



Terms and Conditions of Use

JobWriterPro is the owner of the Application and the Website. These terms and conditions, once accepted by you, will constitute an agreement between you and JobWriterPro on the use of the Application and your account with JobWriterPro.

1. DEFINITIONS

Within these terms, unless the context requires otherwise:

- 1.1 **Account** means an account with JobWriterPro.
- 1.2 **ACL** means the Australian Consumer Law as set out in Schedule 2 of the *Competition and Consumer Act 2010 (Cth)*.
- 1.3 **Agreement** means this agreement.
- 1.4 **Application** means the application:
 - 1.4.1 named JobWriterPro, a full description of which is available at <https://www.jobwriterpro.com.au/getstarted.html>; and
 - 1.4.2 which comprises:
 - (a) a free trial version with limited functionality (referred to herein as **JobWriterPro Trial Version**); and
 - (b) a version with full functionality which is available on a subscription for fee basis (referred to herein as **JobWriterPro Full Version**).
- 1.5 **Confidential Information** means:
 - 1.5.1 confidential information of a Party which relates to the subject matter of this Agreement and includes information:
 - (a) relating to the design, specification and content of the Application; and
 - (b) which is stored for you by JobWriterPro; and
 - 1.5.2 any other information belonging to a Party which is of a confidential nature which is not in the public domain.
- 1.6 **Data Centre** means:
 - 1.6.1 data centre servers and other equipment, as well as applications used by JobWriterPro to store data for you; or
 - 1.6.2 if JobWriterPro subscribes to a third party data storage service pursuant to clause 5, the data centre operated by that third party.

- 1.7 **Designs** means all registered and unregistered shapes, configurations, patterns, ornamentation and other designs found in the Website.
- 1.8 **Dispose** means to license or permit the use of, sell, assign, transfer, convey or otherwise dispose of:
- 1.8.1 the facility or ability to use; or
- 1.8.2 the legal or beneficial interest in the right to use
- the Application or the Account; and for **Disposal** and **Disposing**, an associated meaning is to be applied.
- 1.9 **GST** means:
- 1.9.1 GST as described in the GST Law;
- 1.9.2 any other goods and services tax, or any tax applying to this Agreement in a similar way; and
- 1.9.3 any additional tax, penalty, fine, interest or other charge under a law of such a tax.
- 1.10 **GST Law** has the same meaning given to this term in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.
- 1.11 **Intellectual Property Rights** means all present and future rights conferred by statute, common law or equity in or relation to:
- 1.11.1 copyright, trade-marks, designs, patents, circuit layouts, moral rights;
- 1.11.2 an invention, discovery, secret process, novel design, improvement or modification of any nature;
- 1.11.3 computer program material (including the Application and other computer applications, tables, charts, flow charts, algorithms, diagrams, plans, techniques, data, structures, logical ideas, concepts and processes);
- 1.11.4 other products of intellectual activity in the industrial, commercial, scientific, literary or artistic fields;
- and any application or right to apply for registration of any of such rights.
- 1.12 **Job Description** means a job description as described in <https://www.jobwriterpro.com.au/getstarted.html>.
- 1.13 **JobWriterPro** means Art of Staff Pty Ltd trading as JobWriterPro ABN 26 107 469 947.
- 1.14 **Party** means either you or JobWriterPro as the context dictates.
- 1.15 **Permitted Use** means the permitted use of the Application as described in clause 3.3.
- 1.16 **Privacy Policy** means the privacy policy of JobWriterPro as described in <https://jobwriterpro.com.au/app/Login.aspx>
- 1.17 **State** means the state of South Australia.
- 1.18 **Subscription Fee** means the fees described in <https://www.jobwriterpro.com.au/getstarted.html>.
- 1.19 **Subscription Term** means a term which:
- 1.19.1 commences upon the creation of an Account by you; and
- 1.19.2 ends upon termination of your Account in accordance with clause 2.3.

- 1.20 **Taxes** means any present or future GST, taxes, rates, levies, imposts, deductions, withholdings, charges and duties which may be incurred in any jurisdiction and any interest, penalty, fine or expense relating to any of them.
- 1.21 **Trademarks** means JobWriterPro and other registered and unregistered trademarks associated with JobWriterPro, including non-stylized word-marks.
- 1.22 **Website** means <https://www.jobwriterpro.com.au>.

2. ACCOUNT

2.1 Creation of Account

- 2.1.1 Prior to using the Application, you must create an Account.
- 2.1.2 Information provided by you for an Account will be held and used by JobWriterPro in accordance with clause 4 and the Privacy Policy.

2.2 Use of Account

- 2.2.1 The Account may only be accessed by you. You must not Dispose your Account, or make available your username or password to any third party.
- 2.2.2 You are solely responsible for safeguarding your username and password. It is your responsibility to ensure that no third party gains access to your username or password.
- 2.2.3 If you become aware of any unauthorised access to your Account, or if your username or password has been compromised, you must immediately notify JobWriterPro.

2.3 Termination of Account

- 2.3.1 You may terminate your Account at any time by e-mailing support@jobwriterpro.com.au.
- 2.3.2 JobWriterPro may terminate your Account immediately, without prior notice, if:
- (a) you breach clause 3;
 - (b) you are not a subscriber of JobWriterPro Full Version, and you have not logged on to your Account for a period of at least 12 months; or
 - (c) you are a subscriber of JobWriterPro Full Version, and you have not logged on to your Account for a period of at least 24 months.
- 2.3.3 JobWriterPro may terminate its service, and hence access to your Account, and your use of the Application at any time if:
- (a) it provides you with prior written notice via your nominated e-mail account; and
 - (b) such notice is given at least 3 months from the date JobWriterPro intends to terminate its service.

3. LICENCE TO USE

3.1 Copyright, Designs and Trademarks

- 3.1.1 Copyright on the content of the Website belongs to JobWriterPro. Copyright on source and object codes which are used to generate the Website and its content, including the Application, are licensed to

JobWriterPro. Copyright on the content of the Application's libraries may belong to JobWriterPro, or may be licensed to JobWriterPro by third parties. All Designs and Trademarks belong to JobWriterPro.

3.1.2 You must not use content from this site, other copyrighted material, Trademarks or Designs to create any site or application, regardless of whether the site or application mirrors or mimics the Website or the Application. You must not impersonate or fraudulently represent JobWriterPro. You must not misrepresent to others that your use of any information which belongs to, or which has been licensed to JobWriterPro has been endorsed by JobWriterPro.

3.1.3 You agree to vest your copyright in all Job Descriptions you create to JobWriterPro. You agree that such vesting will take place as soon as Job Descriptions are generated for you through your use of the Application. To the full extent permitted under Part IX of the *Copyright Act 1968 (Cth)* (**Copyright Act**) and similar legislation which applies within the jurisdiction you reside, you hereby agree to waive all existing and future moral rights in Job Descriptions. For the purposes of this clause, "works" and "moral rights" have the meaning given to them in the Copyright Act.

3.2 **Extent of licence**

Subject to the terms of this Agreement, JobWriterPro grants you a non-exclusive, non-assignable and limited licence to use the Website, your Account, the Application and Job Descriptions for the Permitted Use during the Subscription Term.

3.3 **Permitted Use**

3.3.1 You may use the Website and the Application to assist you in preparing job descriptions.

3.3.2 After:

(a) creation of your Account, you may use JobWriterPro Trial Version on a fee free basis; or

(b) payment of the applicable Subscription Fee, you may use JobWriterPro Full Version

to create one or more Job Descriptions, in accordance with your subscription.

3.3.3 You may view, print, copy and use each Job Description throughout the Subscription Term, but you may not modify any Job Description in a manner which is not specifically provided for in this Agreement.

3.3.4 You may edit a Job Description for a period of 14 days after it has been exported to JobWriterPro for processing. After this period, the Job Description will be locked for editing. You may carry out further edits after a Job Description has been locked if you subscribe for this facility and pay the applicable Subscription Fee.

3.4 **General conditions**

3.4.1 Your use of the Application is subject to all applicable state, federal and international laws and regulations.

3.4.2 You must not use the Application:

(a) to store any material that is irrelevant to the functionality of the Application; or

- (b) for any unlawful or objectionable activity.
- 3.4.3 You must not allow any third party to use the Application.
- 3.4.4 You must take reasonable precautions in respect of the following:
 - (a) viruses, spyware or other similar unsolicited, contaminating, malicious or destructive code or program;
 - (b) corruption of data;
 - (c) use of any third party application;
 - (d) firewall set up; and
 - (e) internet downloads
- and you shall bear your own costs in doing so and in rectifying any error, fault or damage which is caused by the aforesaid to your Account, the Website or the Application. You hereby release JobWriterPro from all claims, losses, damages and costs incurred or suffered by you which are or are alleged to be associated with the aforesaid, regardless of whether or not JobWriterPro had been instructed to provide advice on, manage or attend to any of the aforesaid.
- 3.4.5 You agree that this Agreement does not transfer the title or any interest in the Account and the Application from JobWriterPro to you; nor does it convey to you any right other than those described in this Agreement.
- 3.4.6 All Intellectual Property Rights in the Application are retained by JobWriterPro.
- 3.4.7 You must not alter, delete or interfere with any copyright or trademark notice, or with the terms of any licence which are issued or displayed by JobWriterPro.
- 3.4.8 You must not use, copy, reproduce, alter, modify, adapt or reverse-engineer the Application or any part thereof, except to the extent authorised by this Agreement.
- 3.4.9 You must not do any act or omit to do anything in respect of the Application which ordinarily requires a licence or permission from JobWriterPro, but which is not expressly authorised by this Agreement.
- 3.4.10 In addition to any other remedies available to JobWriterPro under this Agreement or otherwise, any unauthorised use, replication, alteration, modification, reproduction, publication, disclosure or Disposal of the Application shall entitle JobWriterPro to apply all available equitable remedies against you.
- 3.4.11 Except to the extent specified to the contrary in this Agreement, JobWriterPro shall not be obliged to support the Application, whether by providing advice, training, error-correction, modifications, updates, new releases, enhancements or otherwise.
- 3.4.12 Subject to clauses 3.1.3, you are the owner of information which has been inputted, generated and stored with the use of the Application.
- 3.4.13 Subject to your full compliance with this Agreement, JobWriterPro will not restrict your access to inputted, generated or stored information during the Subscription Term.

3.5 **Survival of prohibitions**

All prohibitions under this clause 3 shall survive termination of this Agreement.

4. **CONFIDENTIALITY, PRIVACY AND SECURITY**

4.1 **JobWriterPro's obligations**

JobWriterPro shall:

- 4.1.1 take all reasonable steps to maintain the security and confidentiality of your Confidential Information; and
- 4.1.2 adhere to the *Privacy Act (1988) (Cth)* and shall ensure that a high level of privacy is maintained when you submit information through use of your Account and the Application.

4.2 **Your acknowledgements and agreement**

You acknowledge and agree that:

- 4.2.1 electronic data transmission and storage are not fully secure, despite JobWriterPro's best endeavours to ensure the security of information which is transmitted and stored;
- 4.2.2 you will use your Account and the Application at your own risk;
- 4.2.3 JobWriterPro may use cookies to improve the functional efficiency and user experience of the Website and of the Application. Such cookies are stored in your equipment but they do not affect the confidentiality of your Confidential Information, or your privacy; and
- 4.2.4 JobWriterPro may disclose its database of Account holders to participating insurers, professional advisers, service providers, actual and potential investors, payment systems operators, financial institutions and organisations authorised by JobWriterPro to conduct promotional, research or marketing activities.

4.3 **General obligations**

- 4.3.1 A Party shall not, without the prior written approval of the other Party, disclose or make use of the other Party's Confidential Information except to the extent which is:
 - (a) necessary to perform, or exercise rights under this Agreement; or
 - (b) permitted by this Agreement.
- 4.3.2 A Party shall not be in breach of clause 4.3.1 in circumstances where it is legally compelled to disclose or make use of the other Party's Confidential Information, the relevant information has become public knowledge, or is required by the rules of any stock exchange relevant to the first named Party.

4.4 **Survival**

This clause 4 shall survive termination of this Agreement.

5. **SUB-CONTRACTORS**

JobWriterPro may appoint one or more sub-contractors to provide:

- 5.1 server services for the Application;

- 5.2 data storage and back-up services for content which have been uploaded by you through the use of your Account or the Application in accordance with the terms of this Agreement; and
- 5.3 ongoing Application and Website support.

6. **DISCLAIMER**

- 6.1 The Application is a tool which assists with the preparation of Job Descriptions. It makes available to you the use of libraries specified in <https://www.jobwriterpro.com.au/getstarted.html>. Information which is made available to you through your use of these libraries has been compiled by JobWriterPro from various sources. In doing so, JobWriterPro endeavours to source information which is current and which applies as recognised industry standards, practices and expectations within Australia. JobWriterPro also endeavours to source such material from recognised Australian industry bodies and specialists. Notwithstanding the preceding, JobWriterPro is not, and does not hold itself out to be an expert or as an advisor for matters relating to such information. Further, JobWriterPro does not have the expertise or resources to verify the accuracy, reliability, validity, or completeness of information which it compiles for users of the Application. Information that is made available to you also depends on the accuracy of your search requests or information which you provide.
- 6.2 In view of the above:
 - 6.2.1 JobWriterPro shall not be held liable for information it makes available to you through your use of the Application;
 - 6.2.2 information made available to you may apply only within Australia, and not necessarily to any other jurisdiction; and
 - 6.2.3 you must carefully evaluate and verify information obtained from your use of the Application. JobWriterPro does not expressly or impliedly endorse any information which it makes available to you. If you rely on such information, you do so solely at your own risk.
- 6.3 For your convenience, JobWriterPro may make available links to other webpages within the Website. In doing so, JobWriterPro does not state, infer or suggest that JobWriterPro endorses the content of such webpages, nor does JobWriterPro endorse any product or service which is made available through such webpages.

7. **WARRANTY**

7.1 **Your acknowledgements**

You acknowledge and agree that JobWriterPro does not warrant that the performance of the Application or the information which may be generated from your use of the Application shall accord with your expectations. In particular, you acknowledge and agree that the quality of information which may be generated from your use of the Application is highly dependent on your ability to generate such information.

7.2 **Australian Consumer Law**

- 7.2.1 The consumer warranties under the ACL may apply to services provided by JobWriterPro under this Agreement. Generally, these warranties apply if the amount which has been paid or which is payable for the supply is \$40,000 or less (or some other amount prescribed by the ACL from time to time), regardless of whether the supply was made in trade or commerce;

or if the supply is of a kind which is ordinarily acquired for personal, domestic or household use or consumption. You should seek your own legal advice as to whether such warranties apply to the Licensee.

- 7.2.2 If such warranties apply, the ACL requires the following representation be made by JobWriterPro to you. Given that JobWriterPro does not supply goods to you, this representation is to be construed as applying to services JobWriterPro provides to you under this Agreement.

“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 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.”

- 7.2.3 All warranty claims under the ACL are subject to the following:

- (a) you having fully complied with all of its contractual obligations to JobWriterPro at the time you make a claim;
- (b) sufficient description of the claimed defect is provided to JobWriterPro, so that it may assess the claim properly;
- (c) you bear your own costs in obtaining advice on the application of the warranties under the ACL, and in making the claim;
- (d) you indemnifying JobWriterPro for JobWriterPro’s reasonable costs in attending to any vexatious or unsuccessful claim.

- 7.2.4 If the warranties under the ACL apply and you make a valid claim, JobWriterPro shall honour its legislated obligations to you. For the purposes of section 64A of the ACL, JobWriterPro shall, at its option, limit its obligation to any one of:

- (a) rectifying or supplying again the services in respect of which the breach of warranty occurred; or
- (b) refunding the sum of amounts paid by you for those services, excluding all disbursements which have been or which JobWriterPro shall incur.

- 7.2.5 All implied warranties, other than warranties under the ACL, are hereby excluded.

8. REFUND

Without limiting clause 7, if for any reason you are not completely satisfied with JobWriterPro Full Version, JobWriterPro will refund your Subscription Fee in full if you:

- 8.1 have not exported your draft Job Description to JobWriterPro for processing;
- 8.2 apply for a refund in writing; and
- 8.3 make the aforesaid application no later than seven (7) calendar days after your subscription of JobWriterPro Full Version commences.

9. LIABILITY OF JOBWRITERPRO

- 9.1 Subject to the other terms of this Agreement, JobWriterPro shall be under no liability to you in respect of any loss or damage which may be suffered or incurred or

which may arise directly or indirectly in respect of goods or services supplied pursuant to this Agreement or in respect of a failure or omission on the part of JobWriterPro to comply with its obligations under this Agreement. The exclusion in this clause covers all loss and damage, including consequential, special, indirect and punitive loss and damage and including loss and damage reflecting loss of profits, loss of revenue and loss of goodwill.

- 9.2 If JobWriterPro is in breach of this Agreement, and you have complied with all of your obligations under this Agreement, damages for which JobWriterPro shall be liable (and to which JobWriterPro's liability shall be limited) shall not exceed, in respect of all claims in aggregate, the total of all amounts that have been paid by you to JobWriterPro under this Agreement prior to the date on which the claim is made.
- 9.3 You warrant that you have not relied on any representation made by JobWriterPro which has not been stated expressly in this Agreement, or in any description, illustration or specification contained in the Website or promotional material.

10. **SEVERABILITY**

If any provision of this Agreement is held invalid, unenforceable or illegal for any reason, this Agreement shall remain otherwise in full force apart from such provisions which shall at the election of JobWriterPro be read down to the extent necessary to remove such invalidity, unenforceability or illegality or be deemed to have been deleted.

11. **GOVERNING LAW**

This Agreement shall be governed by the laws of the State and the Parties submit themselves to the exclusive jurisdiction of the State. The Parties submit to the jurisdiction of the courts of competent jurisdiction in the State or any competent appellate court in respect of any dispute resolution proceedings in relation to this Agreement.