

# API and SDK Licence and Service Agreement

## Background

ALLOW<sub>2</sub> PTY LTD (**ALLOW<sub>2</sub>**) IS THE PROVIDER AND OWNER OF THE ALLOW<sub>2</sub> SERVICE DESCRIBED IN THE SERVICE DESCRIPTION SET OUT AT [HTTP://WWW.ALLOW<sub>2</sub>.COM](http://www.allow2.com). ACCESS TO THE ALLOW<sub>2</sub> SERVICE IS AVAILABLE TO REGISTERED DEVELOPERS FOR INTEGRATION INTO THEIR SOFTWARE PRODUCTS VIA THE ALLOW<sub>2</sub> APPLICATION PROGRAMMING INTERFACE (API) AND SOFTWARE DEVELOPMENT KIT (SDK) RELEASED BY ALLOW<sub>2</sub> PTY LTD TO REGISTERED DEVELOPERS. THIS API AND SDK LICENCE AND SERVICE AGREEMENT SETS OUT THE TERMS AND CONDITIONS UPON WHICH ALLOW<sub>2</sub> AGREES TO PROVIDE ACCESS TO THE ALLOW<sub>2</sub> SERVICE, AND GRANTS A LICENCE TO USE THE ALLOW<sub>2</sub> API AND SDK IN REGISTERED DEVELOPERS' PRODUCTS. YOU MAY ONLY USE THE ALLOW<sub>2</sub> SERVICE AND/OR THE ALLOW<sub>2</sub> API OR SDK IF YOU ARE A REGISTERED DEVELOPER AND ACCEPT THESE TERMS OF USE. BY DOWNLOADING AND/OR USING AND/OR MODIFYING AND/OR INTEGRATING THE ALLOW<sub>2</sub> API INTO A SOFTWARE PRODUCT, YOU CONFIRM THAT YOU HAVE READ AND UNDERSTAND AND WHOLLY AND UNCONDITIONALLY AGREE TO BE LEGALLY BOUND BY AND ACCEPT THE TERMS AND CONDITIONS OF THIS API AND SDK LICENCE AND SERVICE AGREEMENT. WE MAY MODIFY AND/OR REPLACE THESE TERMS OF USE FROM TIME TO TIME WITHOUT NOTICE. WE WILL UPLOAD THE LATEST VERSION TO THIS WEBPAGE. IT IS YOUR RESPONSIBILITY TO ENSURE THAT YOU HAVE READ AND UNDERSTAND THE LATEST VERSION OF THIS API AND SDK LICENCE AND SERVICE AGREEMENT. IF YOU DO NOT ACCEPT THE TERMS AND CONDITIONS SET OUT IN THIS API AND SDK LICENCE AND SERVICE AGREEMENT (AS AMENDED FROM TIME TO TIME), YOU MUST NOT REGISTER AN ACCOUNT AND CANNOT DOWNLOAD AND/OR USE AND/OR MODIFY AND/OR INTEGRATE THE ALLOW<sub>2</sub> API OR SDK INTO A SOFTWARE PRODUCT AND MUST IMMEDIATELY DISCONTINUE ANY USE OF THE ALLOW<sub>2</sub> API, SDK AND ALLOW<sub>2</sub> SERVICE IN ALL OF YOUR SOFTWARE PRODUCTS.

## TERMS AND CONDITIONS:

### 1. Definitions and Interpretation

#### 1.1. Definitions

In these Terms of Use:

**Account** has the meaning given in clause 3.1.

**Allow<sub>2</sub>** means Allow<sub>2</sub> Pty Ltd [ACN 159048094], a company registered in Queensland, Australia.

**Allow<sub>2</sub> API** means the source code and object code described in the Service Description as the Allow<sub>2</sub> API, and any modification, translation or derivative of the Allow<sub>2</sub> API including any Modified API Version. Note that this License is intended to cover any use of the API or the SDK equally and therefore "API" and "SDK" are used interchangeably and any reference to one also equally applies to the other.

**Allow<sub>2</sub> SDK** means the source code and object code described in the Service Description as the Allow<sub>2</sub> SDK, and any modification, translation or derivative of the Allow<sub>2</sub> SDK including any Modified SDK Version. Note that this License is intended to cover any use of the API or the SDK equally and therefore "API" and "SDK" are used interchangeably and any reference to one also equally applies to the other.

**Allow<sub>2</sub> Service** means as set out in the Service Description.

**API (or SDK) Licence** means as set out in clause 4.1.

**API (or SDK) Modification** means as set out in clause 9.1(b).

**Australian Consumer Law** means schedule 2 to the *Competition and Consumer Act 2010* (Cth).

**Business Day** means Monday – Friday excluding public holidays in Queensland.

**Business Hours** means 9:00am – 5:00pm on Business Days.

**Intellectual Property Rights** means all copyright, trademark rights, patent rights, and design rights, whether registered or unregistered, and all other rights to intellectual property as defined under article 2 of the convention establishing the World Intellectual Property Organization, and all rights to enforce any of the foregoing rights.

**Modified API (or SDK) Version** means as set out in clause 9.1.

**Moral Rights** has the meaning given in the *Copyright Act 1968* (Cth).

**Non-Excludable Guarantee** means a non-excludable guarantee implied by the Australian Consumer Law.

**Personal Property Securities Register** means the Personal Property Securities Register established under the *Personal Property Securities Act 2009* (Cth).

**Premium Version** means as set out in clause 2.5.

**Product** means any software that You own the Intellectual Property Rights in.

**Product Data** means the data that You and/or Your Users transmit through or upload into the Allow2 Service via Your Products.

**Registered Developer** means as set out in clause 2.2.

**Service Description** means as set out at <http://www.allow2.com> and associated pages and sites.

**Terms of Use** means the terms and conditions set out on this webpage as amended by Us from time to time.

**Trademark** means any existing or future registered or unregistered trademarks of Allow2.

**User** means a person who operates a Product.

**"We", "Our" and "Us"** means Allow2.

**"Website"** means the allow2.com website and any content, images, text and other information appearing on any page of the Website and any source code and object code in the Website, plus any database which forms part of or which the Website interacts with.

**"You" and "Your"** means you, the person who accesses this Website for any reason, whether or not You are a Registered Developer.

## 1.2. Interpretation

In these Terms of Use:

- (a) Headings and underlinings are for convenience only and do not affect the construction of these Terms of Use.
- (b) A provision of these Terms of Use will not be interpreted against a party because the party prepared or was responsible for the preparation of the provision, or because the party's legal representative prepared the provision.
- (c) A reference to a statute or regulation includes amendments thereto.
- (d) A reference to a clause, subclause or paragraph is a reference to a clause, subclause or paragraph of these Terms of Use.
- (e) A reference to a subclause or paragraph is a reference to the subclause or paragraph in the clause in which the reference is made.
- (f) The section entitled "Background" at the top of these Terms of Use forms part of the binding terms and conditions of these Terms of Use.
- (g) A reference to time is to time in Queensland.
- (h) A reference to a person includes a reference to an individual, a partnership, a company, a joint venture, government body, government department, and any other legal entity.
- (i) The words "includes", "including" and similar expressions are not words of limitation.

## 2. Allow2 Service

- 2.1. The Allow2 API, Allow2 SDK and the Allow2 Service are provided as a bundle and are not supplied or licensed independently of one another.
- 2.2. You may only download the Allow2 API and/or an Allow2 SDK and/or use the Allow2 Service if You are a registered Account holder ("**Registered Developer**").
- 2.3. If you are a Registered Developer You may not use the Allow2 Service except:
  - (a) via the Allow2 API or an Allow2 SDK integrated into Your Products; and
  - (b) solely to provide information transmitted to Your Products via the Allow2 API in order to use that information for the purposes expressly specified in the Service Description.
- 2.4. A description of the Allow2 Service is included in the Service Description. Registered Developers may only access the Allow2 Service for the purpose(s) specified in, and subject to the provisions of, the Service Description and these Terms of Use.
- 2.5. There are currently no fees payable by Developers to use the current version of the Allow2 Service in accordance with these Terms of Use. We do not currently intend to introduce any fees for Developer use of the Allow2 Service, unless we release:

- (a) a version of the Allow2 Service which permits a greater number of calls to the Allow2 Service than specified in clause 6.3; and/or
  - (b) a version that contains functionality or features over and above that which is provided by Our "standard" version of the Allow2 Service,
- (each, a "**Premium Version**") and We reserve the right to charge a fee for any Premium Versions.
- 2.6. There is no fee payable by Developers for the use of the Allow2 API in accordance with these Terms of Use.
  - 2.7. You and your Users must pay all costs and expenses associated with Your use of the Allow2 Service and the Allow2 API, including internet access costs, web browser and computer and smartphone equipment costs, telecommunications costs, data costs and roaming charges.
- 3. Registration for the Allow2 Service**
- 3.1. Prior to downloading, modifying, using and/or integrating the Allow2 API in Your Products, You must register for an Allow2 Service account through this Website (an "**Account**").
  - 3.2. If You register on the Website, You:
    - (a) warrant that during the registration process You will provide truthful and accurate information only;
    - (b) warrant that You are registering an Account in Your own personal capacity and on behalf of and with the authority and consent of the business entity, the name and details of which You enter during registration as "the developer";
    - (c) agree to be jointly and severally liable for any breach of these Terms of Use by You and/or that entity;
    - (d) agree and acknowledge that by registering on this Website that You are registering to use the Allow2 Service in Your Products via the Allow2 API and/or SDK.
  - 3.3. You must ensure, without limiting clause 3.2, that You provide a valid email address at the time of registration for an Account.
  - 3.4. We reserve the right to send an email to You with a hyperlink which requires You to verify that You are the owner or operator of the email address entered by You during registration and to cancel/not approve Your registration if Your rights to the email address are not so verified.
  - 3.5. If any of Your contact details or other information which You provide during the registration process change, You must promptly update Your registration details for Your Account via the Website with Your up-to-date details and information.
  - 3.6. You must not disclose Your account name or password for Your Account to any person. You agree and acknowledge that You shall be solely responsible for the confidentiality of Your username and password and any use (including unauthorised use) of Your Account.
  - 3.7. You must immediately notify Us if You become aware of any unauthorised use of Your Account.
- 4. Licence to use and modify the Allow2 API and SDK**
- 4.1. Subject to Your compliance with these Terms of Use including clause 4.2, if You register for an Account We hereby grant You a non-exclusive, non-transferable, royalty-free, worldwide licence to:
    - (a) use and modify the Allow2 API and/or SDK in object and source code form, and to translate the Allow2 API and/or SDK to other computer programming languages and make any derivatives thereof;
    - (b) the right to incorporate into copies of Your Products distributed to Users that portion of the source code and object code of the Allow2 API and/or SDK necessary to enable Your Products to interface with, and/or use functionality provided by, the Allow2 Service; and
    - (c) the right to sublicense to Users the right to use such portion of the Allow2 API and/or SDK solely in the course of their operation of Your Products subject to the provisions of clauses 13.3 and 13.4, (collectively, the "**API and SDK Licence**").
  - 4.2. You acknowledge and agree that You must not use the Allow2 API and/or SDK:
    - (a) in any Product that does not interface with and/or use functionality provided by the Allow2 Service;
    - (b) independently of the Allow2 Service;
    - (c) to build any service competitive with the Allow2 Service; and/or
    - (d) with any service competitive with the Allow2 Service or that provides the same or similar functionality as the Allow2 Service.
  - 4.3. You must not authorise, encourage or license any person (including any User) to use the Allow2 API and/or SDK in breach of the provisions of clause 4.2.

- 4.4. The rights granted under paragraphs 4.1(a), 4.1(b), and 4.1(c) are the only rights granted under the API and SDK Licence. No additional rights or licences are provided to You with respect to the Allow2 API and/or SDK whether by implication or otherwise.

#### 5. Availability of Allow2 Service

- 5.1. You agree and acknowledge that the Allow2 Service will not be able to provide data to any Product while the Allow2 Service and/or the Product is disconnected from the Internet.
- 5.2. While You are a Registered Developer of the Website, We agree to use Our best endeavours to procure hosting of the Allow2 Service and the Product Data and to ensure that the Website and Allow2 Service are available at least 90% of the time (calculated by Us monthly).
- 5.3. The availability of the Allow2 Service to You will be subject, in addition to any other provisions set out in these Terms of Use, to any bandwidth limitations, database size limitations, throughput limitations and other technical and non-technical limitations or restrictions set out in the Service Description.

#### 6. API and SDK Licence Restrictions

- 6.1. You may not make any use of the Allow2 API and/or SDK except as permitted by the API and SDK Licence and may not do or authorise the commission of any act that would or might invalidate or be inconsistent with Our Intellectual Property Rights. Without limiting the foregoing provisions of the API and SDK Licence, You must not, under any circumstances, scrape, republish, mirror or otherwise rent, lend, lease, sell, redistribute, sublicense, copy or duplicate the Allow2 API and/or SDK or any content You obtain from the Allow2 Service via the Allow2 API and/or SDK, except as expressly permitted under the API and SDK Licence and the Service Description. In addition, You must not, nor may You permit any person to:
- (a) do any act that would or might invalidate or be inconsistent with Our Intellectual Property Rights or those of Our licensors;
  - (b) use the Allow2 API, Allow2 SDK or the Allow2 Service in any way that infringes Our rights or the rights of any third party; or
  - (c) take any steps to circumvent any technological protection measure or security measures that We implement with respect to the Allow2 Service.
- 6.2. You must not use the Allow2 API, the Allow2 SDK, the Allow2 Service or any part of them in any way which is in breach of any statute, regulation, law or legal right of any person.
- 6.3. The number of API and/or SDK calls that can be made through Your Account to the Allow2 Service is currently not hard limited, however there is a nominal limit on calls to ensure service availability for all users. This is currently defined as:
- (a) to 50,000 calls/day/device/User for each of Your Products;
  - (b) to an aggregate maximum of 100,000,000 calls/day/Account (aggregated over all Products used under Your Account).
- If usage extends beyond these limits, Allow2 Pty Ltd may contact you to negotiate an account specific license to support your level of usage of the service.

#### 7. Acceptable Use Policy

- 7.1. You agree that (and must procure the agreement of Your Users that):
- (a) using the Allow2 Service, the Allow2 API, any Allow2 SDK, or the Products, to violate all or any legal rights of any person or company or other entity in any jurisdiction is strictly prohibited;
  - (b) using the Allow2 Service, the Allow2 API, any Allow2 SDK, or the Products, in relation to crimes such as theft and fraud is strictly prohibited;
  - (c) using the Allow2 Service, the Allow2 API, any Allow2 SDK, or the Products, in breach of laws relating to the protection of copyright, trade secrets, patents or other intellectual property and laws relating to spam or privacy and whether such violation is by way of the installation or distribution of "pirated" software or otherwise, is strictly prohibited;
  - (d) introduction of malicious programs into Our network or servers (e.g., viruses, worms, Trojan horses, e-mail bombs) is strictly prohibited;
  - (e) using the Allow2 Service, the Allow2 API, any Allow2 SDK, or the Products, to make fraudulent offers of goods or services is strictly prohibited;
  - (f) using the Allow2 Service, the Allow2 API, any Allow2 SDK, or the Products, to carry out security breaches or disruptions of network communication is strictly prohibited. Security breaches include, but

- are not limited to, accessing data of which You are not an intended recipient or logging into a server or account that You are not expressly authorized to access; corrupting any data; network sniffing; pinged floods; packet spoofing; denial of service; and forged routing information for malicious purposes;
- (g) using the Allow2 Service, the Allow2 API, any Allow2 SDK, or the Products, to circumvent user authentication or security of any of Our hosts, networks or accounts or those of Our customers or suppliers is strictly prohibited;
  - (h) using the Allow2 Service, the Allow2 API, any Allow2 SDK, or the Products, to interfere with or deny service to anyone is strictly prohibited;
  - (i) sending unsolicited email messages through or to Users of the Allow2 Service, the Allow2 API, any Allow2 SDK, or the Products, in breach of the *Spam Act 2003* is strictly prohibited; and
  - (j) use of the Allow2 Service, the Allow2 API, any Allow2 SDK, or the Products, in breach of any person's privacy (such as by way of identity theft or "phishing") is strictly prohibited.

## 8. Intellectual Property Rights

- 8.1. You agree and acknowledge that these Terms of Use do not transfer or assign any Intellectual Property Rights to You.
- 8.2. You agree and acknowledge (and must procure Your Users' agreement and acknowledgement) that We own all Intellectual Property Rights in the Allow2 Service, the Allow2 API, any Allow2 SDK and the Website.
- 8.3. You agree and acknowledge (and must procure Your Users' agreement and acknowledgement) that:
  - (a) We own all Intellectual Property Rights in all Product Data;
  - (b) any Intellectual Property Rights in any Product Data become Our sole and exclusive property immediately upon it being created, and You (and Your Users) agree to assign all Intellectual Property Rights in all and any Product Data to Us effective immediately upon creation, pursuant to section 197 of the *Copyright Act 1968* (Cth) and in equity without the need for any further documentation or the execution of any instrument;
  - (c) You and Your Users waive all Moral Rights that You or they may have to any Product Data and consent to Us and any third party We authorise to infringe all and any such Moral Rights in Our absolute discretion.
- 8.4. You (and Your Users) must not take any step to invalidate or prejudice Our (or Our licensors') Intellectual Property Rights in the Allow2 Service, the Allow2 API, any Allow2 SDK, the Product Data, the Website or otherwise. Without limiting the foregoing provisions, You (and Your Users) must not register any security interest or purchase money security interest on the Personal Property Securities Register, or otherwise encumber or charge Your or their rights under or in respect of the Allow2 Service, the Allow2 API, any Allow2 SDK, any Product Data or under the API and SDK Licence.

## 9. Rights to modified and ported versions of Allow2 API and/or SDK

- 9.1. You agree that if You or any person on Your behalf modifies the Allow2 API and/or SDK in object and/or source code form, and/or translates or "ports" the Allow2 API and/or SDK to other computer programming languages, and/or makes any derivatives of the Allow2 API and/or SDK ("**Modified API or SDK Version**"):
  - (a) We will continue to own the Allow2 API and any Allow2 SDK;
  - (b) any Intellectual Property Rights in any modifications that are made to the Allow2 API and/or SDK in the course of creating the Modified API or SDK Version (each an "**API or SDK Modification**") becomes Our sole and exclusive property immediately upon the API and/or SDK Modifications being created, and You hereby agree to assign all Intellectual Property Rights in all and any such modifications to Us effective immediately upon creation, pursuant to section 197 of the *Copyright Act 1968* (Cth) and in equity without the need for any further documentation or the execution of any instrument.
- 9.2. You are not required to provide Us with the API and/or SDK Modifications or the Modified API or SDK Version, but We encourage You to do so in order to promote the sharing of modifications to the Allow2 API and/or SDK throughout Our community of Registered Developers.
- 9.3. If You or any person on Your behalf creates any Modified API or SDK Version, You will be deemed to have irrevocably and unequivocally:
  - (a) agreed and acknowledged that We own all Intellectual Property Rights in the Modified API or SDK Version;

- (b) We may without limitation use, modify and/or otherwise exploit the Modified API or SDK Version, including to supply the Modified API and/or SDK Version to any Registered Developers and any of their Users if You provide Us with a copy of the Modified API or SDK Version;
- (c) warranted and guaranteed to Us and any other person that obtains the Modified API and/or SDK Version from Us, including any Registered Developers and any of their Users, that the use of the API or SDK Modifications by Us and them will not result in the infringement of any Intellectual Property Rights or other rights of any person;
- (d) consented to the infringement of any Moral Rights that You have in any Modified API or SDK Version by Us and any other person that obtains the Modified API or SDK Version from Us, including any Registered Developers and any of their Users;
- (e) warranted and guaranteed that prior to Your provision of the copy of the Modified API and/or SDK Version to Us, You procured an irrevocable assignment of all Intellectual Property Rights to Us and a waiver of Moral Rights, in the Modified API and/or SDK Version from any person who created the Modified API and/or SDK Version on Your behalf, and that the waiver contains a consent signed by the signatory consenting to the infringement of the signatory's Moral Rights by Us and any other person that obtains the Modified API and/or SDK Version from Us, including any Registered Developers and any of their Users, with respect to the Modified API and/or SDK Version.

#### **10. Responsibility for Product Data**

- 10.1.** You agree and acknowledge (and must procure that Your Users agree and acknowledge) that:
  - (a) the Allow2 Service and/or Product Data may be hosted by Us or Our suppliers on hardware or infrastructure located in or outside Australia; and
  - (b) We may not own or operate the infrastructure upon which the Allow2 Service and/or the Product Data is hosted.
- 10.2.** You must ensure that You and Your Users do not input or transfer any Product Data via the Allow2 API, any Allow2 SDK or into the Allow2 Service unless You and Your Users are fully entitled and authorised to upload, input and transfer that Product Data via the Allow2 API and/or Allow2 SDK and into the Allow2 Service and disclose that Product Data to Us.
- 10.3.** Each time You or any of Your Users use the Allow2 Service or any Product, You will be deemed to have warranted, agreed and represented that:
  - (a) You and Your Users will only upload, input and transfer Product Data into and/or via the Allow2 Service or disclose Product Data to Us, which You and Your Users are fully entitled and authorised to upload, input, transfer and disclose; and
  - (b) the Product Data and Our collection, use, storage and/or disclosure thereof in the course of providing the Allow2 Service, will not breach any applicable law or right of any person.
- 10.4.** As between You and Us, You are solely responsible for the accuracy, legality and quality of all Product Data and for obtaining any permissions, licences, rights and authorisations necessary for Us to use, host, transmit, store and disclose the Product Data in connection with the provision of the Allow2 Service.
- 10.5.** You indemnify Us in respect of any loss and damage We and/or any of Our suppliers incur in respect of any claim that:
  - (a) any of the Product Data; and/or
  - (b) Our and/or Our suppliers' and/or Your and/or Your Users' use of Product Data, infringes the Intellectual Property Rights or other rights of any person or breaches any law, regulation, code or standard.

#### **11. Allow2 Trademarks**

- 11.1.** Except as specified in clause 11.2, nothing in the API Licence or these Terms of Use provides You with any right to use any Trademarks.
- 11.2.** You may not use any Trademarks except as required to comply with the provisions of clause 13.3.

#### **12. Responsibility for Your Users**

- 12.1.** We do not accept responsibility for the conduct of Your Users.
- 12.2.** As between You and Us, You are solely responsible for the conduct of Your Users and any act or omission of a User in breach of these Terms of Use shall be deemed to be Your act or omission.

**13. Responsibility for Products etc.**

- 13.1.** You agree that You are solely responsible for Your Products and that We do not in any way endorse or approve Your Products, nor are We affiliated with You or Your Products by reason of Your use of the Allow2 API, any Allow2 SDK, the Allow2 Service or otherwise.
- 13.2.** We reserve the right (but are not obligated) in Our sole discretion to suspend or terminate the operation of the Allow2 Service in connection with any Products if We believe that any of the Allow2 Service is being used by You and/or Your Users or others in breach of the provisions of these Terms of Use.
- 13.3.** Before making any Product available to any User, You must:
- (a) include terms in a written agreement entered into between You and the User (such as in an "End User Agreement") in which the User agrees that:
    - (i) We own and retain all Intellectual Property Rights in the Allow2 API, any Allow2 SDK and the Allow2 Service;
    - (ii) the User is granted a non-exclusive, non-transferable licence to use the Allow2 API, any Allow2 SDK and the Allow2 Service solely in operating the Product and will not use the Allow2 API and/or any Allow2 SDK and/or the Allow2 Service for any other purpose without Our prior written consent;
    - (iii) any technical support provided by You with respect to the Products is provided by You alone and not on Our behalf;
    - (iv) the Allow2 Service will not be able to provide data to any Product while the Allow2 Service and/or the Product is disconnected from the Internet;
    - (v) the Allow2 Service may not be accurate, correct, up-to-date, uninterrupted or error free;
    - (vi) We do not have any liability to the User to the full extent possible by law; and
    - (vii) the User's rights to use the Allow2 API, any Allow2 SDK and the Allow2 Service shall immediately cease upon termination of the API and SDK Licence or Your Account for any reason; and
  - (b) include in the source code of the Products any comments included in the source code of the Allow2 API or/and Allow2 SDK by Allow2, including any copyright notices and any other comments noting Allow2 as the owner of the Intellectual Property Rights in the Allow2 API and/or SDK.
- 13.4.** You may only distribute Your Products under the terms of an agreement between You and Your Users which are not incompatible or conflict with the provisions of clause 13.3.
- 13.5.** You agree and acknowledge that You are solely responsible for and You indemnify Us in respect of any loss and damage We may incur in connection with any claims and/or complaints made by any person where caused directly or indirectly by:
- (a) Your and/or Your Users' use of the Allow2 Service, the Allow2 API or any Allow2 SDK;
  - (b) Your Products;
  - (c) Your Users;
  - (d) any Product Data; and/or
  - (e) Your goods and/or services and/or your advertising and/or sales and/or marketing practices.

**14. Liability**

- 14.1.** Except in respect of any Non-Excludable Guarantees, We do not represent that the information on this Website or any information provided by the Allow2 Service or via the Allow2 API, or any Allow2 SDK, or that the Allow2 Service or Allow2 API or Allow2 SDK are or will be accurate, correct, up-to-date, uninterrupted or error free.
- 14.2.** Except in respect of any Non-Excludable Guarantees, neither party is liable to the other party for any indirect, special or consequential loss or damage incurred by the other party, including liability for loss of profits, loss of business opportunity, loss of savings, or loss of data.
- 14.3.** Except in respect of any Non-Excludable Guarantees, to the maximum extent permitted by law (and if permitted by law), We will not have any liability to You (or Your Users) for any loss or damage howsoever incurred in relation to Your or their use of or inability to use the Allow2 Service, the Allow2 API, any Allow2 SDK, the Website, or any Product.
- 14.4.** If Our supply of the Allow2 Service or the Allow2 API or Allow2 SDK comes with implied non-excludable guarantees which are regulated by the Australian Consumer Law, the extent of the implied guarantees depends on whether You are a 'consumer' of goods or services within the meaning of that term pursuant to the Australian Consumer Law as amended. Where You are a 'consumer' for the purposes of the Australian Consumer Law, We are required to provide and shall be deemed to have hereby provided the following

mandatory statement to You: "Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure."

- 14.5.** If the Allow2 Service or the Allow2 API or any Allow2 SDK are supplied by Us to You in Your capacity as a 'consumer' of goods or services within the meaning of that term in the Australian Consumer Law as amended You will have the benefit of certain non-excludable guarantees in respect of the goods or services and nothing in these Terms of Use excludes or restricts or modifies any guarantee which pursuant to the *Competition and Consumer Act 2010* (Cth) is so conferred. However, if the goods or services are subject to a non-excludable guarantee, implied by the Australian Consumer Law and the goods or services are not ordinarily acquired for personal, domestic or household use or consumption, then pursuant to s 64A of the Australian Consumer Law, We limit Our liability for breach of any such non-excludable guarantee implied by the Australian Consumer Law (other than a guarantee implied by sections 51, 52 or 53 of the Australian Consumer Law) or expressly given by Us to You, in respect of each of the goods and services, where it is fair and reasonable to do so, at Our option, to one or more of the following:
- (a) if the breach relates to goods:
    - (i) the replacement of the goods or the supply of equivalent goods;
    - (ii) the repair of such goods;
    - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
    - (iv) the payment of the cost of having the goods repaired; and
  - (b) if the breach relates to services:
    - (i) the supplying of the services again; or
    - (ii) the payment of the cost of having the services supplied again.
- 14.6.** In order for You to claim against Us under a non-excludable guarantee implied by the Australian Consumer Law, or under an express warranty given in respect of the goods or services provided by Us, You must provide written notice to Us with documentary evidence substantiating the claim, for Our review, and, in respect of the Allow2 API, the Allow2 SDK, the Allow2 Service and the Website, must continue to use them only in accordance with the provisions of these Terms of Use.
- 14.7.** Upon receipt of a valid claim from You under any non-excludable guarantee implied by the Australian Consumer Law, We will contact You to arrange a suitable remedy. Where We elect to repair goods the subject of a valid claim, You agree that the goods may be replaced by refurbished goods of the same type rather than being repaired and refurbished parts may be used to repair goods. You acknowledge that where the goods are repaired and are capable of retaining user-generated data, it is possible that the repair of the goods may result in loss of data.
- 14.8.** Any warranty against defects provided by Us to You in Your capacity as a 'consumer' under the Australian Consumer Law is in addition to Your other rights and remedies under a law in relation to the goods or services to which the warranty relates.
- 14.9.** Except in respect of any Non-Excludable Guarantees, all conditions, warranties and guarantees implied in these Terms of Use are excluded, to the extent possible by law.

## **15. Termination**

- 15.1.** If You are a Registered Developer, the API and SDK Licence and Your Account will terminate automatically if:
- (a) You breach any material term of these Terms of Use;
  - (b) You breach the API and SDK Licence; or
  - (c) You and/or any person on Your behalf commences any proceedings against any person alleging that the Allow2 API and/or any Allow2 SDK and/or Allow2 Service directly or indirectly infringes any patent.
- 15.2.** We may also terminate these Terms of Use, Your Account, the API and SDK Licence and/or Your use of the Allow2 Service by notice to the email address associated with Your Account, if We deem solely in our opinion that You are in breach of these Terms of Use.
- 15.3.** If you cease to be a Registered Developer, or if Your Account is terminated for any reason, the API and SDK Licence will immediately terminate.

- 15.4. If the API and SDK Licence and/or Your Account is terminated for any reason You must immediately remove the Allow2 API and any Allow2 SDK from Your Products and cease using the Allow2 Service and We may cease providing the Allow2 Service to You.
  - 15.5. We may take down the Allow2 Service or this Website or take any part of them down or offline at any time without notice where reasonably necessary to protect Our legitimate interests or to carry out maintenance.
  - 15.6. Termination of these Terms of Use, Your Account and/or access to the Allow2 Service and/or the Website does not affect any accrued rights of either party.
- 16. General**
- 16.1. Amendment: These Terms of Use may be amended by Us at any time, provided that You shall have a right to cancel Your Account if You do not approve the amendments.
  - 16.2. Assignment: You may not assign, transfer, licence or novate Your rights or obligations under these Terms of Use without Our prior written consent. We may assign, transfer, license or novate Our rights or obligations under these Terms of Use at any time.
  - 16.3. Severability: If any part of these Terms of Use is deemed invalid by a court of competent jurisdiction, the remainder of these Terms of Use shall remain enforceable.
  - 16.4. Relationship: You and Us are independent contractors and these Terms of Use do not create any relationship of partnership, joint venture, or employer and employee or otherwise.
  - 16.5. Australian Consumer Law: The exclusions and limitations of liability set out in these Terms of Use shall apply to the fullest extent permissible at law, but We do not exclude or limit liability which may not be excluded or limited by law. Without limiting the foregoing provisions, We do not exclude liability under the Australian Consumer Law which is prohibited from being excluded.
  - 16.6. Entire Agreement: These Terms of Use constitute the entire agreement between You and Us and to the extent possible by law, supersede all prior understandings, representations, arrangements and agreements between You and Us regarding its subject matter.
  - 16.7. Jurisdiction: These Terms of Use will be interpreted in accordance with the laws in force in Queensland. You and Us irrevocably submit to the exclusive jurisdiction of the courts situated in Queensland.