

# VERDE GROUP TERMS OF BUSINESS

## 1 APPLICATION

### 1.1 Application:

- a These Terms apply to all services supplied by Verde Group Companies to the Customer, unless there is a separate written agreement signed by the Customer and the Supplier which excludes these Terms.
- b If there is there is a separate written agreement signed by the Customer and the Supplier governing the supply of services by the Supplier to the Customer and it does not exclude these Terms, both these Terms and the terms of that agreement apply.

### 1.2 Agreement: Subject to clause 1.1a:

- a by signing a Statement of Work, accepting a Letter of Engagement, or requesting the Supplier to perform services (including by email or verbally), the Customer agrees to these Terms;
- b the Agreement between the parties is formed:
  - i when a Statement of Work is signed by both parties;
  - ii when the Customer accepts a Letter of Engagement (either in writing or verbally); or
  - iii when the Supplier accepts a request from the Customer (including an email or verbal request) for the Supplier to perform services, either in writing or by commencing the provision of the relevant services; and
- c the Agreement under each Work Order is a separate Agreement to any other agreement between the parties (including any Agreement under any other Work Order).

- 1.3 **Exclusion of Customer terms:** The Agreement applies to the exclusion of any standard or other terms the Customer may have for the purchase of goods or services, including any terms the Customer may have included in its request for services or any purchase order issued by the Customer.

## 2 CHANGES

### 2.1 Changes:

- a The Supplier may change these Terms at any time by giving the Customer at least 60 days' notice by email of any such change. Unless otherwise agreed in writing by the parties, any change applies only to Work Orders accepted or issued by the Customer following that date.

The Supplier will ensure the latest Terms are published at <https://www.verde.co.nz/verde-group-new-zealand-terms-of-business>, or such other site notified to the Customer by the Supplier. The Customer is responsible for ensuring it is familiar with the latest Terms.

- b The parties will be bound by the changed Terms if, from the date on which the Terms are changed:
  - i the parties sign a Statement of Work;
  - ii the Customer accepts a Letter of Engagement (either in writing or verbally); or
  - iii the Customer requests the Supplier to perform services (including an email or verbal request) and the Supplier accepts that request either in writing or by commencing the provision of the relevant services.

### 2.2 Effective Date : Subject to clause 2.1b, these Terms are effective from 1 September 2026.

## 3 INTERPRETATION

### 3.1 Definitions: In the Agreement:

*Acceptance:* means acceptance (or deemed acceptance) of a Service or Deliverable in accordance with clause 6.2 or any alternative acceptance process specified in the Work Order. *Accept* and *Accepted* have consistent meanings.

*Agreement:* means these Terms, the Work Order and (if applicable) any agreement referred to in clause 1.1b.

*Consultant:* means a member of the Supplier's personnel who performs the Services.

*Customer:* means the person procuring Services under the Work Order.

*Customer's IT Systems:* means the electronic information systems owned, controlled, operated or used by the Customer, including hardware, software and firmware, networking or telecommunications software or equipment and software-as-a-service and cloud services.

*Deliverable:* means any deliverable or other work output provided by the Supplier or a Consultant to the Customer under the Agreement, excluding any software or other item which is separately licensed by the Supplier or a third party to the Customer.

*Good Industry Practice:* means, in relation to an undertaking, the exercise of that degree of skill and care which would reasonably be expected from an

experienced operator engaging in the same or a similar undertaking.

*Letter of Engagement:* a document titled *Letter of Engagement* that is issued by the Supplier, that references these Terms, and that is accepted by the Customer (either in writing or verbally).

*Requirement:* means any requirement set out in the Work Order or advised by the Customer to the Supplier or the Consultant before or during the provision of the Services and Deliverables.

*Services:* means the services provided under the Agreement.

*Statement of Work:* a document titled *Statement of Work* that references these Terms and is signed by the parties.

*Supplier:* means the Verde Group Company named in the Work Order, or if there is none named or more than one is named:

- ▲ if the Customer operates MYOB Greentree enterprise resource planning (ERP) software, Verde Group New Zealand Limited, company number 849409;
- ▲ if the Customer operates MYOB Acumatica ERP software, Avanza Solutions Limited, company number 8730072; and
- ▲ if the Customer operates Oracle Netsuite ERP software, Project Salsa Limited, company number 8490453.

*Terms:* means these terms titled *Verde Group Terms of Business*.

*Verde Group:* means Verde Group New Zealand Limited, company number 849409, Avanza Solutions Limited, company number 8730072, Project Salsa Limited, company number 8490453 and Ideation Partners Limited, company number 7372398. *Verde Group Company* means one of those companies:

*Work Order:* means:

- ▲ a Statement of Work;
- ▲ a Letter of Engagement; or
- ▲ a Work Request.

*Work Request:* means a request from the Customer (including email and verbal requests) for the Supplier to perform services, which has been accepted by the Supplier either in writing or by commencing the provision of the relevant services.

### 3.2 Interpretation: In the Agreement:

- a clause and other headings are for ease of reference only and do not affect the interpretation of the Agreement;
- b words in the singular include the plural and vice versa; and

c a reference to:

- i a **party** to the Agreement includes that party's permitted assigns;
- ii a **person** includes an individual, a body corporate, an association of persons (whether corporate or not), a trust, a government department, or any other entity; and
- iii **including** and similar words do not imply any limit.

3.3 **Order of precedence:** Where any conflict exists between the documents comprising the Agreement, those documents have the following descending order of precedence, unless otherwise expressly stated to the contrary in the Agreement (including in the Work Order) by cross-referring to the relevant clause to be overridden:

- a any agreement referred to in clause 1.1b;
- b these Terms; and
- c the Work Order.

## 4 NATURE OF ENGAGEMENT

4.1 **Consultancy Services:** The Customer has requested IT specialist expertise for the Customer's IT Systems on a consultancy basis, and the Supplier agrees to provide the Consultant(s) to provide such expertise.

4.2 **Time and materials:** Unless otherwise specified in writing in the Work Order or agreed by the parties in writing, the Services will be provided on a time and materials basis.

### 4.3 Testing of Deliverables:

- a Except as otherwise specified in writing in the Work Order:
  - i Deliverables will be quality checked and tested by the Consultant before submission to the Customer, but do not include any other review or testing by the Supplier; and
  - ii the Customer is responsible for reviewing, acceptance testing and approving Deliverables, or requesting independent review by the Supplier or another party, before their adoption or use in the Customer's IT systems.
- b Where the parties agree that Supplier personnel other than the Consultant will review or test Deliverables, such Services will be provided on a time and materials basis (i.e. in addition to the Fees for the Consultant's Services and Deliverables).

## 5 OBLIGATIONS

### 5.1 Supplier:

- a The Supplier will ensure that the Consultants:
  - i are suitably skilled, experienced and qualified; and
  - ii provide the Services and Deliverables:
    - ▲ in accordance with the Agreement, including any Requirement, Good Industry Practice and all applicable laws; and
    - ▲ exercising reasonable care, skill and diligence; and
  - iii will use reasonable efforts to meet any timetable or estimate set out in the Work Order, however, the Customer acknowledges that any such timetable or estimate is indicative only; and
  - iv when carrying out Services on the Customer's premises, comply with any health and safety policies or procedures notified to the Supplier or the Consultant by the Customer.
  - v will follow Good Industry Practice and the Customer's directions and policies (as notified to the Supplier or the Consultant) when accessing Customer's IT Systems, including protecting credentials and alerting Customer to any security concerns identified while providing the Services;
- b Where the Supplier holds Customer Confidential Information including Customer's credentials to access the Customer's IT Systems, the Supplier will use reasonable efforts to protect, secure and keep them confidential.
- c The Supplier will not be liable for a breach of clause 5.1a to the extent the breach is caused by:
  - i a failure of the Customer to comply with its obligations under the Agreement; or
  - ii a Consultant complying with a Customer request or direction.

### 5.2 Customer:

- a In addition to its other obligations under the Agreement, the Customer will:
  - i perform the functions, tasks and responsibilities, and provide the personnel, materials or other resources set out in the Work Order or otherwise reasonably requested by the Supplier or a Consultant in a timely manner; and

- ii promptly make decisions (including approvals) and provide the Supplier and the Consultants with all information reasonably required to provide the Services and Deliverables.
  - b The Customer:
    - i acknowledges the risks and consequences of:
      - ▲ security breaches of the Customer's IT Systems; and
      - ▲ implementing changes to the Customer's IT Systems without adequate review or testing; and
    - ii acknowledges and understands that review, testing and approval of Deliverables by the Customer is critical for quality assurance and security prior to being installed in the Customer's IT systems; and
    - iii acknowledges and agrees that it is responsible for the quality, integrity, security and confidentiality of the Customer's IT Systems and the data in the Customer's IT Systems, including for ensuring that it has the systems and processes in place to:
      - ▲ protect system credentials (including API keys, passwords, tokens); and
      - ▲ monitor for and manage any attempted or actual security breaches,
- provided that this clause 5.2biii does not relieve the Supplier from its obligations under clause 5.1aii or 5.1av.

## 6 ACCEPTANCE

- 6.1 **Application:** This clause 6 applies unless the Work Order specifies an alternative acceptance process.
- 6.2 **Acceptance:** A Service or Deliverable is accepted (or deemed to be accepted) if the Customer:
  - a accepts the Service or Deliverable in writing; or
  - b does not give the Supplier notice of non-conformity in accordance with clause 7.1; or
  - c agrees for the Deliverable to be installed in the Customer's IT systems (in live production); or
  - d knowingly uses the Service or Deliverable in the Customer's IT Systems (in live production).

## 7 NON-CONFORMITY

- 7.1 **Notification:**

- a If the Customer identifies that a Service or Deliverable does not materially conform to the Requirements, it may notify the Supplier or the Consultant of the non-conformity in writing, provided:
  - i it does so within 30 days after the Supplier or the Consultant provides the Service or delivers the Deliverable to the Customer (or such other timeframe as is specified in the Work Order or agreed by the parties in writing); and
  - ii it has not previously Accepted, or been deemed to have Accepted, the Service or Deliverable in accordance with clause 6.2.
- b Any such notice must include a reasonably detailed description of the non-conformity.

## 7.2 Remedy:

- a If:
  - i the Customer gives a notice of non-conformity in accordance with clause 7.1; and
  - ii the Supplier determines, acting reasonably, that the non-conformity is a result of the Consultant failing to provide the Services and Deliverables in accordance with clause 5.1ai,
 then:
  - iii the Supplier will reperform the Service or remedy and redeliver the Deliverable, at no additional cost to the Customer; and
  - iv the process in clauses 7.1 - 7.2aiii will be repeated until the Customer Accepts, or is deemed to Accept, the Service or Deliverable in accordance with clause 6.2.
- b The Supplier will not be liable to reperform the Service or remedy or redeliver the Deliverable under clause 7.2aiii to the extent the non-conformity is caused by the matters in clause 5.1ci - 5.1cii.
- c The Supplier's obligation under clause 7.2aiii is the Customer's sole remedy against the Supplier for failure of Services or Deliverables to conform to the Requirements.

## 8 FEES

### 8.1 Hourly rates:

- a Unless otherwise specified in the Work Order or agreed by the parties in writing, the Supplier's fees for the performance of the Services will be calculated on a time and materials basis at its standard hourly rates as attached to these Terms. This includes time spent on:

- i identification or verification of any defect, error or other failure of the Customer's IT Systems to operate as expected that is reported by the Customer; or

- ii maintenance or modification of any Deliverable.

- b The Supplier may update its rates from time to time by changing these Terms in accordance with clause 2.1.

### 8.2 Expenses: The Customer must reimburse the Supplier for expenses and other disbursements that have been:

- a incurred by the Supplier in providing the Services and Deliverables; and

- b approved by the Customer in advance.

### 8.3 Travel:

- a If an onsite visit is required and a Consultant is required to travel to the Customer's premises:
  - i travel to the Customer's premises is charged at actual time taken to reach the Customer's site at a discounted rate of 50% of the regular consulting rate at time of travel; and
  - ii if the costs of and time taken to travel to a Customer site become onerous, the Supplier reserves the right to negotiate suitable compensation with the Customer.
- b Any direct transport, accommodation, parking and other disbursement costs incurred in visiting a Customer's site will be on-charged to the Customer at cost.

### 8.4 Invoicing and payment:

- a The Supplier will issue GST tax invoices monthly for Services provided in the previous month, unless otherwise agreed by the parties in writing.
- b The Supplier's fees exclude GST, which the Customer must pay on taxable supplies under the Agreement.
- c The Customer must pay the Supplier's invoice:
  - i unless otherwise agreed by the parties in writing, by the 20<sup>th</sup> of the month following the date of invoice; and
  - ii electronically in cleared funds without any set off or deduction.

## 9 INTELLECTUAL PROPERTY

- 9.1 **Retained intellectual property:** The following intellectual property (including any modification, enhancement, or derivative work of that intellectual

property) remains the property of the current owner, regardless of its use in the Services or Deliverables:

- a intellectual property that existed prior to the date of the Work Order; and
- b intellectual property that was developed independently of the Work Order.

9.2 **Know-how:** The Supplier will be free to use for its own business purposes, both during and after the term of the Agreement, any general ideas, concepts, know-how, techniques, methodologies, and similar intellectual property gained or developed by the Supplier in the course of the provision of the Services, provided the Supplier does not breach its confidentiality obligations under the Agreement or infringe the Customer's intellectual property rights.

9.3 **Ownership going forward:** Subject to clause 9.1, all Deliverables and all other new intellectual property created or developed by the Supplier or Consultants in providing the Services (including any modification, enhancement or derivative work of a Deliverable or that intellectual property) is owned by the Supplier.

9.4 **Licence to Customer:** Where any Deliverable is not owned by or separately licensed by the Supplier to the Customer, the Supplier grants the Customer a perpetual, non-transferable, non-sublicensable and fully paid licence to use and modify the Deliverable for the Customer's internal business purposes.

## 10 CONFIDENTIALITY AND PRIVACY

### 10.1 Confidentiality:

- a Each party must keep the Agreement and any information that is not public knowledge, and which is obtained from the other party in the course of, or in connection with, the Agreement (**Confidential Information**) confidential.
- b Each party's Confidential Information includes intellectual property owned by that party.
- c The Customer's Confidential Information includes any data, content or information from the Customer's IT Systems provided to the Supplier by the Customer or accessed by the Supplier in the course of performing the Services.

10.2 **Restrictions:** A party must not use or disclose the other party's Confidential Information without the prior written consent of the other party except:

- a for the purpose of performing the Agreement or exercising its rights under the Agreement; or
- b to the extent that:
  - i disclosure is required by law;
  - ii the relevant information is already in the public domain;

iii it is reasonably required to obtain professional advice; or

iv it is reasonably necessary in connection with any proposed *bona fide* sale of the party's business (assets or shares, whether in whole or in part) to a third party, provided that the party enters into a confidentiality Agreement with the third party on terms no less restrictive than this clause 10.

10.3 **Return of information:** Except to the extent that a party has ongoing rights to use Confidential Information, a party must, at the request of the other party following the expiry or termination of the Agreement, promptly return to the other party or destroy all Confidential Information of the other party in the recipient party's possession or control.

10.4 **Privacy:** The Supplier will collect, store and use all personal information in accordance with the Verde Group Privacy Policy at <https://www.verdegroupp.co.nz/privacy-policy> and the Privacy Act 2020.

## 11 LIABILITY

11.1 **General:** To avoid doubt, subject to clause 11.4:

- a except as set out in clause 7.2, the Supplier will have no responsibility or liability for any failure of the Services or Deliverables to meet the Customer's quality, operational and other requirements; and
- b as the Acceptance process provides the opportunity to identify and address any issues before live deployment and the Supplier will have no responsibility or liability for any Services or Deliverables that have been Accepted by the Customer.

11.2 **Maximum liability:** The maximum aggregate liability of the Supplier under or in connection with the Agreement, whether in contract, tort (including negligence), breach of statutory duty or otherwise, will not exceed the Fees paid by the Customer under the Agreement.

11.3 **Unrecoverable loss:** Except for the Customer's liability to pay the Fees, neither party is liable to the other under or in connection with the Agreement for any loss of profit, data, savings, business, revenue, and/or goodwill, or any indirect, consequential, incidental or special loss or damage of any kind.

11.4 **Unlimited liability:**

- a Clauses 11.1 - 11.3 do not apply to limit the Supplier's liability for:
  - i for breach of clause 10 by the Supplier or a Consultant;
  - ii infringement of intellectual property rights by the Supplier or a Consultant; or



- iii fraud or wilful misconduct by the Supplier or a Consultant.
- b Clause 11.3 does not apply to limit the Customer's liability for breach of clause 10 or for infringement of the Supplier's intellectual property rights.

**11.5 No liability for other's failure:** Neither party (the **first party**) will be responsible, liable, or held to be in breach of the Agreement for any failure to perform its obligations under the Agreement or otherwise, to the extent that the failure is caused by:

- a the other party failing to comply with its obligations under the Agreement;
- b the negligence or misconduct of the other party or its personnel; or
- c where the first party is the Supplier:
  - i a Consultant's compliance with a request or direction from the Customer; or
  - ii the Customer's IT Systems or Customer processes used by the Consultant not being operated or designed to follow Good Industry Practice.

#### **11.6 Warranty Exclusions:**

- a To the maximum extent permitted by law:
  - i the Supplier's warranties are limited to those stated in the Agreement; and
  - ii any implied condition or warranty (including any warranty under Part 3 of the New Zealand Contract and Commercial Law Act 2017) is excluded.
- b The Customer agrees and represents that it is acquiring the Services and Deliverables for the purposes of trade. The parties agree that:
  - i to the maximum extent permissible by law, the New Zealand Consumer Guarantees Act 1993 does not apply to the supply of the Services or Deliverables or the Agreement; and
  - ii it is fair and reasonable that the parties are bound by the Agreement, including this clause 11.6.

## **12 TERMINATION**

### **12.1 Termination:**

- a Unless otherwise stated in the Work Order, either party may terminate the Agreement on 30 days' prior written notice to the other party.

- b Either party may, by notice to the other party, immediately terminate the Agreement if the other party:

- i breaches any material provision of the Agreement and the breach is not:

▲ remedied within 10 days of the receipt of the notice from the first party requiring it to remedy the breach; or

▲ capable of being remedied; or

- ii has an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointed, becomes subject to any form of external administration, or ceases to continue business for any reason.

- c Either party may terminate the Agreement in accordance with any additional rights to terminate set out in the Work Order.

### **12.2 Consequences of expiry or termination:**

- a Expiry or termination of the Agreement does not affect each party's rights and obligations accrued before the termination or expiry date.
- b The Customer must pay for Services and Deliverables provided before the expiry or termination date.

**12.3 Obligations continuing:** Clauses which, by their nature are intended to survive expiry or termination, including clauses 9, 10, 11, 12.2 and 12.3.

## **13 DISPUTES**

**13.1 Good faith negotiations:** Before taking any court action, a party must use best efforts to resolve any dispute under, or in connection with, the Agreement through good faith negotiations.

**13.2 Obligations continue:** Each party must, to the extent possible, continue to perform its obligations under the Agreement even if there is a dispute.

**13.3 Right to seek relief:** This clause 13 does not affect either party's right to seek urgent interlocutory and/or injunctive relief.

## **14 GENERAL PROVISIONS**

**14.1 Force Majeure:** Neither party is liable to the other for any failure to perform its obligations under the Agreement to the extent caused by an event that is beyond the reasonable control of that party, excluding an event to the extent that it could have been avoided by a party taking reasonable steps or reasonable care.

**14.2 Waiver:** To waive a right under the Agreement, that waiver must be in writing and signed by the waiving party.

- 14.3 **Independent contractor:** The Supplier is an independent contractor of the Customer. No other relationship (e.g. joint venture, agency, trust or partnership) exists under the Agreement.
- 14.4 **Notices:** A notice given by a party under this agreement must be delivered via email to an email address notified by the other party for this purpose. If the notice is given under clause 12, a copy of that email must be immediately delivered (by hand or courier) to the Chief Executive or equivalent officer of the other party at the other party's last known physical address.
- 14.5 **Severability:** Any illegality, unenforceability or invalidity of a provision of the Agreement does not affect the legality, enforceability or validity of the remaining provisions of the Agreement.
- 14.6 **Variation:** Any variation to the Agreement must be in writing and signed by both parties.
- 14.7 **Entire Agreement:** The Agreement sets out everything agreed by the parties relating to the Services and supersedes and cancels anything discussed, exchanged or agreed prior to the Agreement's start. The parties have not relied on any representation, warranty or agreement relating to the subject matter of the Agreement that is not expressly set out in the Agreement, and no such representation, warranty or agreement has any effect from the Agreement's start. Without limiting the previous sentence, the parties agree to contract out of sections 9, 12A, and 13 of the Fair Trading Act 1986, and that it is fair and reasonable that the parties are bound by this clause 14.7.
- 14.8 **Assignment:** The Customer must not assign or transfer any right or obligation under the Agreement without the Supplier's prior written approval of the other (not to be unreasonably withheld). The Customer remains liable for its obligations under the Agreement despite any approved assignment or transfer.
- 14.9 **Law:** The Agreement is governed by, and must be interpreted in accordance with, the laws of New Zealand. Each party submits to the non-exclusive jurisdiction of the Courts of New Zealand in relation to any dispute connected with the Agreement.
- 14.10 **Counterparts:** Any document forming part of the Agreement that requires signatures to be effective (including a Statement of Work) may be signed in counterparts, each of which constitutes an original and all of which constitute the same agreement. A party may enter any document forming part of Agreement that requires signatures to be effective (including a Statement of Work) by signing and sending (including by email) a counterpart copy to the other party.
- 14.11 **Concessions:**
- a The Supplier may, in its sole discretion, agree in writing on a one-off basis to relax, accept non-compliance with, or depart from the strict application of a requirement of these Terms in a particular instance (a **Concession**), e.g. accepting a notice or request given other than in the form required, or agreeing to a longer period than specified for a particular act.
  - b A Concession is only effective if approved by a duly authorised manager of the Supplier. No other act, omission, statement, communication or course of dealing by the Supplier or any Consultant relaxes, waives or varies these Terms.
  - c A Concession:
    - i applies only to the specific instance and matter for which it is given;
    - ii does not operate as a waiver of, and does not prevent the Supplier from requiring strict compliance with, that requirement (or any other requirement) on any other occasion;
    - iii does not amount to a variation of the Agreement under clause 14.6, and the relevant requirement continues to apply in full for all other purposes; and
    - iv does not create a precedent or entitle the Customer to the same or any other Concession on any future occasion.
  - d Clause 14.2 does not apply to a Concession. the Supplier may grant a Concession subject to conditions and may withdraw it by notice to the Customer (except in respect of anything already done in reliance on it).
  - e If the Customer requires a permanent or binding change to these Terms, that change must be documented as a variation under clause 14.6 or as a special condition in the Work Order.

## **HOURLY RATES**

Support Consultant : \$215

Senior Consultant : \$240

Senior Technical Consultant : \$240

Project Manager and Business Advisory Services : \$250

The rates above are in NZD and exclude GST.