

# Terms and Conditions – Chooza

## 1 Introduction

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Thank you for choosing Chooza™ (App).

The App provides the user and/or subscriber of the Services (You) with personalised film and television recommendations, including other social and interactive features.

By downloading and using the App and/or subscribing to the Services, you accept these terms and conditions (which govern your use of the App and/or Services) and that a legally binding contract is formed between you and Chooza in that regard.

In order to access and use the App and/or Services, you need to reside in Australia.

You acknowledge and agree that you have the capacity to enter into a binding contract with Chooza in accordance with these terms and conditions and that all personal information, or other registration information, that you provide to Chooza in connection with the App and/or Services is true, accurate and complete.

If you have any questions concerning the App and/or Services, please contact Chooza by visiting Chooza's website in the following link: [www.app.chooza.com.au](http://www.app.chooza.com.au) (Website).

## 2 Definitions

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In this contract, words beginning with a capital letter have the following meaning ascribed to them:

- (1) **Account** has the meaning ascribed to it in clause 5.1.
- (2) **Chooza** means Trudesapp Pty Ltd (ABN 72 668 409 756) trading as Chooza, its successors and assigns.
- (3) **Claim** means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at Law, in equity, under statute or otherwise.
- (4) **Consequential Loss** means any loss or damage arising from a breach of contract or agreement (including breach of these terms and conditions), tort, or any other basis in law or equity including, but without limitation to, loss of profits, loss of revenue, loss of production, loss or denial of opportunity, loss of access to markets, loss of goodwill, indirect or remote or unforeseeable loss, loss of business reputation, future reputation or publicity, or any similar loss whether or not contemplated by the parties at the time of entering these terms and conditions.
- (5) **GST** means the goods and services tax imposed under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- (6) **IP Rights** means all intellectual property and proprietary rights (whether registered or unregistered) owned by Chooza prior to or in the course of performance of the Services and developed by Chooza in performance of the Services, or in connection with the App, including but not limited to business names, trade or service marks, copyright, patents, drawings, discoveries,

inventions, improvements, trade secrets, technical data, formulae, data, know-how, designs, design rights and similar industrial or intellectual property rights in connection with the App and/or Services.

- (7) **Law** means any statute, regulation, rule, proclamation, ordinance, by-law or code.
- (8) **Paid Subscription** has the meaning ascribed to it in clause 4.2.
- (9) **Price** means all monies payable by you to Chooza as notified to you from time to time in connection with the Services.
- (10) **Services** means all material, products, services, information and data that Chooza provides you through your Account or otherwise through your use of the App.

## 3 Acceptance

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- (1) Upon downloading, accessing and/or using the App and/or Services:
  - (a) you warrant that:
    - (i) you have read and understood these terms and conditions;
    - (ii) you have not relied upon any representation made by Chooza, either verbally or in writing, which is not contained in these terms and conditions when deciding whether to access and use the App and/or Services;
    - (iii) your use of the App and/or Services creates a legal binding obligation for any liability you may incur as a result of using the App and/or Services; and
    - (iv) if you are under eighteen (18) years of age, then you have the consent of your parent or guardian to use the App and/or Services;
  - (b) you agree to be bound by these terms and conditions; and
  - (c) you waive any right you may have to assert that the fact that your indicating your acceptance of:
    - (i) these terms and conditions; and
    - (ii) any other relevant documents you sign or enter into with

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Chooza in connection with the App and/or Services,

electronically does not constitute actual acceptance.

- (2) The App and/or Services are provided by Chooza subject to these terms and conditions to the exclusion of anything to the contrary.
- (3) These terms and conditions will apply at all times during which you:
  - (a) access or use the App and/or Services; and/or
  - (b) otherwise engage with Chooza in connection with the App and/or Services.

### 4 Price and Payment Terms

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#### 4.1 Free to Download

The App is free to download from all participating app stores.

#### 4.2 Paid Subscription

Unless otherwise:

- (1) notified on the relevant app store or Chooza's website where you go to purchase the App;
- (2) for any in-app purchases or subscriptions, as indicated in the App;
- (3) notified to you prior to you accepting these terms and conditions in accordance with clause 3; or
- (4) if clause 4.3 applies,

the Price will be the price disclosed to you by Chooza in advance of the relevant subscription period paid on a recurring monthly basis or any other interval that Chooza will disclose to you in advance (**Paid Subscription**).

IF YOU DO NOT WANT THIS CHARGE, YOU MUST CANCEL THE PAID SUBSCRIPTION IN ACCORDANCE WITH CLAUSE 5.5.

#### 4.3 Free Trials

- (1) On and from the date you register your Account or otherwise engage with the Services and for a period of up to one (1) month (or such other period as determined by Chooza at its absolute discretion), Chooza will not charge you for your use of the Services (**Free Trial**).
- (2) To the extent permitted by law, Chooza reserves all rights to withdraw or modify the Free Trial at any time, without prior notice to you and with no liability.
- (3) Chooza may require you to set up an Account pursuant to clause 5 and/or provide billing information pursuant to clause 4.5 before you start, or in order for you to continue, your Free Trial. By providing Chooza with these details, you acknowledge and agree that Chooza may automatically begin charging you for the Paid

Subscription on the first day following the end of the Free Trial.

#### 4.4 Payment

- (1) Subject to clause 4.3, you must pay the Price (except as provided for by Chooza in its absolute discretion):
  - (a) upon purchasing or downloading the App; and/or
  - (b) in relation to any subscription, immediately prior to the provision of the Services the subject of that subscription.
- (2) Chooza is under no obligation to provide Services unless the Price is paid to Chooza from time to time as and when it is due.
- (3) Payment of the Price must be made through the App and/or use of the Services (i.e. via Chooza's Website), or by any other method as agreed to by Chooza.
- (4) Receipt by Chooza of any form of payment other than cash will not be deemed to be payment until that form of payment has been honoured, cleared or recognised.

#### 4.5 Billing Information

- (1) You must promptly notify Chooza or update your billing information through the App and/or Services if there is a change to your account/billing information (including a change in your credit card or direct debit account details).
- (2) You will be asked to provide your credit card on the App and/or on Chooza's Website when you become a user/subscriber of any Paid Subscription.

#### 4.6 Promotions

If you pay the Price in part or full by using a code, gift card, or other offer/promotion provided or sold by or on behalf of Chooza, separate terms and conditions presented to you along with that offer/promotion may also apply to your access to, and use of, the App and/or Service and you agree to comply with those terms and conditions.

#### 4.7 GST

Unless otherwise expressly stated, GST and other taxes and duties that may be applicable will be added to the Price. If the whole or any part of any amount paid under these terms and conditions is the consideration for a taxable supply, you are liable for all GST in relation to that supply and must pay to Chooza an additional amount equal to the first mentioned amount multiplied by the rate of GST.

#### 4.8 Non-refundable payment

- (1) Subject to paragraph (2) below, and to the extent permitted by law, Chooza does not offer any form of refund with respect to the use of the App and/or Services. The Price (including where it includes any ongoing subscription fees and charges) are non-refundable. Chooza does not provide refunds or

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credits for any partial use or non-use of the App and/or Services.

- (2) If Chooza decides not to authorise the opening of your Account pursuant to clause 5.1, and therefore not allow you to use the Services, then Chooza will notify you accordingly and refund any portion of the Price constituting subscription fees paid by you. Any amounts will be refunded to the same credit card or account that you have provided to Chooza.

### 4.9 Additional rights

Without prejudice to any of Chooza's other remedies available at law, Chooza will be entitled to immediately cancel or suspend all or any part of the Services if any money payable to Chooza becomes overdue, or if Chooza is of the reasonable view that you will be unable to meet its payments as they fall due.

## 5 Your Account Obligations

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### 5.1 User Account

In order to access or use the full scope of features of the App and/or Services, you will need to register as a user by setting up an online account with Chooza in your own name (**Account**).

### 5.2 Your Details

- (1) You must, and warrant that you have provided Chooza with, all current, complete and accurate subscription and registration information as required by Chooza from time to time to open your Account.
- (2) You authorise Chooza to verify all subscription and registration details for the Account as required for your use of the App and/or Services.
- (3) You warrant that:
  - (a) you are the true owner of the Account;
  - (b) you are the only person who will use your Account; and
  - (c) you are wholly responsible for your Account and anything it comprises.

### 5.3 Your Obligations

You must do the following things as a condition of your use of the App and/or Services (in addition to anything else you are required to do under these terms and conditions):

- (1) Protect any user name and passwords or other account details used in connection with the App and/or Services.
- (2) Tell Chooza immediately of any unauthorised access to the App and/or Services or your Account.
- (3) Not allow any other person access your Account and/or use the App and/or Services using your Account.

### 5.4 Restrictions

You must not do any of the following things that are listed below at any time whether before, during or after your use of the App and/or the Services:

- (1) Copy any ideas, functions, features or graphics, or otherwise derived, from the App and/or the Services for any purpose, including but not limited to development of a similar service.
- (2) Duplicate any of the App's content or other materials or otherwise translate, adapt or create derivative works, in whole or in part.
- (3) Tamper with or attempt to bypass functionality that operates to enforce these terms and conditions, including the unauthorised use of the App and/or the Services by anyone else.
- (4) Reverse engineer, de-compile, disassemble or alter the App, or otherwise attempt to discover its source code.
- (5) Use, post, transmit or introduce any software, routine or device that interferes or attempts to interfere with the operation, integrity or performance of the App and/or the Services, or attempt to gain unauthorised access to the App and/or Services, Chooza's systems or third party data.
- (6) Use the App and/or the Services to store or transmit infringing, defamatory, or otherwise unlawful or tortious material, or to store or transmit material in violation of IP Rights or third-party privacy or intellectual property rights.
- (7) Claim any sponsorship, affiliation or endorsement by Chooza (other than where Chooza has expressly in writing agreed for you to do so).
- (8) Distribute, communicate or disseminate any material or information or message on any medium or platform (whether online or offline) which may damage, defame or otherwise negatively affect Chooza's reputation.
- (9) Commit any unlawful acts (including harassing or stalking other users) or encouraging others to use the App and/or Services to undertake illegal activity.
- (10) Act in a manner that is abusive to any of Chooza's employees, contractors, other agents or partners.

### 5.5 Cancelling Account

- (1) If you wish to cancel your Account, you must do so by:
  - (a) clicking on 'Account Settings' in the App and following the prompts to delete your Account; or
  - (b) request Account deletion on our Website accessible from

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[www.app.chooza.com.au/account-deletion](http://www.app.chooza.com.au/account-deletion)

- (2) You acknowledge and agree that Chooza may provide you with a short survey to complete as a precondition to the cancellation of the Account being processed.
- (3) When you cancel your Account in accordance with paragraph (1):
  - (a) the Paid Subscription; and
  - (b) your right to access the Services (except under any Free Trial granted to you by Chooza),immediately comes to an end.

### 6 Provision of Services

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#### 6.1 Risk

You:

- (1) use the App and/or the Services; and
- (2) rely on any opinion, statement, comment, feedback, advertisement, or other information displayed or distributed through the App and/or the provision of the Services,

at your sole risk and Chooza will not be liable for any Claims or complaints made or suffered by you in that regard.

#### 6.2 Provision of Services

Chooza will provide the Services by exercising the same degree of skill, care and diligence that would be exercised by service providers in similar circumstances.

#### 6.3 Information provided by Chooza

- (1) The App displays a wide variety of resources and information. Although Chooza uses its best endeavours to ensure that the information on the App and/or in connection with the Services is correct, there may be times where errors or omissions occur.
- (2) No warranty (of any nature) is provided by Chooza with respect to any information contained within, or in connection with, the App and/or Services. The information provided on the App is of a general nature only. You acknowledge and agree that you will conduct your own research and due diligence appropriate to your circumstances in relation to any content on the App and/or with respect to the Services.
- (3) Chooza reserves the right to remove any contribution made by you to the App at its absolute discretion if it does not comply with these terms and conditions (in particular clause 5.4) or is otherwise deemed by Chooza to be unfit for the purpose of the App and/or with respect to the Services.

#### 6.4 Third party sites

- (1) Chooza makes no representations about, and assumes no responsibility for, any website or content accessed through a link on the App and/or in connection with the Services.
- (2) The fact that the App and/or Services contains links to other websites does not constitute any endorsement by Chooza of that website or the products and/or services being offered through that website.
- (3) You agree that Chooza will not be liable to you for any Claims you suffer by the use of any website not maintained and controlled by Chooza (whether or not accessed via link through the App and/or Services).

#### 6.5 Your's obligations

You must at all times during the performance of the Services by Chooza, at your expense:

- (1) provide true and accurate information that Chooza reasonably requires from time to time to provide the Services;
- (2) cooperate with Chooza as Chooza reasonably requires from time to time, including promptly complying with all reasonable directions of Chooza in relation to the performance of the Services;
- (3) promptly notify Chooza of any change in circumstances or change in information and documentation supplied by you which is likely to materially affect the performance of the Services;
- (4) comply with all laws and regulations affecting you.

### 7 Maintenance and Updates

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#### 7.1 Maintenance and updates

- (1) Chooza will perform maintenance and updates to the App and/or Services from time to time. This may mean that your access to, and of use of, the App and/or Services may be interrupted or disrupted from time to time.
- (2) Chooza will endeavour to provide you with reasonable notice of the conduct of any regular system maintenance, downtimes or updates (but is not obliged to do so).
- (3) There will be times when Chooza will not be able to provide you with any such notice because the maintenance is required to fix an urgent issue or for some other similar reason.

#### 7.2 Exclusions

Chooza does not warrant that:

- (1) the App and/or the Services will:
  - (a) be error free, uninterrupted, complete or completely secure;

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- (b) free of malicious code including viruses; or
- (c) meets your requirements;
- (2) any defects or errors in the App and/or Services will be rectified;
- (3) the App and/or Services will continue to operate during any event that is out of Chooza's control such as any event under clause 15.5, power failures, system failures or your systems or hardware; or
- (4) the App and/or Services will be immune from unauthorised access or the alteration of any data stored within it.

### 7.3 Internet access, hardware, networks, firewalls and security

- (1) You acknowledge and agree that your use of the App and/or Services requires internet access which may be affected by factors beyond Chooza's control. Any access to the internet and storage of data on servers may involve risks and that, while as far as possible Chooza will try to, Chooza cannot guarantee security.
- (2) Any information you provide through your access and use of the App and/or Services may be vulnerable to interception during transmission. Chooza does not guarantee the uninterrupted availability of:
  - (a) the App and/or Services;
  - (b) applications hosted by the App and/or Services;
  - (c) servers (including servers of third parties, which Chooza may engage to provide the whole or part of the Services).

### 7.4 No Claim

You release, and cannot make any Claim against, Chooza that arises out of any interruption to your use of the App and/or the Services as a result of any event or thing referred to in this clause 7.

## 8 IP Rights

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- (1) Unless otherwise expressly stated, Chooza is the absolute owner of:
  - (a) the App;
  - (b) all content on the App (including all photographs, images, videos, text, illustrations, software, audio, video and other items);
  - (c) all websites, materials, products, information and data created by Chooza to facilitate the provision of the Services; and

- (d) all IP Rights in connection with the App and/or Services.

(2) Notwithstanding paragraph (1), Chooza does not hold out that it is the owner of any content on the App or in connection with the Services (or the intellectual property rights in relation to that content) licensed by Chooza from a third party (for example, images, audio, video or text from film and television shows created and owned by third parties) (**Third Party Content**).

(3) Subject to paragraph (4), Chooza grants to you a limited, non-exclusive, non-transferrable, revocable permission to make use of the App and Services (including all relevant content in paragraphs (1) and (2)) for the limited purpose set out in clause 9.

(4) With respect to the Third Party Content, you acknowledge and agree that:

- (a) all intellectual property rights in relation to the Third Party Content belongs to the relevant third party owner(s) and is subject to copyright under the *Copyright Act 1968* (Cth) and any other relevant intellectual property law;

- (b) the third party owner(s) have granted to Chooza a licence to use those rights to conduct the App and/or Services and any purpose in connection with the App and/or Services; and

- (c) the Third Party Content is made available to you under the relevant third party licence and it is an essential term of these terms and conditions that you must not do anything in connection with the Third Party Content that is inconsistent with that licence or which leads to the value of the intellectual property in the Third Party Content being diminished or otherwise adversely affected.

(5) You must not do anything which adversely affects the ownership of the IP Rights of Chooza or any of its related entities and must not use, exploit, commercialise or otherwise deal with any IP Rights except in accordance with Chooza's consent in writing.

(6) Any comment, feedback, idea or suggestion (**Comments**) which you provide to Chooza through, or in connection with, the App and/or the use of the Services becomes the property of Chooza. If, in the future, Chooza uses the Comments in promoting the App, the Services and/or in any other way, Chooza will not be held liable for any similarities which may appear from such use. Furthermore, you agree that Chooza is entitled to use the Comments for any commercial or non-commercial purpose without compensation to you or to any other person who has transmitted the Comments.

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- (1) The App and the provision of the Services is for your personal, non-commercial use only.
- (2) You must not use the App, or any of the content provided in connection with the Services, for commercial purposes, including any advertising or advertising revenue generation activity on your own website or any other platform, without obtaining a licence to do so from Chooza.

### 10 When do these terms and conditions no longer apply?

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#### 10.1 Termination

During any period that you:

- (1) are not using the App or the Services;
- (2) do not have the App downloaded on any of your personal devices (e.g. phone, tablet or personal computer); and
- (3) clause 10.2 does not apply,

the contract formed by these terms and conditions comes to end (except to the extent that the terms and conditions expressly survives termination) until such time as any of the conditions in paragraphs (1) to (3) no longer apply, in which case you are once again bound by these terms and conditions pursuant to clause 3.

#### 10.2 Default and consequences of default

- (1) If you:
  - (a) defaults in payment of any part of the Price when due;
  - (b) breach any other obligations imposed on you under these terms and conditions (in particular under clause 5.4); and/or
  - (c) breaches any warranty or representation contained in these terms and conditions,you indemnify Chooza (and its officers, employees, personnel, contractors and agents) from and against all Claims in connection with that breach (including, without limitation, pursuing the debt including legal costs on a solicitor and own client basis and Chooza's debt collection agency costs). For the avoidance of doubt, Chooza does not have to incur an expense or cost before claiming the benefit of the indemnity provided under this clause.
- (2) Without prejudice to any other remedies Chooza may have, if at any time you are in breach of any obligation (including those relating to payment) Chooza may suspend or terminate the provision of the Services to you and any of its other obligations under these terms and conditions. Chooza will not be liable to you for any Claims you suffer because Chooza has exercised its rights under this paragraph (2).

#### 10.3 Consequences of termination

- (1) Upon termination of this contract in accordance with clause 10.1 or 10.2, without prejudice to any other rights or remedies available to Chooza:
  - (a) Chooza will cease providing the Services to you; and
  - (b) all amounts due and owing to Chooza for the provision of the Services up to the date of termination will, whether or not due for payment, become immediately payable.
- (2) Termination or expiry of these terms and conditions will not affect any rights or remedies of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the terms and conditions and that existed at or before the date of termination or expiry.

### 11 Limitation of liability and indemnity

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- (1) If you are a consumer within the meaning of the Australian Consumer Law, there are certain rights (such as the consumer guarantees implied by the Australian Consumer Law contained in Schedule 2 of the *Competition and Consumer Act 2010* (Cth)) which cannot by law be excluded (**Non-Excludable Conditions**). The provisions of this clause 11 remain subject to those Non-Excludable Conditions.
- (2) To the extent permitted by Law, Chooza's liability to you for a failure to comply with any condition, warranty, guarantee or other term which might be implied by statute, common law or otherwise is expressly excluded. Where liability cannot be excluded, Chooza's liability for failure to comply with any such condition, warranty, guarantee or other term is limited (at the Chooza's option) to:
  - (a) re-supply of the Services; or
  - (b) incurring the cost of having the Services supplied again.
- (3) To the full extent permitted by law, you are wholly responsible for any activities, decisions and transactions you undertake in connection with the Services and acknowledges that Chooza is in no way responsible for, and accepts no liability in relation to, those activities, decisions and transactions and your use of the App and/or Services.
- (4) To the full extent permitted by law, you agree to be liable for and indemnify Chooza in respect of any:
  - (a) damage, loss, cost or expense; and
  - (b) any other claim brought against the Chooza,of any kind or nature that Chooza may suffer or incur arising out of or in connection with your acts or omissions arising from or in connection with your use of the App and/or Services, as well as any third party

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Claims (of any nature) against Chooza in connection with the App and/or Services.

- (5) To the full extent permitted by Law, Chooza will not be liable for:
  - (a) any death, injury or loss that you or any person suffers arising out of the App and/or Services; or
  - (b) any damage to, or loss or destruction of, property (real and personal) belonging to you or anybody else arising out of the App and/or Services.
- (6) Chooza will not be under any liability whatsoever to you for any Consequential Loss.
- (7) Chooza will not be responsible for any unclear, erroneous, incomplete, misleading or false information provided to Chooza by you.
- (8) To the fullest extent permitted by law, Chooza will not accept any request for refunds and/or the App and/or Services not being fit for the purpose or use as intended by you.
- (9) In the event of any breach of these terms and conditions by Chooza, your remedies will be limited to damages which under no circumstances must exceed the Price.

### 12 Personal Information

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- (1) You acknowledge that Chooza will acquire, and agree that Chooza is authorised to acquire, your personal and sensitive information.
- (2) Chooza, without restriction, may provide any personal information, credit reports and any other information relating to you to any insurer of Chooza and you irrevocably consent to the disclosure of such information.
- (3) You acknowledge and agree that:
  - (a) your personal information may be handled, used, accessed, stored and/or disclosed in accordance with Chooza's privacy policy;
  - (a) you have read, understood and agreed to Chooza's privacy policy; and
  - (b) these terms and conditions incorporate Chooza's privacy policy,  
accessible from [www.app.chooza.com.au/privacy-policy/](http://www.app.chooza.com.au/privacy-policy/).
- (4) By providing Chooza with your personal information, you consent to receiving direct marketing communications from Chooza and authorise Chooza to send you promotional messages and materials related to Chooza's App and/or Services, unless you submit a request to Chooza not to receive direct marketing communications.

### 13 Complaints Process

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#### 13.1 Dispute Notice

- (1) Either party may give written notice of a dispute to the other party (**Dispute Notice**). A party giving a Dispute Notice agrees to provide details of the history and circumstances of the dispute and give reasons for why the party is disputing the issue.
- (2) For the purpose of clarity, you will fulfil your obligations under paragraph (1) by completing the form accessed from [www.app.chooza.com.au/contact-us/](http://www.app.chooza.com.au/contact-us/) which will direct any dispute, including all Dispute Notices, to Chooza's appointed representative. You must not direct any dispute, or issue any Dispute Notice, to any other personnel of Chooza.

#### 13.2 Consultation between the parties

Within five (5) days of a Dispute Notice being served, the parties must meet in order to resolve the Dispute.

#### 13.3 Settlement of Dispute

- (1) If the Dispute cannot be resolved by the parties within fourteen (14) days of the Dispute Notice (or such longer period as agreed by the parties) then the dispute must be submitted to mediation by a mediator selected by the parties or, if the parties cannot agree on a mediator, by the President of the Australian Disputes Centre.
- (2) Any costs incurred in the mediation of the dispute are to be borne equally by the parties.

#### 13.4 Obligation to continue to perform

- (1) Notwithstanding the existence of a dispute, each party will continue to perform its obligations under this agreement.
- (2) The parties must follow the dispute resolution process set out in this clause 13 and those processes have failed to resolve the dispute before commencing any proceedings. This clause does not prevent a party from seeking urgent injunctive or declaratory relief concerning any matter arising out of this agreement.

### 14 Notices

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#### 14.1 Requirements

Unless expressly stated otherwise in these terms and conditions, all notices, certificates, consents, approvals, waivers and other communications in connection with these terms and conditions (**Notices**) must be:

- (1) in writing;
- (2) signed by the sender; and
- (3) delivered to the address or email set out in this contract, or as otherwise directed by the recipient.

#### 14.2 When effective

Notices take effect from the time they are deemed to have been received at law, or any such later time expressly specified in the Notice.

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### 15 General Provisions

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#### 15.1 Amendments to terms and conditions

It may become necessary for Chooza to amend these terms and conditions from time to time. If so, Chooza will publish notices of these amendments on its Website. Your continued use of the App and/or Services after the date the notices of amendments are published on the Website will be deemed to constitute your acceptance of those changes.

#### 15.2 Proscribed Relationships

The parties agree that no term of this contract is to be construed so as to give rise to a proscribed relationship between the parties as principal and independent contract, joint venturers, partners, trustee and beneficiary or employer and employee and the parties must not conduct themselves so as to hold out, or otherwise represent, that a proscribed relationship exists between the parties.

#### 15.3 Severability

If any provision of these terms and conditions is held to be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions will not be affected, prejudiced or impaired.

#### 15.4 Set off or counterclaim

You will not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to you by Chooza nor to withhold payment of any invoice because part of that invoice is in dispute.

#### 15.5 Force Majeure

Chooza will not be liable for any default or delay due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm, pandemic, Government order, your acts or omissions or other event beyond the reasonable control of Chooza.

#### 15.6 Surviving provisions

- (1) A provision of these terms and conditions that can and is intended to operate after expiry or termination will remain in full force and effect.
- (2) Each indemnity in these terms and conditions is a continuing obligation, independent of the indemnifier's other obligations and survives termination or expiry of these terms and conditions.

#### 15.7 Entire agreement

These terms and conditions constitute the entire agreement between the parties relating to its subject matter and supersedes all previous agreements, promises or understandings between the parties relating to its subject matter.

### 15.8 Assignment

- (1) Your rights and obligations under these terms and conditions may not be assigned, novated or transferred without the prior written consent of Chooza.
- (2) Chooza may assign or transfer these terms and conditions to any related entity or third party without your consent.

### 15.9 Governing law

These terms and conditions are governed by and construed in accordance with all applicable laws in force in New South Wales from time to time and the parties submit to the exclusive jurisdiction of the courts of New South Wales.