

Bondable Terms of Use

1 Outline

- 1.1 Bondable is a mediation service to assist Landlords and Tenants in resolving their residential tenancy dispute.
- 1.2 These Terms of Use constitute a binding agreement between Hutly Pay Australia Pty Ltd ACN 663 814 828 (**Hutly, we, us, our**) and the registered user of Bondable (**you, your**) in your capacity as either an Agent, Landlord, or Tenant.
- 1.3 By signing up for or otherwise using Bondable, you agree to these Terms of Use.
- 1.4 We may amend these Terms of Use from time to time, by way of notice in writing to you
- 1.5 If you continue to use Bondable after the date a change to the Terms of Use takes effect, you are bound by that change.
- 1.6 If you do not agree to be bound by a change to the Terms of Use, you may submit a request to cancel Bondable in accordance with clause 11.1 if you are the Landlord or Agent, or clause 11.2 if you are the Tenant.
- 1.7 You are responsible for ensuring you have read the latest version of these Terms of Use. We make the latest version available on the Hutly Website at www.hutly.com.

PART A

2 Registration and User Account

Term

- 2.1 Our obligation to provide Bondable to you commences on the later of:
 - (a) the time the Tenant's registration for Bondable is completed and accepted by us; or
 - (b) payment of the initial Membership Fee (if applicable); or
 - (c) payment of the initial Subscription Fee,and continues until this Agreement is terminated in accordance with clause 11.

Registration

- 2.2 To use Bondable, you must register through the Hutly Platform.
- 2.3 To register to use Bondable, you must be one of the following:
 - (a) an Australian resident being at least 18 years old;
 - (b) a body corporate registered in Australia;
 - (c) a partnership formed in Australia;
 - (d) an Australian government body;
 - (e) a trust formed under Australian law; or
 - (f) an association formed under Australian law,and provide all of the information, and undertake all steps, required to complete the registration process.
- 2.4 We may accept or reject your application to use Bondable at our discretion.
- 2.5 You release and indemnify us in respect of any loss or liability arising from our rejection of your application to use Bondable for any reason.

User Account and Verification

- 2.6 As part of the registration process, you must set up a User Account. Your User Account is for use only by you and your Authorised Users (whose actions you are responsible for when they are using the User Account). You cannot transfer or assign your User Account to any other person or entity.
- 2.7 We do not endorse, certify or guarantee the account of any registered User and we do not assume any responsibility for the confirmation or verification of any User's identity, background, or whether the User is trustworthy, safe or suitable. You should always exercise due diligence and care when deciding whether to communicate and interact with other Users of Bondable whether online or in person.
- 2.8 Notwithstanding the above, you authorise us to conduct checks, validations and risk assessments, and to take such other steps reasonably necessary, whether directly or via third parties, to:
 - (a) verify your identity (including the identity of any Beneficial Owner);
 - (b) verify the accuracy, truthfulness and completeness of any information you provide to us; and
 - (c) assess your credit worthiness and suitability for Bondable.

For example, we may obtain your credit report from credit reporting bodies (or request that you provide it to us), perform credit checks, verify your details against third party databases, and make nominal transactions to test your banking details. You permit us to use and share your information with the third parties that we engage with for the purposes set out in this clause.

User Obligations

- 2.9 You are responsible for the security of your login details and all activity undertaken using your User Account or login details.
- 2.10 You must ensure you keep your login details safe and secure and only provide them to your Authorised Users;
- 2.11 You must not impersonate another person or attempt to access another person's User Account;
- 2.12 You must notify us as soon as you become aware of, or suspect, any misuse of your login credentials, your User Account or Bondable generally.
- 2.13 You must ensure that all information you provide to us (including as part of the application process), or which is provided to us on your behalf, is accurate, current, complete and not misleading.
- 2.14 You must notify us as soon as possible after any of the information provided to us changes or becomes inaccurate, incomplete or misleading.
- 2.15 You must use Bondable in accordance with this Agreement, all applicable laws and solely for its intended purpose.
- 2.16 You must not use Bondable with the purpose or effect of defeating or circumventing the provisions of any law (including, for example, security of payment legislation or anti-money laundering legislation) or other legal obligation (including any statutory obligation, contractual obligation or order of a Residential Tenancy Authority).

User Warranties

- 2.17 You warrant and represent at all times to us throughout the term of this Agreement that:
 - (a) you have the full power and authority to enter into and to perform your obligations (either as a Tenant, Landlord or an Agent) under this Agreement;
 - (b) this Agreement constitutes legal, valid and binding obligations, enforceable against you in accordance with its terms;
 - (c) all information (including Personal Information) provided by you when applying for and/or using Bondable is accurate, complete and not misleading;
 - (d) you have obtained any necessary third-party consents in connection with all information (including Personal Information) provided by you when applying for and/or using Bondable and the Hutly Platform;
 - (e) you accept responsibility for all transactions and activity conducted through your User Account or login (whether or not authorised by you);
 - (f) you accept responsibility for any transactions you or your Authorised Users make in connection with your User Account;
 - (g) you have been given the opportunity to take legal and or financial advice on the terms of this Agreement and make your own decision as to the suitability or otherwise of this service for you; and
 - (h) you will comply with all laws that apply to you when using Bondable and the Hutly Platform, and all applicable laws relating to the Lease and the Rental Property.

We can suspend or close your User Account

- 2.18 We may suspend or close your User Account at any time if we reasonably believe that:
 - (a) you have breached or are likely to breach this Agreement or any law in connection with your use of Bondable;
 - (b) your User Account or login details are being, or we reasonably believe are likely to be, used fraudulently or in an unauthorised way; or
 - (c) your User Account or login details are being, or may be used, in a way that may compromise the integrity of the Hutly Platform or Bondable, or that may damage our reputation; or
 - (d) it is necessary to protect our legitimate business interest.
- 2.19 We may change your User Account details or registration details if we determine it is reasonably necessary to do so, including to ensure they are correct and not misleading.
- 2.20 We can also suspend or close your User Account at any time by giving notice to you, if we stop providing Bondable or any material component of it to you, or as we believe necessary to comply with any applicable law.
- 2.21 Suspension or closure of your User Account as a result of an event under clause 2.18 does not vary, suspend or cease any of your obligations under this Agreement.
- 2.22 To the extent permitted by law, we will not be liable to you for any modification, suspension or closure of your User Account except in accordance with our obligations under Schedule 2 of the Competition and Consumer Act 2010 (Cth) ("Australian Consumer Law").

3 Hutly Platform

- 3.1 Subject to clause 12.5, Bondable is provided on an 'as is' basis and we do not make any warranty, representation or guarantee (whether express or implied) that Bondable is suitable for your purposes or is fit for any particular purpose, and we make no warranty, representation or guarantee of merchantability, non-infringement or availability.
- 3.2 Bondable is provided through the Hutly Platform, which is owned, managed, and licensed by Hutly Pty Ltd ACN 633 649 573.
- 3.3 For the purposes of this clause 3, references to "we", "us" or "our" include references to Hutly Pty Ltd ACN 633 649 573. We hold the benefit of each indemnity, promise and obligation made by you under this clause 3 that is expressed or implied to be for the benefit of Hutly Pty Ltd ACN 633 649 573, on trust for Hutly Pty Ltd ACN 633 649 573 and we are entitled to exercise those rights and enforce those indemnities as trustee on behalf of Hutly Pty Ltd ACN 633 649 573.
- 3.4 You must use the Hutly Platform in accordance with its Terms of Use, all applicable laws and any rules of conduct as determined by us.
- 3.5 You must not use the Hutly Platform (including by posting material, statement or payment references) in a way that is or may be reasonably considered to be defamatory, threatening, harassing, obscene, discriminatory or otherwise unlawful.
- 3.6 You must not attempt to breach any security arrangements relating to the Hutly Platform, a particular User Account or Bondable in general.
- 3.7 We use reasonable endeavours to make the Hutly Platform and Bondable generally available, but we do not guarantee that access to the Hutly Platform and Bondable will be continuous, uninterrupted or error-free. You acknowledge that your access to the Hutly Platform and Bondable relies on third party networks and service providers which neither you nor we can control.
- 3.8 We take reasonable precautions to preserve the security of Bondable and the Hutly Platform, but we do not guarantee that Bondable or the Hutly Platform are secure from hacking attacks, viruses, malware, worms, denial of service attacks or other malicious code or activity. You must ensure you have up to date internet security protection.
- 3.9 You can ask us to update your User Account details from time to time. However, we will not update those details if we reasonably consider that the update has been requested for an improper purpose or are incorrect.

4 Intellectual property

Hutly Platform

- 4.1 All Intellectual Property Rights in the Hutly Platform and Bondable belongs to us and our licensors.
- 4.2 We grant you a revocable, non-exclusive, non-transferable right to use the Hutly Platform solely for the purpose of using Bondable as permitted by this Agreement.
- 4.3 Subject to clause 4.5, you may include hyperlinks to the Hutly Platform on your own website or in other materials to promote the use of Bondable, and may install any widget or software application we provide you for that purpose. We may withdraw this right at any time at our sole discretion.
- 4.4 You must not alter, reproduce, adapt, distribute, display, publish, reverse engineer, translate, disassemble, decompile or otherwise attempt to create any source code derived from Bondable, the Bondable Website, the Hutly Website and the Hutly Platform.

Hutly trade marks and logos

- 4.5 You must not use any of our trade marks or logos without our prior written consent.

5 Privacy

- 5.1 Our Privacy Policy sets out how we will treat any Personal Information we collect from you.
- 5.2 It is your responsibility to check for updates to the Privacy Policy.
- 5.3 You agree that you have read and understood our Privacy Policy and consent to your Personal Information being collected, used, disclosed and stored in accordance with that policy until such time as you advise us otherwise.
- 5.4 You declare that you are authorised to provide the Personal Information supplied to us in connection with your application and have obtained any necessary consents to provide us with that information.
- 5.5 You must provide any documentation or other information we request to process your application and/or to verify your identity or other details.
- 5.6 You permit us to recommend other features and products to you via the Hutly Platform. These features and products may be offered by one of our related entities or by a third-party provider which will be subject to separate policies, standards or guidelines, or may require that you accept additional terms and conditions prior to accessing those features or products.

6 Bondable

Exclusions

- 6.1 Bondable is not a Financial Product and is not to be used by any parties as a financial investment or to manage a financial risk.

Guarantee

- 6.2 We will provide a Guarantee for an amount that does not exceed one month of the Tenant's Rent ("**Guaranteed Amount**").
- 6.3 Subject to clause 7, we guarantee payment of the Guaranteed Amount to the Landlord in accordance with the procedure set out under clauses 6.4 to 6.12 in the event of a Claim.

Claim Process

- 6.4 At any time when the Lease is on foot and within 10 Business Days of the Lease ending, the Landlord may lodge a Notice of Claim via the Hutly Platform or if not available, via email at support@bondable.me
- 6.5 The Landlord must set out in its Notice of Claim:
- (a) which obligations the Landlord believes the Tenant has breached under the Lease or the Residential Tenancies Act; and
 - (b) provide details of each item of loss or damage claimed due to the breach and all reasonable information and material in support of the claimed loss or damage (i.e. if the Rental Property has been damaged, evidence of the damage or if rent has not been paid, a copy of the rent ledger); and
 - (c) and the amount claimed for each item of loss or damage in respect of the Rental Property with at least 2 supporting quotes for the repair and/or replacement of the loss or damage.
- 6.6 Upon lodgement of a valid Notice of Claim by the Landlord via the Hutly Platform, the Tenant will receive a copy of the Notice of Claim via the Hutly Platform and the Tenant must within 1 Business Day (**Final Objection Date**) choose between three options:
- (a) pay out the Claim to the Landlord immediately;
 - (b) request we pay the lower of the Claim or the Guaranteed Amount on behalf of the Tenant and enter into a payment plan with us to repay the debt; or
 - (c) request a Mediation.

Mediation

- 6.7 Upon request for Mediation by the Tenant, the following clauses 6.8 to 6.12 will apply.
- 6.8 We will pay the Landlord, prior to Mediation, the lesser of:
- (a) the Claim amount; or
 - (b) the Guaranteed Amount.
- 6.9 The Landlord and the Tenant must in good faith, participate in Mediation in accordance with the process set out below:
- (a) The Tenant will first be prompted via the Hutly Platform to make an offer to the Landlord to settle the Claim. The Landlord can either agree to the Tenant's offer or make a counter-offer, which the Tenant may either accept or propose a final counter-offer.
 - (b) The parties will have 1 day to respond to each counter-offer.
 - (c) The above process will take place via the Hutly Platform, where we may (using an AI chatbot) offer suggestions on how to resolve the dispute.
 - (d) If the digital mediation process is unsuccessful, the parties must attend mediation with a Hutly Mediator, whether remotely or in-person.
- 6.10 Our role through the Hutly Platform or via the use of a Hutly Mediator is solely to facilitate the mediation process between the Landlord and the Tenant. We will assist the parties to identify the issues between them, explore options and, if possible, to achieve the expeditious resolution of the Claim by agreement. We will not advise either party, nor make decisions for nor impose a solution on any party.
- 6.11 If at any point Mediation is successful and the parties agree on the Claim amount, the parties must enter into binding terms of settlement in which the Tenant must:
- (a) pay the balance of the agreed Claim amount (if it is in excess of the Guaranteed Amount) to the Landlord; and
 - (b) enter into a payment plan with us to repay the amount that we have paid to the Landlord under clause 6.8.
- 6.12 If Mediation is unsuccessful, the following process shall apply:
- (a) the Tenant must pay to the Landlord the lesser of the Claim or the Guaranteed Amount, which the Landlord must lodge as a bond with the Bond Authority. The Tenant may either pay this directly to the Landlord or instruct us to do so on its behalf by entering into a payment plan with us; and
 - (b) the Landlord must refund any amount that we have paid to it under clause 6.8.

Enforcement and Preservation of Rights

- 6.13 To the extent permitted by law, except for the purpose of obtaining urgent interlocutory or declaratory relief from a court or tribunal of competent jurisdiction, no party shall commence any proceedings in any court, tribunal or otherwise without first complying with the Claim and Mediation process (if applicable) set out in this clause 6.

7 Landlord's obligations and warranties

- 7.1 Our obligation to continue providing the Guarantee to the Landlord is conditional upon the Landlord's compliance with all its obligations, warranties and representations to us under this Agreement.
- 7.2 During the term of this Agreement, the Landlord must, in addition to its other obligations under this Agreement:
- (a) except as permitted under this Agreement, either not enforce any obligation for the Tenant to pay the bond under the Lease or vary the bond amount to an amount not more than \$1;
 - (b) upon request by us and the Tenant, participate in the Mediation process in good faith (if applicable); and
 - (c) not use Bondable to claim or receive any payment to which the Landlord is not legally entitled to; and
 - (d) notify us immediately and repay us any amount that we have paid in error or in surplus of the amount that the Landlord would have been entitled to under this Agreement.
- 7.3 The Landlord warrants and represents to us throughout the term of this Agreement that:
- (a) it owns and/or has the necessary rights and authority to lease the Rental Property to the Tenant;
 - (b) it authorises its Agent (if any) to act on its behalf under or in connection with this Agreement until such time that it has informed the Tenant and us in writing that it has terminated its Agent's appointment; and
 - (c) it has entered into a valid and binding Lease with the Tenant.

8 Tenant's obligations and warranties

- 8.1 The Tenant must:
- (a) comply with its obligations under this Agreement at all times;
 - (b) pay the Subscription Fee when required;
 - (c) pay the annual Membership Fee when required;
 - (d) if requested, cooperate with us or any third party we nominate in connection with Bondable or any matter reasonably related to Bondable;
 - (e) not use Bondable to claim any payment to which the Tenant is not legally entitled to;
 - (f) promptly notify us of any change to the Rent; and
 - (g) promptly notify us if the Lease is being terminated for any reason and provide us with the reason for termination of the Lease.
- 8.2 The Tenant warrants and represents to us throughout the term of this Agreement that:
- (a) they are not in breach of the Lease;
 - (b) they have sufficient funds (or access to sufficient funds) to fund their obligations under the Lease, including the obligation to pay Rent and clean or repair damage to the Rental Property;
 - (c) there are sufficient funds in the nominated account specified in the Payment Authorisation to pay the Subscription Fee and Membership Fee as and when it becomes due and payable;
 - (d) they have sufficient funds (or access to sufficient funds) to repay us any amount we have paid or are liable to pay the Landlord in connection with the Guarantee; and
 - (e) they have not suffered an Insolvency Event.
- 8.3 The Tenant acknowledges that we are relying on these warranties and representations in entering into this Agreement and continuing to provide Bondable to the Tenant, the Landlord and the Agent (if applicable).

9 Agent's Warranties

The Agent warrants and represents to us throughout the term of this Agreement that:

- (a) it is authorised to sign up to Bondable and the Hutly Platform and to agree to each of the provisions of this Agreement on behalf of the Landlord;
- (b) it will only use Bondable and the Hutly Platform as authorised, directed or otherwise instructed by the Landlord;
- (c) it is authorised to receive and provide information to and on behalf of the Landlord; and
- (d) it will immediately notify us and the Tenant if at any time, its authority to act on behalf of the Landlord is revoked.

10 Fees and Payment

Membership Fee

- 10.1 The Tenant must pay us the annual Membership Fee upon commencement of this Agreement, and thereafter on an annual basis in advance for the continued maintenance of its User Account.

Subscription Fee

- 10.2 The Tenant must pay the annual Subscription Fee upon commencement of this Agreement, and thereafter on an annual basis in advance for the continued use of Bondable.

Termination Fee

- 10.3 The Tenant must pay us the Termination Fee on termination of this Agreement.

Payments

- 10.4 The Tenant acknowledges that this is an ongoing agreement and is a legally binding obligation for which the Tenant is financially responsible.
- 10.5 If the Tenant fails to make a payment as and when it is due, we will provide the Tenant an additional 7 days to pay the amount owing ("**Grace Period**"). Failure to pay an amount owing by the end of the Grace Period will result in the Tenant being in breach of this Agreement.

Direct debit arrangements

- 10.6 We may deduct the annual Subscription Fee, Membership Fee and other amounts owing under this Agreement from the Tenant's nominated account in accordance with the Payment Authorisation, without further acknowledgment or approval from the Tenant (or the account holder).
- 10.7 If we have not received payment in accordance with clause 10.6 (e.g., if the direct debit arrangement is cancelled or there are insufficient funds to make the payment), the Tenant is still responsible for the amounts owing and must pay the amount within 14 days after the date of issue of a notice of non-payment of the applicable amount. We are permitted to continue to attempt deduction for the annual Subscription Fee and annual Membership Fee:
- (a) at the end of each Grace Period; and
 - (b) at any time after the 14 days' notice if payment is not received in accordance with clause 10.6.
- 10.8 If an automatic debit arrangement is in place, Membership Fees and Subscription Fees will continue to be debited from the Tenant's credit card or account until the Tenant cancels the arrangement by notifying the Tenant's bank or credit provider. If the Tenant terminates this Agreement or stops the automatic debit arrangement in a manner not described in this Agreement, then the Tenant may be liable to us for damages for breach of contract.
- 10.9 The Tenant acknowledges that it is the Tenant's responsibility to ensure funds are available to pay the Subscription Fee and the Membership Fee on the chosen debit date as per the Payment Authorisation. If the Tenant's payment is declined by our financial institution, the Tenant acknowledges that we may incur costs associated with the declined payment and may charge a fee of up to \$5 for each transaction declined that occurs. The Tenant is liable to pay or otherwise reimburse us for any fees incurred by us as a result of a payment being declined, for any reason.

Subscription Fee Refund Policy

- 10.10 If this Agreement is terminated mid-year for any reason, the annual Subscription Fee paid by the Tenant will not be refunded on a pro-rata or any other basis. The Tenant acknowledges and agrees that payment of the annual Subscription Fee is non-refundable once paid.

11 Termination, suspension and closure

You can ask us to cancel Bondable

- 11.1 If at any time a Landlord or Agent requests that we cancel Bondable and terminate this Agreement, we will do so if the Landlord agrees to release us of any past, present or future claims under this Agreement.
- 11.2 If at any time a Tenant requests that we cancel Bondable and terminate this Agreement, we will do so if:
- (a) the Tenant provides evidence reasonably satisfactory to us that either the applicable bond in respect of the Rental Property has been paid in full (if requested by the Landlord or Agent) or the residential agreement in respect of the Property is no longer subsisting;
 - (b) the Tenant has paid us all amount owing to us under this Agreement, including the Termination Fee; and
 - (c) the Landlord has released us of any past, present or future claim under this Agreement.

We can cancel Bondable

- 11.3 If the Tenant is in breach of this Agreement (e.g., if the Tenant fails to make a payment when it is due, such as payment of the Subscription Fee, or the Tenant suffers an Insolvency Event), then:
- (a) we will notify the Tenant of the breach and will provide the Tenant 10 Business Days (or any other period that we determine) to rectify that breach; and
 - (b) if the Tenant does not rectify the breach within the time period allowed, then we may terminate this Agreement at any time.
- 11.4 We will notify the Tenant and the Landlord if we terminate this Agreement pursuant to clause 11.3(b).

- 11.5 If this Agreement is terminated by us in accordance with clause 11.3(b), the Tenant must immediately:
- (a) pay the bond in respect of the Rental Property and provide us with evidence of such payment, if the Lease will continue after the termination of this Agreement;
 - (b) pay us all amounts owing to us under this Agreement, including the Termination Fee; and
 - (c) indemnify us against any claim that the Landlord may have against us under this Agreement.

Consequences of suspension or termination

- 11.6 Termination of this Agreement does not affect any accrued rights or remedies of any party, including our right to the payment of all amounts owed to us.
- 11.7 On termination of this Agreement, we may suspend, limit or cancel your access to your User Account, Bondable or the Hutly Platform at our discretion.

Survival

- 11.8 Termination of this Agreement will not affect clauses 4, 11.5 to 11.7, 12, 13, 17.1, 18 or any provision of this Agreement which is expressly or by implication intended to come into force or continue on or after the termination.

12 Limitation of liability

Limitation

- 12.1 Subject to clauses 12.3 to 12.5, our total liability to the Tenant for all loss or damage, however caused by us in connection with this Agreement and as an aggregate limit for all claims, is limited to the aggregate of the Subscription Fee and the Membership Fee the Tenant has paid in the 12 months before the Tenant first suffered loss or damage in connection with this Agreement.
- 12.2 Subject to clause 7, our total liability to the Landlord as an aggregate limit for all claims under this Agreement is limited to the Guaranteed Amount. We are otherwise not liable for any other loss or damage suffered by the Landlord or its Agent.

Consequential loss

- 12.3 Subject to clause 12.5, we are not liable to any parties for any Consequential Loss.

No liability for certain matters

- 12.4 Subject to clause 12.5, we are not liable for any loss or damage suffered by the Tenant in connection with:
- (a) the Lease, including any failure by Tenant or the co-occupants of the Rental Property to comply with the terms of the Lease;
 - (b) any use of the Rental Property by the Tenant, co-occupants of the Rental Property, guests, intruders and uninvited persons;
 - (c) any cleaning, damage or repairs required in relation to the Rental Property; or
 - (d) any breach of this Agreement, the Lease or the Residential Tenancies Act by the Landlord or its Agent,
- and the Tenant irrevocably and unconditionally releases us from any claim in relation to any such loss or damage.

Liability for consumer guarantees

- 12.5 If the *Competition and Consumer Act 2010* (Cth) or any other legislation states that there is a guarantee in relation to any good or service we supply in connection with this Agreement, and our liability for failing to comply with that guarantee cannot be excluded but may be limited, clauses 12.1, 12.3 and 13.1 do not apply to that liability and instead our liability for such failure is limited to (at our election), in the case of a supply of goods, replacing the goods or supplying equivalent goods or repairing the goods, or in the case of a supply of services, supplying the services again or paying the cost of having the services supplied again.

13 Indemnity and waiver

Your indemnity

- 13.1 The Tenant is liable for, and indemnifies us from and against, all loss or damage (including legal costs) we incur or suffer however caused in connection with:
- (a) any breach of this Agreement, the Lease or the Residential Tenancies Act by the Tenant;
 - (b) any cleaning, damage or repair required under the terms of the Lease for which the Tenant is responsible or liable;
 - (c) any claim relating to the matters set out in clause 12.4; or
 - (d) our participation in dispute resolution proceedings, legal proceedings or regulatory matters of any kind (for instance proceedings involving our recovery from the Tenant of any amount we have paid or are liable to pay the Landlord in connection with the Guarantee).
- 13.2 The Landlord is liable for, and indemnifies us from and against, all loss or damage (including legal costs) we incur or suffer however caused in connection with any breach of this Agreement, the Lease or the Residential Tenancies Act by the Landlord.

- 13.3 If the Tenant owes us any amount under this Agreement and its failure to pay this amount causes us to enter into a debt recovery process against the Tenant, then the Tenant is liable for, and must indemnify us from and against, all costs and disbursements incurred by us (including but not limited to administration fees, legal costs on a solicitor and client basis, collection agency costs, and bank fees).
- 13.4 If the Landlord owes us any amount under this Agreement and its failure to pay this amount causes us to enter into a debt recovery process against the Landlord, then the Landlord is liable for, and must indemnify us from and against, all costs and disbursements incurred by us (including but not limited to administration fees, legal costs on a solicitor and client basis, collection agency costs, and bank fees).

Continuing obligation

- 13.5 Each indemnity contained in this Agreement is a continuing obligation notwithstanding:
- (a) any settlement of account; or
 - (b) the occurrence of any other thing,
- and it is not necessary for us to incur expense or make payment before enforcing or making a claim under an indemnity.

14 Force majeure

- 14.1 We will not be:
- (a) in breach of this Agreement as a result of; or
 - (b) liable for,
- any failure or delay in the performance of our obligations under this Agreement to the extent that such failure or delay is wholly or partially caused, directly or indirectly, by a Force Majeure Event.

15 Costs

Costs payable by each party

- 15.1 Each party bears its own costs in relation to preparing and entering into this Agreement.

16 GST

- 16.1 Any words capitalised in this clause 16 and not already defined in clause 18.1 have the meaning given to those words in the GST Act.
- 16.2 Except where this Agreement states otherwise, the consideration for a Supply made under or in connection with this Agreement does not include GST.
- 16.3 If a Supply made under or in connection with this Agreement is a Taxable Supply, then at or before the time any part of the consideration for the Supply is payable:
- (a) then any party (**Recipient**) that is required to provide consideration to another party (**GST Act Supplier**) for that Supply must pay the GST Act Supplier an amount equal to the GST for the Supply, in addition to, and in the same manner as the consideration otherwise payable under this Agreement for that Supply); and
 - (b) the GST Act Supplier must give the Recipient a Tax Invoice for the Supply.
- 16.4 For clarity, the GST payable under clause 16.3 is correspondingly increased or decreased by any subsequent adjustment to the amount of GST for the Supply for which the GST Act Supplier is liable, however caused.
- 16.5 If either party has the right under this Agreement to be reimbursed or indemnified by another party for a cost incurred in connection with this Agreement, that reimbursement or indemnity excludes any GST component of that cost for which an Input Tax Credit may be claimed by the party being reimbursed or indemnified.
- 16.6 Where a Tax Invoice is given by the GST Act Supplier, the GST Act Supplier warrants that the Supply to which the Tax Invoice relates is a Taxable Supply and that it will remit the GST (as stated on the Tax Invoice) to the Australian Taxation Office.
- 16.7 Where a Supply made under or in connection with this Agreement is a progressive or periodic Supply, clause 16.3 applies to each component of the progressive or periodic Supply as if it were a separate Supply.

17 General

- 17.1 The laws of Victoria, Australia govern this Agreement. Each party irrevocably submits to the exclusive jurisdiction of the courts of Victoria and courts competent to hear appeals from those courts.
- 17.2 If any User accesses Bondable or the Hutly Platform from outside Australia, they accept responsibility for ensuring or confirming compliance with all laws in that jurisdiction that apply to them as a result of that access or any consequent transactions or dealings with us or other Users via Bondable or the Hutly Platform.
- 17.3 Where we may exercise any right or discretion or make any decision under this Agreement, we may do so at our absolute discretion, conditionally or unconditionally, and without being required to give reasons.
- 17.4 You must not assign, in whole or in part, or novate your rights and obligations under this Agreement without our prior written consent.

- 17.5 We may assign our interest under this Agreement without your consent.
- 17.6 This Agreement does not create a relationship of employment, trust, agency or partnership between us and you.
- 17.7 If any provision is or becomes illegal, unenforceable or invalid in any jurisdiction, it is to be treated as being severed from this Agreement in the relevant jurisdiction, but the rest of the agreement will not be affected.
- 17.8 This Agreement supersedes all previous agreements about their subject matter. This Agreement embodies the entire agreement between the parties.
- 17.9 To the extent permitted by law, any statement, representation or promise made in any negotiation, discussion or any other manner (including on the Hutly Platform) is withdrawn and has no effect except to the extent expressly set out or incorporated by reference in this Agreement.
- 17.10 Each party acknowledges and agrees that it does not rely on any prior conduct or representation by the other party in entering into this Agreement.
- 17.11 We may subcontract the performance of all or any part of our obligations under this Agreement.
- 17.12 The failure of a party to require full or partial performance of a provision of this Agreement does not affect the right of that party to require performance subsequently.
- 17.13 A single or partial exercise of or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy.
- 17.14 A right under this Agreement may only be waived in writing signed by the party granting the waiver, and is effective only to the extent specifically set out in that waiver.
- 17.15 All payments made and received in relation to this Agreement must be in Australian dollars, unless we expressly agree otherwise in writing.

18 Definitions and interpretations

Definitions

- 18.1 In these Terms of Use:

Agreement means these Terms of Use.

Agent means the licensed real estate agent appointed to act on behalf of the Landlord in relation to the Lease.

Authorised User means any person you authorise to access and use the User Account on your behalf.

Bankruptcy Act means the *Bankruptcy Act 1966* (Cth).

Beneficial Owner has the meaning given to that term under section 1.2.1 of the *Anti-Money Laundering and Counter-Terrorism Financing Rules 2007 (No. 1)* (Cth) as if the person is a reporting entity.

Bondable means the Guarantee and Mediation service provided by us in accordance with clause 6, along with all ancillary products and services that we provide from time to time.

Bond Authority means the statutory authority designated as the authorised custodian of rental bonds under the relevant Residential Tenancies Act.

Bondable Website means www.bondable.me.

Business Days means a day other than a Saturday, Sunday or a public holiday in Melbourne, Victoria

Claim means the claim for compensation by the Landlord against the Tenant due to any losses or damages suffered by the Landlord as a result of the Tenant's alleged breach or breaches of the Lease or the Residential Tenancies Act.

Consequential Loss means:

- (a) indirect loss;
- (b) loss of revenues;
- (c) consequential loss or damages;
- (d) loss of reputation;
- (e) loss of profits;
- (f) loss of bargain;
- (g) loss of actual or anticipated savings;
- (h) lost opportunities, including opportunities to enter into arrangements with third parties; and
- (i) loss or corruption of data.

Corporations Act means *Corporations Act 2001* (Cth).

Final Objection Date has the meaning set out in clause 6.6.

Financial Product has the meaning given to that term under section 761A of the Corporations Act.

Force Majeure Event means any occurrence or omission outside a party's control and includes:

- (a) a physical natural disaster including fire, flood, lightning or earthquake;
- (b) war or other state of armed hostilities (whether war is declared or not), insurrection, riot, civil commotion, act of public enemies, national emergency (whether in fact or in law) or declaration of martial law;
- (c) epidemic or quarantine restriction;
- (d) ionising radiation or contamination by radioactivity from any nuclear waste or from combustion of nuclear fuel;
- (e) confiscation, nationalisation, requisition, expropriation, prohibition, embargo, restraint or damage to property by or under the order of any Government Agency;
- (f) law taking effect after the date of this Agreement;
- (g) strike, lock-out, stoppage, labour dispute or shortage including industrial disputes that are specific to a party or the party's subcontractors; or
- (h) telecommunications or network fault or error.

Government Agency means:

- (a) a government or government department or other body (including government-owned corporations);
- (b) a government, semi-governmental or judicial person; or
- (c) a person (whether autonomous or not) who is charged with the administration of a law, including a Residential Tenancy Authority.

Grace Period has the meaning set out in clause 10.5.

Guarantee means our guarantee (subject to clause 7) to pay the Landlord up to the Guaranteed Amount in accordance with the procedure set out under clauses 6.4 to 6.12 in the event of a Claim.

Guaranteed Amount has the meaning set out in clause 6.2.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

GST Act Supplier has the meaning set out in 16.3(a).

Hutly Mediator means the mediator appointed by us to facilitate the Mediation, whether remotely or in-person.

Hutly Platform means the online platform or platforms (including mobile platforms) through which Bondable is accessible from time to time.

Hutly Website means www.hutly.com.

Insolvency Event means any of the following events concerning a party, unless the events take place as part of a solvent reconstruction, amalgamation, merger or consolidation on terms approved by the other party before it takes place and the implementation of the reconstruction, amalgamation, merger or consolidation complies with the terms of the approval:

- (a) if an administrator, liquidator, receiver, receiver and manager or other controller (as defined in the Corporations Act) is appointed to, or over, any of the property or undertaking of the party;
- (b) if the party becomes bankrupt;
- (c) if a controlling trustee is appointed to, or over, any of the property or undertaking of the party;
- (d) if the party's property or undertaking becomes subject to a personal insolvency arrangement under part X Bankruptcy Act or a debt agreement under part IX Bankruptcy Act;
- (e) the party is unable to pay its debts when they become due and payable;
- (f) if the party ceases to carry on business; or
- (g) if any event happens in Australia or any other country or territory in respect of a party that is similar to any of the events or circumstances referred to in this definition.

Intellectual Property Rights means all industrial and intellectual property rights, both in Australia and throughout the world, and includes any copyright, moral right, patent, registered or unregistered trade mark, registered or unregistered design, registered or unregistered plant breeder's right, trade secret, knowhow, right in relation to semiconductors and circuit layouts, trade or business or company name, indication or source or appellation of origin or other proprietary right, or right of registration of such rights.

Landlord means the owner of the Rental Property.

Lease means the residential lease entered into by a Landlord and Tenant.

Mediation means the mediation process organised by us for the Landlord and the Tenant in accordance with the process set out under clause 6.7 to 6.12.

Membership Fee means the annual fee payable by the Tenant to maintain an active User Account with us, as set out on the Hutly Platform from time to time.

Notice of Claim means the written notice from the Landlord or the Agent to us via the Hutly Platform and in accordance with clause 6.5.

Payment Authorisation means your authorisation to process a payment or deduct funds from your nominated account in accordance with your obligations under this Agreement.

Personal Information has the meaning given to that term in the Privacy Act.

Privacy Act means the *Privacy Act 1988* (Cth).

Privacy Policy means our privacy policy as updated from time to time, and available at the Hutly Website.

Rent means the amount of rent payable by the Tenant to the Landlord under the Lease.

Rental Property means the property rented by the Tenant which is the subject of the Lease.

Residential Tenancies Act means the residential tenancies legislation applicable to the State or Territory in which the Rental Property is based.

Residential Tenancy Authority means the statutory authority established to administer the Residential Tenancies Act in the applicable State or Territory of Australia.

Subscription Fee means the annual fee payable by the Tenant for the continued subscription to Bondable, as set out on the Hutly Platform from time to time.

Tenant means the person to whom the Rental Property is rented out to under the Lease and who is also a User under this Agreement.

Termination Fee means the amount which is payable by the Tenant on termination of this Agreement, as set out on the Hutly Platform from time to time (if applicable).

Terms of Use means this Agreement.

User means a user of Bondable whether as a Landlord, Agent or Tenant.

User Account means the User's account to access Bondable on the Hutly Platform.

Interpretation

18.2 In these Terms of Use:

- (a) headings are for convenience only and do not affect interpretation;
- (b) the singular includes the plural and vice versa;
- (c) words denoting any gender include all genders;
- (d) reference to a person includes any natural person, company, body corporate, corporation, trust, partnership, joint venture, or any other incorporated or unincorporated body, association, society, organisation or entity;
- (e) reference to a statute includes all regulations and amendments to that statute and any statute passed in substitution for that statute or incorporating any of its provisions to the extent that they are incorporated;
- (f) a reference to a body (including without limitation an institute, association or authority) whether statutory or not which has ceased to exist or whose powers or functions have been transferred to another body is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (g) where a word or phrase is defined its other grammatical forms have a corresponding meaning;
- (h) a covenant, agreement, warranty, obligation, liability or similar on the part of two or more persons binds each of them jointly and severally;
- (i) the meaning of any general language is not restricted by any accompanying example, and the words 'includes', 'including', 'such as' or 'for example' (or similar phrases) do not limit what else might be included; and

these Terms of Use are not to be interpreted against the interests of a party merely because that party proposed these Terms of Use or some provision in them or because that party relies on a provision of these Terms of Use to protect itself.