



Melbourne Business Network (MBN)

Content Provider Agreement

This Packet Includes:

1. Instructions and Checklist
2. Content Provider Agreement

Instructions and Checklist

Content Provider Agreement

- The parties should read the document carefully.
- Insert all requested information in the spaces provided on the form.
- This form includes exhibits which should be attached and incorporated as part of this agreement.
- Read the "Assignment of Rights" provision carefully to ensure that it clearly sets out the intent of the assignment. It is also important that Exhibit A set forth all works which are assigned.
- This agreement must be signed by both parties.
- The parties should retain either an original or copy of the signed agreement.
- All legal documents should be kept in a safe location such as a remote server, fireproof safe or safe deposit box if printed.

CONTENT PROVIDER AGREEMENT

This Content Provider Agreement is made and executed on this the _____ day of _____, 20__ by and between:

Parties:

1. _____, with a registered office at _____
_____ ABN _____ in accordance with the laws of Australia
(hereinafter referred to as "Content Provider" or "you").

AND

2. Melbourne Business Network (MBN), a Non-Profit Organization, with a registered office at L20 600 Bourke St, Melbourne Victoria 3000 with ABN 39 975 044 170 in accordance with the laws of Australia (hereinafter referred to as the "Company/Publisher" or "we") which expression shall unless it be repugnant to the context or meaning thereof be deemed to mean and include all persons deriving title under the Company/Publisher.

Recitals:

- a) **WHEREAS**, the Company is involved in the business of Business networking, support and referrals and is in need of certain content for the purpose of education, support, training, business recovery, mental and physical wellbeing of its members, their businesses and the communities that support or are supported by them;
- b) **WHEREAS**, the Content Provider is an individual and owns certain original works of authorship (herein after referred to as "Work") which is more specifically described in Schedule A of this Agreement;
- c) **WHEREAS**, the Content Provider is desirous to provide for free and to sell the Work and to grant the rights with regard to such Work in favour of the Company on the terms and conditions which are specified herein.

NOW THEREFORE, in consideration of the mutual promises contained herein, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the reasons set forth and in consideration of the covenants and promises of the parties hereto, parties agree as follows:

1. Interpretation

Unless the context of this Agreement otherwise requires:

- 1.1 The headings of the clauses to this Agreement are for convenience only and shall be ignored in construing this Agreement;
- 1.2 The singular includes the plural and vice versa;
- 1.3 References to a party or the parties are references to either the Company or the Content Provider or both, as deem and appropriate.



1.4 References to other agreements and documents shall be deemed to be references to such agreements and documents as amended, replaced, substituted, assigned, novated, supplemented or otherwise modified from time to time; and the words "include" and "including" shall be deemed to be qualified by a reference to "without limitation."

2. Effective Date

The effective date of this Agreement shall be ____ of _____, 20__ and all rights and obligations of the parties hereunder shall be effective as of that date.

3. Legal Agreement

The Content Provider Agreement set forth in this document applies to all individuals and organizations supplying content to our MBN Member Portal Site ("Content Providers") and constitutes a binding, legal agreement ("Agreement") between the Content Providers and MBN. By using the MBN Member Portal Site ("Site") and providing content, you accept the terms and conditions described below, and you warrant and represent that you have the legal capacity to enter into this Agreement.

4. Introduction

The MBN Member Portal is an online portal that serves to facilitate and promote business education/recovery through forms, questions, assessments, downloadable documents and audio and video learning products. Our Site exists as a resource for content producers and publishers to distribute their works and for our members to access digital content in a variety of formats. Digital content ("Content") may consist of spoken word audio, information, data, text, software, music, sound, photographs, graphics, video, messages, or other materials.

Content Provider Agreement Terms

5. Content

As a Content Provider distributing your work through the MBN member portal, you retain your copyright in the Content. You do, however, grant MBN the non-exclusive license right to post, display, copy, sell, and distribute that Content within the limitations you set during the publishing process.

The licence granted to MBN also includes the right for MBN to excerpt your Content for use in marketing materials, providing that we credit you and/or the original author, and to make minor modifications to the Content for technical or editorial reasons. This will include MBN's right to offer free samples of the Content according to Content Provider's specifications.

If no specifications are given, the licence granted to MBN includes the right to create sample. Samples created by MBN will not exceed 10% of Content length or 15 minutes, whichever is shorter. MBN may also make limited, royalty-free copies of Content for the purposes of marketing and promotion such as the demonstration of system capabilities to potential Content Providers, investors, and partners.

For each sale of your Content for which we receive payment, MBN will pay you a royalty amount agreed of 80% of the gross sale amount.

Alternatively, you may choose to make Content available for free through the MBN member portal. MBN reserves the right to limit downloads and/or streams of such content or remove content entirely due to cost associated with hosting, indexing, and displaying such content.

In addition, MBN reserves the right to display advertising before, after or in conjunction with the distribution of Content that is freely available.

You consent to any act or omission that is authorised by this Agreement and which would otherwise constitute an infringement of your moral rights, and if you add any content in which any third party has moral rights, you must also ensure that the third party also consents in the same manner.

As a Content Provider distributing Content through MBN, you represent and warrant that the Content:

- a) Is owned by you, or to the extent owned by someone else, that you have obtained that party's express permission to provide the Content to MBN for use, copying and distribution under the license in this Agreement;
- b) Does not violate any copyright, trademark, trade secret or other intellectual property right;
- c) Does not invade any individual's right of privacy or publicity;
- d) Does not contain material that is unlawful, obscene, defamatory, pornographic, indecent, lewd, harassing, threatening, harmful, invasive of privacy or publicity rights, abusive, inflammatory, or otherwise objectionable,
- e) Does not promote or glorify self-harm or violence,

- f) Does not include malicious code, which includes, without limitation, viruses, Trojan horses, worms, time bombs, cancelbots, or any other computer programming routines that may damage, interfere with, surreptitiously intercept, or expropriate any system, program, data, or personal information;
- g) Does not break the law, facilitate the breaking of the law, or violate any applicable regulation or MBN rule or policy;
- h) Does not offer or disseminate fraudulent goods, services, schemes, or promotions, or promote domain names, URLs, or hyperlinks that constitute commercial content such as that found in advertising, promotions, or solicitations;

That if any of the above representations and warranties set forth directly above are not true, that you will indemnify MBN for any breaches or misrepresentations, takings or misappropriations, infringement, or piracy of the Content, including any and all damages, attorney's fees and other expenses related to any such misrepresentation or breach of warranty.

To the best of your knowledge, you warrant and represent that all purported factual information in the Content you upload is true and accurate, and the use of any information in the Content will not result in personal injury to any user. Content Providers are prohibited from using MBN to impersonate another person or entity or to falsify any e-mail communication or message. Despite all this, you acknowledge that MBN cannot guarantee the accuracy, integrity, or quality of Content.

MBN maintains high editorial standard for Content submitted to the Site. The mission of MBN is to educate and inspire and we reserve the right to remove or refrain from publishing any content that we feel does not meet our quality standards and/or does not serve educational or inspirational purposes. Content Providers should look to the Site's existing inventory of Content as a guideline as to which forms of Content are acceptable for publication.

6. Payment Terms

For each sale of Content Provider's Content for which we receive payment, MBN will pay Content Provider a royalty amount of 80% of the gross sale amount (subject to the minimum commission per transaction noted below). Royalties will be paid on a quarterly basis based on payments actually received by MBN for the Content Provider's Content during the prior quarter. MBN will make reasonable endeavours to pay such payments within 30 days after the end of the prior quarter.

All payments will be GST incl unless explicitly stated otherwise.

The minimum MBN commission is fifty cents per transaction. MBN also reserves the right to distribute Content through third parties (or "Partners") via sub-licensing arrangements. Under such arrangements, MBN will pay a commission of 80% of net revenues received from Partners unless explicitly stated otherwise. MBN will make a good faith effort to notify Content Providers of relevant arrangements as they commence and will provide 10 (ten) business days advance notice to Content Providers in the event of any binding agreements.

If you have published and sold Content on the Site, you may request a sales report at any time and such a report will be provided to you within 5 (five) business days of our receipt of your request.

If MBN owes you less than \$25 for Content sales within a given quarter, we reserve the right, at our discretion, to roll royalties forward to the following quarter until \$25 is reached. If your account is inactive or terminated and we are unable to contact you using the contact information provided, we may also, at our discretion, charge a termination fee equal to the amount of unpaid royalties to cover administrative costs.

7. Removing Content and/or Terminating Agreement

You can remove Content from the MBN member portal if you no longer wish to distribute it through the Site. The exceptions to your ability to remove Content are as follows:

- 1) Content retained in our archives to the extent required by our data backup systems.
- 2) Content that has been made available to sub-licensees to the extent that it is required to remain for sale through the sub-licensee.
- 3) Content that you have made available to purchasers in electronic formats may also remain available on the Site (in purchasers' Libraries) to users who have purchased that Content, subject to the terms of the licence granted to those users.

MBN does not retain any residual rights to removed Content other than those outlined above. If you choose to terminate your Agreement, the terms above regarding the status of your Content remain applicable.

General Agreement Terms

8. International Content Providers

MBN makes no representation that material on the Site is appropriate or available at locations outside of Victoria, Australia. Content Providers may not use the Site or export the contents in violation of Australian export regulations. If you access this Site from a location outside of Victoria, Australia, you are responsible for compliance with all applicable local laws.

9. Operation of Site

MBN may at its discretion suspend or terminate operation of the Site for maintenance or other reasons. In addition, for maintenance reasons, because of technical issues or for other reasons we may make MBN unavailable from time to time. MBN makes no commitment, warranty or guarantee that the Site will operate in a timely, uninterrupted, or error-free manner, or that the Site will meet Content Provider's purposes, but in any event will do our best to ensure that it meets your requirements for satisfaction.

MBN may also in its discretion modify the features, availability, operation and/or look and feel of the Site from time to time without notice to our Content Providers. As noted above, we will remove Content or users we deem to be in violation of our Terms of Use.

10. Disclaimers

The Site and all software, services, information, materials, forums, tools, and Content provided or offered on the Site are provided or offered by MBN and its third-party licensors and content providers on an "as-is", "as-available" basis, without representation or warranty of any kind by MBN, including but not limited to the implied warranties of merchantability, non-infringement and fitness for a particular purpose. Without limiting the prior statement, MBN cannot vouch for the quality, accuracy, completeness, or currency of any Content or information sold or provided through the Site.

11. Limitation of Liability

This Agreement is to be read subject to any legislation which prohibits or restricts the exclusion, restriction or modification of any implied warranties, conditions, guarantees or obligations.

To the full extent permitted by law:

- a) we exclude all representations, warranties or terms (whether express or implied) other than those expressly set out in this Agreement;
- b) you hereby release MBN from all liability associated with your use of the site, including the provision of Content; and
- c) in no event shall MBN or any of its officers, employees, directors, affiliates, agents or third-party licensors and content providers be liable to you or anyone else for any special, consequential, indirect, incidental, cover, punitive, incidental or similar damages (including, without limitation, lost profits, lost sales, or lost business) directly or indirectly related to or arising out of the Site, Content on the Site, or any transaction entered hereunder, whether in contract, tort or otherwise, even if MBN or one of its officers, employees,

affiliates or agents has been advised of the possibility of such damages. Any action under this Agreement must be commenced within one (1) year after such cause of action occurs.

12. Proprietary Rights

MBN is the owner of all intellectual property rights, including all copyright, patents, and trademarks, associated with the Site, including all associated software, text, graphics, and logos, but exclusive of content provided by third parties, which are owned by the licensors of such content. In addition, the overall look and feel and the compilation of all materials and content on Site are owned by MBN. Content Provider agrees not to modify, copy, distribute or reverse engineer any of the software included on the Site. MBN and its third-party licensors reserve all rights not expressly granted in this Agreement.

13. Miscellaneous Legal Information

This Agreement is binding. No amendments or modifications may be made except as set forth in the Agreement and Amendments section below or in a written document, signed by both parties. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. The failure by any party to exercise any right provided herein shall not be deemed a waiver or forfeiture of any such right.

This Content Provider Agreement and all rights appurtenant hereto shall be fully transferable or assignable by MBN, in whole or in part, by operation of law, by virtue of an acquisition or merger of MBN, or otherwise, without any consent of Content Provider.

MBN without any additional notice or consent on the part of Content Provider may enter into any agency or sub-distribution or super distribution agreements with respect to the Content or other materials of Content Provider. Subject to the above, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective Parties hereto.

Every provision of this Agreement is intended to be severable. If any section of this Agreement is found to be invalid or unenforceable, then such section will be deemed amended and interpreted, if possible, in a way that renders it enforceable. If such an interpretation is not possible, then the section will be deemed removed from this Agreement and the rest of this Agreement will remain in full force and effect.

This Agreement is governed by the laws of the State of Victoria, Australia, without regard to its choice of law provisions. The parties agree that any dispute involving MBN related to this Agreement or the Site that cannot be settled by good faith negotiation shall be submitted to arbitration in accordance with the rules of The Australian Centre for International Commercial Arbitration (ACICA) or The Australian Disputes Centre. The location of the arbitration shall be Melbourne, Victoria. The arbitration shall be conducted by a single arbitrator with experience in computer/technology matters and in the publishing industry. The decision of the arbitrator shall be legally binding and shall be enforceable in any court of competent jurisdiction.

Each party shall be excused from performance and shall not be liable for any delay caused by the occurrence of any contingency beyond the reasonable control either of the excused party or its subcontractors or suppliers, except for obligations to make payments hereunder. These contingencies include, but are not limited to, war, pandemics, sabotage, insurrection, riot or other act of civil disobedience, labour disturbance or shortage, act of public enemy, failure or delay in transportation, act of any government affecting the terms hereof, accident, fire, explosion, flood, severe weather, or other act of God. This Agreement does not designate either party as the agent, employee, legal representative, partner, or joint venturer of the other party for any purpose whatsoever.

14. Term

This Agreement is effective until terminated. MBN may terminate or suspend this Agreement immediately if in MBN's sole judgment Content Provider breaches any of the terms and conditions of this Agreement. All provisions of this Agreement relating to payment, disclaimers, limitation of liability, indemnification, confidentiality, and proprietary rights shall survive termination or expiration of this Agreement.

15. Agreement and Amendments

Through this Agreement you are indicating that you have the full power and authority to enter into and perform in accordance with the terms of this Agreement. You also agree that this Agreement is a legal, valid, and binding obligation, and that its terms and conditions can be enforced.

We encourage you to print and keep a copy for reference.

This Agreement and the Schedule A herein constitutes the entire Agreement between the parties with respect to the subject matter contained herein, superseding all previous Agreement pertaining to such subject matter, and may be modified only by an amendment executed in writing by the authorized officers of both parties hereto. All prior agreements, representations, warranties, statements, negotiations, understandings, and undertakings are superseded hereby. Both parties hereto represent that they have read this Agreement, understand it, agree to be bound by all terms and conditions stated herein, and acknowledge receipt of a signed, true, and exact copy of this Agreement.

16. GST

- 16.1 In this Agreement the expressions "consideration", "GST", "supply", "tax invoice", "recipient" "Recipient Created Tax Invoice" and "taxable supply" have the meanings given to those expressions in the *A New Tax System (Goods and Services Tax) Act 1999*.
- 16.2 Unless otherwise expressly stated, all amounts or considerations payable are inclusive of GST.
- 16.3 The recipient of a supply is entitled to a valid tax invoice in respect of the supply at or about the time of the supply.
- 16.4 Where MBN issues a Recipient Created Tax Invoice the Company/Publisher must not issue a tax invoice for the taxable supply.
- 16.5 The Company/Publisher must be registered for GST prior to making a supply and must immediately notify MBN if it ceases to be registered.



IN WITNESS WHEREOF, the parties have executed this Agreement under seal as of the day and year first written above.

CONTENT PROVIDER

COMPANY

Name: _____
Title: _____
Date: _____

Name: _____
Title: _____
Date: _____

(Witness)

(Witness)

SCHEDULE A
WORK (CONTENT)