



COWORKING TERMS AND CONDITIONS

1. Background

- 1.1 Innovate Charitable Trust ("**Innovate**", "**We**", "**Us**") was established in May 2018 with the purpose of driving innovation and entrepreneurship for the prosperity of the Nelson Tasman region.
- 1.2 Innovate's vision is to help build a more connected business ecosystem by creating stronger links between clever business, investors, researchers, business development providers, Government and the education sector, in order to influence and inspire economic development in the region.
- 1.3 To that end, and among other things, Innovate operates the business known as "Mahitahi Colab", which is a physical coworking and events space at 131 Hardy Street, Nelson.
- 1.4 These terms and conditions pertain to the provision of coworking services by Mahitahi Colab.

2. Application

- 2.1 These terms and conditions are to be read in conjunction with:
 - (a) Your registration via our website or in writing ("**Coworking Registration**");
 - (b) The Collaborator Levels defined in clause 4.1;
 - (c) Any policies, house rules and /or Codes of Conduct notified to you with these terms and conditions or from time to time, andThese together will constitute the agreement between the parties ("**Agreement**").
- 2.2 Any variations stated in the Coworking Registration will take precedence over these Coworking Terms and Conditions.
- 2.3 The Member acknowledges that these Coworking Terms and Conditions have been read and are understood and accepted.
- 2.4 Innovate Charitable Trust trading as Mahitahi Colab will be referred to as "Mahitah Colab", "our" or "we" in these Terms and Conditions as appropriate.
- 2.5 The individual or company named in the Coworking Registration Form is the member and will be referred to as "you" or "the Member".

3. Term

- 3.1 The Agreement starts on the date the Collaborator Registration is completed, signed and returned to us and continues until:
 - (a) In the case of "fixed term" memberships, the end date set out in the Coworking Registration Form ("**End Date**"); or
 - (b) In the case of "open ended" memberships, one month following the Member providing us with notice in writing to terminate the Agreement; or
 - (c) The Agreement is terminated in accordance with clause 5, ("**Term**")
- 3.2 In the case of "fixed term" memberships, you must notify us of your intention to renew the Agreement or terminate, 30 days prior to the End Date.
- 3.3 If you do not notify us of your intention in accordance with clause 5.2, the membership will automatically transfer to an "open ended" membership, which may attract different Fees and may be terminated by the member in accordance with clause 5.1(b).

4. Coworking Levels and Fees

- 4.1 We offer a range of "Collaborator Levels" and term options, each of which attract different pricing and are notified on our website ("**Collaborator Levels**").
- 4.2 You shall notify us of your preferred Collaborator Level in the Coworking Registration.
- 4.3 We will provide the services ("**Services**") and the Member will pay the fees ("**Fees**") that correspond to the selected Collaborator Level during the Term.
- 4.4 We will invoice you for the Fees as notified in the Coworking Registration Form. Invoices are payable within 7 days of receipt of invoice.

- 4.5 Payment must be made by direct credit or via any other payment method approved and implemented by us from time to time.
- 4.6 The Fees are exclusive of GST. GST will be charged in addition to the Fees.
- 4.7 Where payment of the Fees remains outstanding for more than 30 days, We may suspend or terminate this Agreement and revoke access to the Mahitahi Colab, in its sole discretion.
- 4.8 We reserve the right to review the Fees. Where you have a "fixed term" membership, any change to the Fees will apply on renewal. Where you have an "open term" membership, any change to the Fees will apply following one month's written notice.

5. Provision of Services

- 5.1 We provide members with access to office and other services specified in each Collaborator Level, including but not restricted to, internet access, printers and staff support and access to meeting rooms.
- 5.2 You acknowledge that some of these services are provided to us and/or you by third parties, and, although we will use our best endeavours to ensure that these services are available to members and /or are provided to a satisfactory standard, we do not give any warranty, representation or guarantee to this effect.

6. Termination rights

- 6.1 We may terminate this Agreement without notice if you:
 - (a) breach any material provision of this Agreement;
 - (b) abuse or harass any staff member or other user of the Mahitahi Colab;
 - (c) be considered guilty of misconduct;
 - (d) bring Innovate Charitable Trust or the Mahitahi Colab into disrepute; or
 - (e) have an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointed, become subject to any form of external administration, or ceases to continue business for any reason.
- 6.2 Expiry or termination of this Agreement does not affect each party's rights and obligations accrued before the expiry or termination date.
- 6.3 You must pay for Services provided before this Agreement expires or is terminated.
- 6.4 Clauses which, by their nature, are intended to survive expiry or termination of this Agreement, continue in force.

7. Modification to Terms and Conditions

- 7.1 Subject to clause 4.8, which specifies the notice periods that apply to changes to the Fees, we reserve the right to modify these Terms and Conditions at any time.

8. Collaboration and Conduct

- 8.1 The parties agree to co-operate and collaborate to help advance each other's strategic goals, in particular by:
 - (a) Creating and maintaining positive relationships with each other and third-party organisations, staff, students and other programme and delivery partners;
 - (b) Being an active member of the Mahitahi Colab community; and
 - (c) Supporting each other's projects and initiatives from time to time by, inter alia, leveraging networks and contacts or providing knowledge or advice.
- 8.2 You agree to comply with all policies, house rules and other reasonable directions given by Innovate in connection with its provision of the Services and your use of Mahitahi Colab.
- 8.3 You agree to indemnify us against any loss we suffer as a result of your breach of clause 8.2 or any other provision of this Agreement.

9. Covid-19 or notified pandemics

- 9.1 We reserve the right to introduce policies and procedures pertaining to Covid-19 from time to time, to reduce the risk of spread to coworkers and visitors, and to ensure compliance with Government requirements.

10. Events and other bookings

- 10.1 If you book the Mahitahi Colab Events Space or any of our meeting rooms as part of your membership, you agree to be bound by the Mahitahi Colab Event Terms and Conditions.

11. No Partnership

- 11.1 Notwithstanding clause 5 requiring the parties to work collaboratively, nothing in this Agreement makes the parties joint venturers, partners or agents of each other, now or in the future.
- 11.2 Neither of the parties can bind the other in any way.

12. Intellectual Property

- 12.1 In these terms and conditions "Intellectual Property" includes copyright and all rights existing anywhere in the world conferred under statute, common law or equity relating to inventions (including patents), registered or unregistered trade marks and designs, circuit layouts, data and databases, confidential information, know-how, domain names, trade secrets and all other rights resulting from intellectual activity.
- 12.2 Neither party has rights in Intellectual Property of the other. .
- 12.3 All proprietary rights to the Intellectual Property arising from the Agreement, or developed by either party during the Term of this Agreement, shall vest or remain with the party generating it, as its sole property.

13. Confidentiality

- 13.1 In these terms and conditions "Confidential Information" means any information that is not public knowledge and which is obtained from the other party or any other client of the Mahitahi Colab in the course of this Agreement.
- 13.2 Both of the parties will keep confidential, and will not use, or permit to be used, any Confidential Information, except to the extent that:
- the Confidential Information lawfully enters the public domain, or
 - the party to whom the Confidential Information relates, consents in writing to its disclosure, or
 - disclosure is required by law, or
 - this Agreement permits.
- 13.3 Both of the parties must ensure that our respective agents or employees who receive, or may receive, Confidential Information are aware of, and are bound by, these confidentiality provisions.
- 13.4 The above confidentiality provisions are in addition to, and do not detract from, any duties of confidentiality imposed on either of the parties by law, equity or contract.

14. Liability

- 14.1 Our maximum aggregate liability under or in connection with this Agreement, whether in contract, tort (including negligence), breach of statutory duty or otherwise, must not exceed the Fees paid and/or payable by you under this Agreement in a 12 month period.
- 14.2 Except for your liability to pay the Fees, neither party is liable to the other under or in connection with this Agreement for any loss of profit, data, revenue, savings, business and/or goodwill, or any indirect, consequential, indirect, incidental or special loss or damage of any kind.
- 14.3 Clauses 11.1 and 11.2 do not apply to limit either party's liability for:
- Personal injury or death;
 - Fraud or willful misconduct; or
 - Breach of clause 8 (confidentiality).
- 14.4 Each party must take reasonable steps to mitigate any loss or damage, cost or expense it may suffer or incur arising out of anything done or not done by the other party under or in connection with this Agreement.

15. Privacy

- 15.1 All information that you give us will be kept confidential and only used for purposes which you have agreed to or in respect of which you have otherwise given us permission.
- 15.2 We will use the information you provide to us to:
- arrange and provide the Services;
 - keep in contact with you;

- invoice and arrange payment of the price for the Services;
- keep you up to date with information about services provided by us and our partners and providers;

- 15.3 We may disclose aggregate statistics about our members in order to describe our services to prospective partners, advertisers and other reputable third parties and for other lawful purposes, but these statistics will include no personally identifying information.
- 15.4 We may disclose personal information if required to do so by law or if we believes that such action is necessary to protect and defend the rights, property or personal safety of the Mahitahi Colab or any member.

16. Disputes

- 16.1 In the event of a dispute arising over the interpretation of this contract or anything contained in it, the parties agree to meet and work in good faith towards finding a satisfactory resolution.
- 16.2 In the event the parties cannot resolve the dispute, a mediator shall be appointed by agreement of both parties, to find a satisfactory resolution.
- 16.3 If the parties cannot resolve the dispute through negotiation or mediation then it shall resolved pursuant to the Arbitration Act 1996.
- 16.4 Each party must, to the extent possible, continue to perform its obligations under this Agreement even if there is a dispute.

17. General provisions

- 17.1 **Force Majeure:** Neither party is liable to the other for any failure to perform its obligations under this Agreement to the extent caused by Force Majeure, provided that the affected party:
- immediately notifies the other party and provides full information about the Force Majeure;
 - uses best endeavours to overcome the Force Majeure; and
 - continues to perform its obligations as far as practicable.
- 17.2 **Severability:** If any provision of this Agreement is, or becomes unenforceable, illegal or invalid for any reason it shall be deemed to be severed from this Agreement and does not affect the legality, enforceability or validity of the remaining provisions of this Agreement.
- 17.3 **Assignment:** If the ownership or structure of either party changes during the term of this agreement the party with the changes shall notify the other in writing and shall assign its interest in this Agreement to the new owner(s).
- 17.4 **No Subcontracting:** Neither party may assign, subcontract or transfer any right or obligation under this Agreement without the prior written approval of the other (not to be unreasonably withheld). Notwithstanding any subcontracting, each party shall remain liable to the other for the performance of all obligations under this Agreement.
- 17.5 **Variation:** Any variation of this Agreement must be in writing and signed by both parties.
- 17.6 **Waiver:** Any failure by either of the parties to enforce any of the provisions of this Service Level Agreement does not constitute a waiver of any rights to future enforcement.
- 17.7 **Governing Law:** This Agreement is governed by New Zealand law and the parties irrevocably submit to the exclusive jurisdiction of the New Zealand courts.