroupQuality's** officers, employees and agents, **Participant's** officers, employees and agents or a third party arising out of:

- (a) a breach of this agreement by **Participant**;
- (b) any wilful, unlawful or negligent act or omission of **Participant**, its officers, employees or agents;
- (c) any injury suffered by **Participant's** officers, employees or agents; and
- (d) the discharge of **Participant's** obligations pursuant to this **Agreement**.

19.2 This indemnity applies regardless of whether or not legal proceedings are instituted.

19.3 This indemnity applies to any payment, settlement, compromise or determination regardless of whether same is authorised by **Participant** or not.

19.4 It is not necessary to incur any expense or make any payment before enforcing any right of indemnity under this **Agreement**.

19.5 This **Clause** survives termination of this **Agreement**.

20. Waiver

20.1 No right of **GroupQuality** under this **Agreement** shall be deemed to be waived except by notice in writing signed by **GroupQuality**. Any such waiver shall be limited to its express terms.

20.2 Any failure by **GroupQuality** to enforce any provision of this **Agreement**, or any forbearance, delay or indulgence granted by **GroupQuality** shall not be construed as a waiver of **GroupQuality's** rights.

21. Survival

21.1 The provisions of this **Agreement** which are capable of having effect after the expiration of this **Agreement** shall remain in full force and effect following the expiration of this **Agreement**.

22. Assignment, Novation and Sub-Contracts

22.1 **Participant** shall not sub-contract, sub-licence, assign or novate, in whole or part, any entitlement or obligation under this **Agreement** without the prior written consent of **GroupQuality**.

22.2 **GroupQuality** may:

- (a) sub-contract for the performance or part performance of this **Agreement**; and
- (b) assign this **Agreement** to a third party without notice and in such circumstances, **GroupQuality's** rights and obligations under this **Agreement** shall be immediately terminated upon assignment.

23. Notices

23.1 Notices under this **Agreement** may be delivered by hand, by mail or by facsimile.

23.2 Notices shall be deemed given in the case of:

- (a) hand delivery, upon written acknowledgment of receipt by an officer or other duly authorised employee, agent or representative of the receiving party;
- (b) email, immediately upon acceptance of same by a machine outside the control of the sender;
- (c) posting, 3 days after dispatch; and
- (d) facsimile, upon completion of transmission.

24. Termination

24.1 Either **Party** may terminate this **Agreement** for convenience at any time without notice.

24.2 **GroupQuality** may terminate this **Agreement** immediately if:

- (a) any payment due from **Participant** to **GroupQuality** remains unpaid for a period of 14 days;
- (b) **Participant** breaches any provision of this **Agreement** and such breach is not remedied within 14 days of notice by **GroupQuality**;
- (c) **Participant** becomes, threatens or resolves to become or is in jeopardy of becoming subject to any form of insolvency administration;
- (d) **Participant**, being a partnership, dissolves, threatens or resolves to dissolve or is in jeopardy of dissolving;
- (e) **Participant** being a natural person, dies; or
- (f) **Participant** ceases or threatens to cease conducting its business in the normal manner.

24.3 In addition to terminating this **Agreement**, **GroupQuality**:

- (a) may disable **Participant's** access to **Paidfocusgroups™**;
- (b) shall be regarded as discharged from any further obligations under this **Agreement**;
- (c) shall be under no liability to **Participant** for damages or compensation or any other payment whatsoever;
- (d) may immediately erase all **Confidential Participant Information** stored by **GroupQuality**; and
- (e) may pursue any additional or alternative remedies provided by law.

25. Entire Agreement

25.1 Unless stated expressly to the contrary in this **Agreement**:

- (a) this **Agreement** constitutes the entire agreement between the **Parties** for the subject matter referred to in this **Agreement**. Any prior arrangements, agreements, representations or undertakings are superseded;
- (b) this **Agreement** is not to be construed as creating a joint venture, partnership or agency situation between the **Parties**. No **Party** may represent that there exists such a relationship between the **Parties**;
- (c) no **Party** may bind another **Party** to any agreements, arrangements, contracts or understanding or represent that they have such authority; and
- (d) no modification or alteration of any provision of this **Agreement** shall be valid except in writing signed by each **Party** save that **GroupQuality** may on 30 days notice change any term of this **Agreement** and in such a case **Participant** may terminate this **Agreement** during that notice period without further obligation..

26. Governing Law

26.1 This **Agreement** shall be governed by and construed according to the law of Tasmania, Australia

26.2 The **Parties** irrevocably submit to the exclusive jurisdiction of the Courts of Tasmania and the Commonwealth of Australia. Any proceedings in a Commonwealth Court shall be commenced in Tasmania.

