



Account Holder

Terms and Conditions of Use

These Terms and Conditions, the Combined FSG and PDS and the Policies constitute a contract between you and Flexischools.

Your use of the Flexischools Service (including the installation and/or use of the Flexischools App) constitutes acceptance of that contract.

1. DEFINITIONS

In these Terms and Conditions:

Account means the account of the Authorised User on the Flexischools Website restricted by a username and password which is used to access the Flexischools Service;

Administrator means, in relation to the Communications Functionality, an organisation or person granted authority by Flexischools to manage the administration area of the Flexischools App, including the ability to create and delete boxes, in order to send Content to, receive Content from, and manage Content of Authorised Users;

Agreement means the agreement constituted by the Combined FSG and PDS, these Terms and Conditions, the Policies and your completion of the online registration form;

App Store means an online store for purchasing and downloading software and applications for mobile phones and other devices;

App Store Provider means a company that provides or makes available an App Store and related services and products, and which may include Apple or Google as appropriate.

Authorised User means a member of the school community who has an Account created by Flexischools for the purpose of allowing that person to access and use the Flexischools Service for the purpose of purchasing Goods and/or services from the Facility Provider and/or receiving communications;

Combined FSG and PDS means the Combined Financial Services Guide and Product Disclosure Statement issued by Flexischools made available on the Flexischools Website (as updated or amended from time to time);

Communications Functionality means any communications functionality Flexischools may make available to you through the Flexischools Service, which includes your ability to receive communications from Administrators, Flexischools-approved third parties and Flexischools via the Flexischools App and/or Flexischools Website;

Content means any information, text, files, graphics, photos or other materials uploaded, downloaded, posted, provided to, or appearing in the Flexischools App;

Documentation means any and all proprietary documentation made available to you by Flexischools for use with the Flexischools Service, including any documentation available online;

Facility Provider means the entity from which Goods and services may be purchased using the Flexischools Service;

Fees mean the fees payable by you to Flexischools in relation to your use of the Flexischools Service as detailed in the Combined FSG and PDS;

Flexischools means InLoop Pty Ltd (ACN 114 508 771) trading as Flexischools;

Flexischools Privacy Statement means the Privacy Statement issued by Flexischools made available on the Flexischools Website (as updated or amended from time to time);

Flexischools Service means the services offered by Flexischools providing an efficient and convenient method of (a) purchasing Goods and/or services from a Facility Provider, (b) making non-cash payments for those Goods and/or services and/or (c) receiving communications, including through emails, using the Flexischools Website and/or using the Flexischools App;

Flexischools App means the Flexischools application available through an App Store;

Flexischools Website means the website at www.flexischools.com.au;

Goods mean food, drinks and other items supplied by a Facility Provider;

Intellectual Property Rights means all intellectual property rights, including all copyright, patents, trademarks, design rights, trade secrets, domain names, source code, knowhow and other rights of a similar nature, whether registrable or not and whether registered or not, and any applications for registration or rights to make such an application;

Materials means menus, customisation options, pricing, delivery times and other details regarding the supply of Goods or services;

Moral Rights has the meaning given under the *Copyright Act 1968* (Cth) and includes any similar rights existing in other countries;

Non-excludable Australian Consumer Law means rights or guarantees you may have under Schedule 2 of the *Competition and Consumer Act 2010* (Cth) (and any equivalent State or Territory legislation) or other rights in relation to the supply of Goods or services (such as terms implied into a contract by the *Australian Securities and Investments Commission Act 2001* (Cth) or any equivalent State or Territory legislation) that cannot lawfully be excluded;

Order means an order for Goods or services placed via the Flexischools Website or the Flexischools App;

Personal Information has the meaning given to the term in the Privacy Legislation;

Privacy Legislation means the *Privacy Act 1988* (Cth);

Policies mean the policies applicable to the Flexischools Service (including the Flexischools Privacy Statement) made available on the Flexischools Website (as updated or amended from time to time);

Software means the software or tools, and related functionality, provided or made available by Flexischools for use with the Flexischools Service including any software required to use the Communications Functionality;

Terms and Conditions means these Terms and Conditions of Use (as updated or amended from time to time);

Transaction means a purchase of Goods or services using the Account;

US Department of Commerce's Denied Persons List or Entity List is a list of certain persons and/or entities (as relevant) that are subject to specific license requirements for the export, reexport and/or transfer of specified items, as further explained at www.bis.doc.gov;

US Treasury Department's Specially Designated Nationals List is the list of individuals and companies owned or controlled by or acting for or on behalf of targeted countries as further explained at www.treasury.gov; and

you means the Authorised User of an Account and **your** is interpreted accordingly.

In these Terms and Conditions, any use of the verb includes, or of words such as for example or such as, do not limit anything else that is included in general speech.

2. ACCEPTANCE OF TERMS AND CONDITIONS

2.1 You acknowledge that if you are a parent or guardian, you may grant your child or ward access to Flexischools Service by allowing them to have a login to your Account or adding their student card to the Account. You also acknowledge that you take full responsibility for any actions taken by your child or ward (including their use of the Account either online or through the use of a linked student card) and agree to ensure that they comply with these Terms and Conditions.

2.2 By selecting the box "I have read and I agree to be bound by Flexischool's Terms and Conditions of Use" and clicking "Submit" when you create an Account, you agree to be bound by these Terms and Conditions, the Combined FSG and PDS and any Policies, including any update or amendment made to these in accordance with this Agreement.

3. GRANT OF LICENCE

Flexischools grants you a personal, revocable, non-transferable, non-exclusive, limited licence to:

- (a) participate in the Flexischools Service;
- (b) use and install or access the Software on or through Your equipment (as appropriate); and
- (c) use the Flexischools App and the Documentation (as appropriate) on any devices or other hardware products that you own or control, as permitted by any usage rules for such products or set forth in the applicable App Store.

4. FLEXISCHOOLS SERVICE

4.1 The Authorised User acknowledges that sole responsibility for the preparation and supply of Goods or services purchased using the Account lies with the Facility Provider.

4.2 You can purchase Goods or services from a Facility Provider using the Flexischools Service. Your Account will be debited with the cost of the Goods or services and the Fees.

4.3 Orders must be placed before any specified cut-off time.

4.4 When an Authorised User performs a Transaction using the Flexischools Service, the charge will automatically be debited to the Authorised User's Account.

4.5 For prepaid Accounts:

- (a) For each prepaid Account, Flexischools will maintain an Account for the purpose of accounting for all Goods and services purchased and Fees;
- (b) The Authorised User must make an initial prepayment and then maintain the Account in credit by topping up the balance of the Account;
- (c) Authorised Users may authorise Flexischools to automatically top up the Account from a nominated payment method when the Account balance falls to a nominated level;
- (d) If for any reason any payment on a prepaid Account is dishonoured, Flexischools will debit the dishonour plus relevant fees against the Account;
- (e) If for any reason a prepaid Account falls into debit, the Account will automatically be suspended unless the ability to operate in debit has been specifically agreed with the school and Facility Provider;

(f) The Authorised User will remain liable to pay any outstanding charges should the prepaid Account balance be insufficient to meet all charges; and

(g) Flexischools may close a prepaid Account at any time at its discretion or may refuse to accept an application for such an Account.

4.6 Subject to clause 4.7, each time a login issued to the Authorised User is used to complete a Transaction, whether by the Authorised User or another person, the Authorised User's Account will be debited with the relevant purchase amount.

4.7 If an Account login is compromised or stolen, the Authorised User must notify Flexischools in writing immediately and Flexischools will suspend the Account. The Authorised User will not be held responsible for any charges that might arise from the use of the compromised Account after the time the notification is received by Flexischools. The Authorised User will be entitled to a refund of any unused amount on a compromised prepaid Account.

5. YOUR OBLIGATIONS

5.1 You are responsible for maintaining the confidentiality of the Account identification, password, security questions and answers and any other information specific to your Account. This includes ensuring the ongoing security of such items by regularly updating your security information. You are responsible for ensuring that access to the Flexischools App is appropriately secure from unauthorised use.

5.2 You must immediately report any unauthorised use of the Account to Flexischools.

5.3 Flexischools may request that you or the school provide a photograph of individuals permitted by you to use your Account and the Flexischools Service. You acknowledge and agree that Flexischools may provide this photograph to the Facility Provider for identification purposes. Where the individual depicted in any photograph provided to Flexischools is a minor, you acknowledge and agree that you are the minor's parent or guardian and you consent to the photographs use in the manner contemplated by this Agreement on the minor's behalf.

6. ADDING FUNDS ON YOUR ACCOUNT

6.1 Flexischools will advise you on the available payment methods for adding funds to your Account which may vary from time to time.

6.2 Once Flexischools is satisfied that the funds have 'cleared', Flexischools will credit the Account. Depending upon the payment method selected, this process may take up to five business days.

7. FEES

7.1 In consideration for providing access to the Flexischools Service, Flexischools may charge you Fees which are set out in the Combined FSG and PDS. You agree to pay all Fees as they become due and payable.

7.2 Flexischools may amend the Fees from time to time on prior notice.

8. USE OF YOUR PERSONAL INFORMATION

8.1 Flexischools collects and uses your Personal Information in order to provide the Flexischools Services (including establishing and administering your Account, communicating Orders of Goods and/or services to Facility Providers and informing you of available Goods and/or services) and will maintain electronic or other records for each Authorised User's Account. These records will contain the name and contact details of the Authorised User to whom the login was issued, other information provided during the Authorised User's

registration process and details of all Transactions. In relation to use of the Flexischools App, Flexischools may, itself or through third party service providers, collect and use information about your use of the Flexischools App, including information you provide directly or through automated means, such as geolocation (only if you choose to share it), Flexischools App usage, time stamps, device identification, and other information as outlined in the Flexischools Privacy Statement. Flexischools may exchange your Personal Information with third parties in the ordinary course of our business, for example with Facility Providers you have ordered from in order to allow them to provide the Goods and/or perform the services, with payment processing gateways, government agencies and service providers to Flexischools. The Authorised User consents to the use of the Authorised User's personal information for this purpose and acknowledges that it is the Authorised User's responsibility to advise Flexischools of any changes to the information provided in the Authorised User's registration (such as contact details).

8.2 Flexischools may also use or disclose Personal Information collected from Authorised Users for any other purpose mentioned in the Flexischools Privacy Statement, including notifying Authorised Users of new Goods and services available through the Flexischools Service, changes to conditions of use and changes to or discontinuance of services and for direct marketing or offers from Flexischools (relating to products and/or services of Flexischools or third parties) and related market research. You may request not to receive marketing communications from Flexischools by sending an email to help@flexischools.com.au.

8.3 You agree that Flexischools may collect, use and disclose information associated with your use of the Flexischools Service provided that the information is de-identified, aggregated or otherwise made anonymous and use and disclose that de-identified, aggregated or otherwise anonymous information for any purpose with third parties provided that, in so doing, Flexischools does not reveal any Personal Information.

8.4 The Flexischools Privacy Statement explains how we will collect this information, and the way in which you can access and seek correction of your Personal Information or raise issues about a breach of the Privacy Legislation. To obtain further information about this use of information or our Flexischools Privacy Statement, you may contact us through the contact details available on the Flexischools Website.

8.5 By using your Account and/or the Flexischools App, you consent to Flexischools collecting, using and disclosing your Personal Information in the manner described above.

9. CHARGEBACKS

9.1 If you add funds to your Account using your credit card or through your bank account you must not charge back, cancel or de-authorise the credit card or bank account charge.

9.2 If you purchase Goods or services using the Flexischools Service, you must not charge back, cancel or de-authorise the credit card or bank account charge.

9.3 Should you breach clause 9.1 or 9.2, Flexischools may, at its sole discretion, recover the cost of any Goods or services purchased by you and the amount of any chargeback or other fees incurred by Flexischools. This will be achieved by reducing your Account balance, re-charging your credit card or bank account for the amount or otherwise collecting such amount from you.

10. INTELLECTUAL PROPERTY RIGHTS

10.1 Nothing in this Agreement constitutes a transfer of any Intellectual Property Rights to you in the Flexischools Service, the Flexischools Website or its contents or the Flexischools App or its contents.

10.2 You:

(a) acknowledge that Flexischools owns or has the rights to all Intellectual Property Rights in the Flexischools App; and

(b) will not directly or indirectly do anything that would or might invalidate or put in dispute Flexischools's rights and/or title in the Flexischools App.

10.3 If any person makes any claim alleging that any of the Flexischools App (or use of the Flexischools App) infringes any Intellectual Property Rights or Moral Rights of any person, you must:

- (a) promptly notify Flexischools in writing;
- (b) not make any admissions or take any action in relation to the claim without Flexischools's written consent;
- (c) permit Flexischools (and not, to avoid doubt, any App Store Provider) to take responsibility and control over any and all investigations, negotiations, settlement and dispute resolution proceedings relating to the claim; and
- (d) cooperate with, assist and act at all times in accordance with the reasonable instructions of Flexischools, in relation to the claim and any consequent investigations, negotiations, settlement and dispute resolution proceedings.

11. THIRD PARTY PROMOTIONS

As part of the Flexischools Services, Flexischools may make available third-party product or service promotions (Promotions). The following terms and conditions apply to the extent that Promotions are made available, including through the Flexischools Website and/or Flexischools App:

- (a) Flexischools will not honour any deals, promotions or promises made in such promotions or materials (other than those made directly by Flexischools);
- (b) Flexischools may delete reference to such promotions or materials after a minimum of one month after termination;
- (c) any use or reliance on the Promotions is at your own risk; and
- (d) you may be provided with internet links as part of such promotions or materials, which link to third party websites. If you click on or otherwise connect to such third-party website, Flexischools takes no responsibility for links to third party sites, which are outside the control of Flexischools.

12. FLEXISCHOOLS APP

12.1 Unless otherwise set out in this Agreement and to the extent permitted by law, you must not:

- (a) use the Flexischools App for any purpose or in any manner other than as set out in clause 3;
- (b) use the Flexischools App in any way that could damage the reputation of Flexischools or the goodwill or other rights associated with the Flexischools App;
- (c) permit any other person or third party to access or use the Flexischools App without the authorisation of Flexischools;
- (d) permit any person to change, amend or customise any part of the Flexischools App unless agreed by Flexischools;
- (e) do yourself nor prevent Flexischools' restraint of you doing the following:
 - (i) reproduce, distribute, make error corrections to or otherwise modify or adapt the Flexischools App or the Documentation or create any derivative works based upon the Flexischools App or the Documentation; or
 - (ii) de-compile, disassemble or otherwise reverse engineer the Flexischools App or permit any third party to do so; and/or
- (f) modify or remove any copyright or proprietary notices on the Flexischools App or the Documentation.

12.2 Flexischools shall make the Flexischools App available for download from the site from which you are accessing the Flexischools App or other appropriate application download sites in accordance with the terms of use of those individual sites.

12.3 Neither Flexischools nor, to avoid doubt, any App Store Provider, is under any obligation to provide technical support to you, including support in relation to the installation of the Flexischools App on your device.

12.4 You shall ensure that the device on which the Flexischools App is to be installed is in good, up to date working order and operating condition, and Flexischools takes no responsibility for your device's inability to access the Services due to issues with your device.

12.5 Flexischools has the following obligations under this Agreement:

(a) to provide access to the Flexischools App until termination of this Agreement in accordance with clause 12; and

(b) to keep your password and account details confidential.

12.6 Flexischools acknowledges that Flexischools have the right and/or licence to provide any Content that Flexischools includes on the Flexischools App.

12.7 Flexischools will investigate complaints made regarding inappropriate Content, or make its own enquiries, and remove the Content, at Flexischools's absolute discretion.

12.8 Flexischools does not endorse, support, represent, or guarantee the completeness, truthfulness, tact, accuracy, or reliability of any Content or endorse any opinions expressed in the Content.

12.9 Flexischools is not liable for any Content, including, but not limited to, any promises, errors or omissions, or any loss or damage incurred as a result of use of or reliance on any Content that Flexischools has not directly included on the Flexischools App.

12.10 Flexischools will not honour any deals, promotions or promises made in the Content (other than those made directly by Flexischools).

12.11 Flexischools may terminate your use of the Flexischools App if there has been no access to the Flexischools App for a period of one year.

12.12 You acknowledge that:

(a) Flexischools may update, alter or change the Flexischools App at any time;

(b) Flexischools may assign or sell its rights to the Flexischools App without notice to you;

(c) Flexischools may delete Content in the Flexischools App after a minimum of one month after termination;

(d) Flexischools cannot guarantee availability of the Flexischools App at all times. Events such as maintenance, capacity restraints, security requirements and disruptions beyond the control of Flexischools, such as power failures, and network disruptions may result in disruptions or malfunctions;

(e) the Flexischools App relies for part of its operation on push notification services including as provided by third parties. As such, delivery of Content is not guaranteed and is subject to the data delivery policies of these third parties; and

12.13 You must not use the Flexischools App to defame, stalk, bully, abuse, harass, threaten, impersonate or intimidate people or organisations.

12.14 You must not use the Flexischools App for any illegal purpose and Flexischools shall adhere to mandatory standards of reporting where illegal use is discovered or where Flexischools becomes aware of any illegal use.

12.15 You agree to comply with all laws, rules, and regulations applicable to the use of the Flexischools App, including the applicable Australian state or territory laws.

12.16 Any use or reliance on any Content or Materials viewed in the Flexischools App is at your own risk.

12.17 You may be provided with internet links in the Content which link to third party websites. If you click on or otherwise connect to such third-party website, Flexischools takes no responsibility for links to third party sites, which are outside the control of Flexischools.

12.18 You must not do any of the following while accessing or using the Flexischools App:

(a) access, tamper with, or use non-public areas or non-indexed areas of the Flexischools App, or the technical delivery systems of the Flexischools App's third party providers;

(b) probe, scan, or test the vulnerability of any system or network or breach or circumvent any security or authentication measures;

(c) access or search or attempt to access or search the Flexischools App by any means (automated or otherwise) other than through published interfaces that are provided by Flexischools;

(d) forge any TCP/IP packet header or any part of the header information in any email or posting, or in any way use the Flexischools App to send altered, deceptive or false source-identifying information;

(e) interfere with, or disrupt, or attempt to disrupt, the access of any user, host or network, including, without limitation, by sending a virus, overloading, flooding, spamming, mail-bombing the Flexischools App, or by scripting the creation of Content in such a manner as to interfere with or create an undue burden on the Flexischools App in attempt to gain access to a locked box or purpose built secured area in an Administration area, unless express permission has been granted by Flexischools or the Administrator if appropriate.

12.19 You cannot opt out of communications from Flexischools that are necessary for the ongoing operation of the Flexischools Services, including the Flexischools App.

12.20 The Flexischools App is primarily intended for to the use of users in excess of 14 years of age.

12.21 You must ensure you comply any third party terms of agreement that are required for you to use the Flexischools App (which for example may include any applicable wireless data services agreements).

12.22 You warrant that you (a) are not located in a country that is subject to a US government embargo, or that has been designated by a USA government agency or department as a "terrorist supporting" country (including under the US Treasury Department's Specially Designated Nationals List); and (b) you are not listed on any USA government agency or department list of prohibited or restricted parties (including under the US Department of Commerce's Denied Persons List or Entity List).

12.23 You acknowledge that, having added yourself to an Administrator's account in the Flexischools App:

(a) that the Administrator will be able to view your name (but not your password or email address);

(b) Content provided to the Flexischools App by you will be visible to that Administrator;

(c) you may be exposed to objectionable Content provided by that Administrator; and

(d) you may be exposed to advertising or promotional material provided by Flexischools, a Flexischools approved third party, and/or that Administrator.

12.24 In the event of a breach of this clause 11, Flexischools reserves the right to seek injunctive relief without notice to you in a court of competent jurisdiction along with damages and legal costs and fees incurred in seeking such relief.

13. TERMINATION

13.1 Flexischools may suspend or terminate the licence granted under clause 3 and remove your access to and your participation in the Flexischools Service at any time and for any reason, including but not limited to:

- (a) breach any of these Terms and Conditions; or
- (b) if there is a suspicion that the Account has been used for unauthorised, unusual or illegal activity; or
- (c) if a Transaction has not been performed on the Account for more than 12 months and the Account balance is zero.

13.2 Authorised Users may terminate this Agreement by going to "MyAccount" in the Flexischools Website or requesting the closure of their Account via email to help@flexischools.com.au. In the case of prepaid Accounts the Authorised User may also be entitled to a refund of any unused funds in accordance with clause 13.3. Users of the Flexischools App may terminate this Agreement in so far as it relates to the Flexischools App by deleting the Flexischools App.

13.3 On termination of these Terms and Conditions:

- (a) the rights and licences granted under clause 3 will terminate;
- (b) your access to the Flexischools Service will be removed by Flexischools;
- (b) your right to use the Flexischools App immediately ceases and you must promptly remove the Flexischools App from all devices; and
- (b) any outstanding balances on your Account will be refunded as outlined in clause 13.3.

13.4 Despite any other provision of this Agreement, this clause 12 and clauses 5, 7, 10, 11, 13, 14 and 15 will survive termination of this Agreement.

14. REFUNDS

14.1 In the event of an Authorised User reporting to Flexischools either:

- (a) a failure of the Facility Provider to supply the Goods or services, or
- (b) the Goods or services being unsatisfactory upon receipt;

Flexischools will pass the details of the Authorised User complaint to the Facility Provider. If the Facility Provider wishes to grant a full or partial refund, it is the responsibility of the Facility Provider to either refund the customer directly, or provide the refund value to Flexischools and have Flexischools credit the Authorised User's Account.

14.2 Flexischools will not provide cash refunds in any circumstances.

Refund for Account Closure

14.3 In the event of receiving a request from the Authorised User to close their Account, Flexischools will refund the remaining value of the Account (less any Orders which have been processed by the Facility Provider) by one of the following methods at Flexischools' discretion:

- (a) credit card refund using the credit card originally used to place funds into the Account;
- (b) PayPal refund using the PayPal account originally used to place funds into the Account; and
- (c) EFT payment into the Authorised User's nominated bank account.

The refund will be provided within 10 business days.

14.4 If any refund requires Flexischools to obtain Account details from the Authorised User and Flexischools is unable to obtain the Account details from the Authorised User following reasonable attempts and a

reasonable attempt is made for a period of 30 days, but is unsuccessful, the balance will remain in your Account.

15. LIMITATION OF LIABILITY

15.1 You agree and acknowledge that:

- (a) Flexischools is a distributor of the Facility Provider's Materials and is not responsible for the content of the Materials;
- (b) Flexischools is a distributor of third party Content (including the Facility Provider) and is not responsible for the content of third party Content (including the Facility Provider) unless Content is created and uploaded by Flexischools directly;
- (c) you have not relied on any representation, description, illustration or specification which is not expressly stated in this Agreement;
- (d) except for those required under any Non-excludable Australian Consumer Law, Flexischools make no warranties or representations about the Flexischools Service or its accuracy, reliability, completeness, currency, or ability to achieve any purpose;
- (e) except for liability for breach of any Non-excludable Australian Consumer Law, Flexischools is not liable for any loss or damage arising out of an Authorised Users use of the Flexischools Service;
- (f) the maximum aggregate liability of Flexischools for all proven losses, damages and claims relating to personal injury, sickness or death is limited to the amount set out in clause 14.3
- (g) Flexischools does not warrant that you will have continuous access to the Flexischools Service;
- (h) Flexischools is not liable if the Flexischools Service is unavailable for any reason;
- (i) Flexischools is not the supplier of Goods or services and is not liable for any claims in relation to the Goods or services, including their quality, merchantability or fitness for any particular purpose;
- (j) Flexischools is not a bank and does not pay interest on any funds held in your Account and Flexischools is entitled to any interest earned on funds held on your behalf;
- (k) Flexischools may invest any funds held on your behalf and to which you are entitled in any investment of a kind permitted by Regulation 7.8.02(2) of the *Corporations Regulations 2001* (Cth), Flexischools shall be entitled to any interest, earnings or similar payments on any such investments which shall be paid into any account nominated by Flexischools and, upon realisation, the amount received (up to an amount not exceeding the amount invested) will be returned to the account Flexischools is required to maintain under the *Corporations Act 2001* (Cth). For the avoidance of doubt, Flexischools shall not be required to reimburse any difference between the amount invested and the amount received;
- (l) Flexischools is not responsible for any instructions or communications that you provide via the Flexischools Service and is not responsible for detecting any errors in your Account instructions;
- (m) Flexischools has no control over the quality, safety or legality of any items sold by a Facility Provider to any Authorised User or over any content used by a third party approved by Flexischools and/or a Facility Provider in its advertising or marketing;
- (n) Flexischools is not a party to any dispute between you and the Facility Provider. If you have a dispute with a Facility Provider, you release Flexischools (and our officers, directors, agents, related companies, subsidiaries, joint ventures and employees) from any and all claims, demands and damages (actual and consequential) of every kind and nature arising out of or in any way connected with the dispute; and
- (o) Flexischools cannot and does not warrant that a Facility Provider will complete any Transaction.

15.2 Flexischools will not be liable to you for:

- (a) any indirect or consequential loss, damage or costs incurred by you; or
- (b) any loss or damage of any kind resulting from or in connection with negligence or breach of a term, condition or warranty that may be implied into this Agreement except for liability under Non-excludable Australian Consumer Law;

in each case, including any loss arising out of or in connection with the Flexischools Website, the Flexischools Service, the Flexischools App or this Agreement.

15.3 To the extent permitted by law, where Flexischools' liability is not excluded by clause 14.2, Flexischools' liability for a claim arising out of this Agreement or the Flexischools Service will in no event exceed the amount of any transaction Fees paid by you in respect of the Transaction in relation to which the claim arises.

15.4 You acknowledge that Flexischools, not any App Store Provider, is responsible for addressing any claims you or a third party may have that relates to the Flexischools App or your possession and/or use of the Flexischools App.

16. INDEMNITY

16.1 You agree to indemnify Flexischools and hold us, our officers, directors and employees harmless from any loss, claim or legal liability (including legal fees) arising out of your breach of the Agreement or your breach of any law or the rights of a third party relating to your use of the Flexischools Service.

16.2 You are responsible for any civil or criminal liability that is incurred as a result of your use of the Flexischools App or Documentation. You indemnify Flexischools against all liabilities, expenses, legal costs and fees on a full indemnity basis and for damages arising out of claims based upon your use of the Flexischools App or Documentation.

17. MISCELLANEOUS

17.1 Flexischools does not guarantee continuous, uninterrupted or secure access to the Flexischools Service.

17.2 This document sets out the entire Agreement between the parties in relation to its subject matter and all prior representations are excluded.

17.3 Flexischools may suspend your access to the Flexischools Service in whole or in part at any time without notice or compensation where deemed necessary in Flexischools' sole discretion.

17.4 You may not assign, sublicense or otherwise transfer any rights or obligations under this Agreement without the prior written consent of Flexischools. Flexischools may assign or otherwise transfer any rights or obligations under this Agreement at any time.

17.5 The Agreement and any other documents, information, statements, notifications, notices or other communications ("**Relevant Communications**") in relation to your Account and/or your use of the Flexischools Service may be provided to you by electronic means. You agree to receive all communications from us by electronic means and that Relevant Communications will be made available on the Flexischools Website.

17.6 We may set off any obligation which you owe us under this Agreement against the balance of your Account.

18. AMENDMENTS

Flexischools may amend these Terms and Conditions, the Combined FSG and PDS and/or Policies from time to time by posting a revised version of such Terms and Conditions, the Combined FSG and PDS and/or Policies to the Flexischools Website and sending you an email notification. By continuing to use the Flexischools Service

after any amendments to the Terms and Conditions, the Combined FSG and PDS and/or Policies, you agree to abide and be bound by any such changes. If you do not agree with any changes made to the Terms and Conditions, the Combined FSG and PDSs and/or Policies, you must terminate the Agreement by closing your Account and ceasing to use the Flexischools Service (including uninstalling the Flexischools App).

19. GOVERNING LAW

These Terms and Conditions are governed by the law applicable in New South Wales, Australia and you irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of that state.