

## **eLearn End User Terms and Conditions (Terms and Conditions)**

The following are terms and conditions pertinent to the access and use of the eLearning Content. Please refer to the CA ANZ website for [Terms of Use](#) and [Privacy Policy](#) relevant to use of any CA ANZ website. Access to CA ANZ's website is required in order for you to access the eLearning Content. The Terms and Use and the Privacy Policy are therefore incorporated into this Agreement by reference.

As a eLearn End User, your access and use of the eLearning Content is conditional on your acceptance of the Terms of Use, the Privacy Policy and these Terms and Conditions that govern your access to and use of the eLearning Content, including any software, data, information, content or materials located on, forming part of, or available in connection with, the eLearning Content, and any services provided through or in connection with the eLearning Content. A reference to the **eLearning Content** in these Terms and Conditions includes a reference to such associated materials and services.

Use of the eLearning Content indicates your acceptance of these Terms and Conditions, the Terms of Use and the Privacy Policy. Please read them carefully before using the eLearning Content. If you do not agree to these Terms and Conditions, the Terms of Use or the Privacy Policy, you must immediately exit this website and not access or use the eLearning Content.

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### **1. Definitions**

Except to the extent expressly provided otherwise in these Terms and Conditions:

**Access Code** means a unique login name and password which enables you to access and use the eLearning Content.

**CA ANZ** means Chartered Accountants Australia and New Zealand ABN 50 084 642 571 (CA ANZ) of 33 Erskine Street, Sydney, NSW, 2000 Australia (or as notified from time to time).

**eLearn End User** means any party that is provided access to the eLearning Content by CA ANZ, including you.

**eLearn End User Licence** has the meaning given to that term in clause 2.1.

**eLearning Content** means the material to be accessed by you in the course of these Terms of Use.

**Intellectual Property Rights** includes, but is not limited to all existing and future rights in source code, patents, designs, copyright, know-how, moral rights, trade secrets, confidential information, trade marks, service marks, trade names, circuit layouts, goodwill and all other similar rights.

**Privacy Policy** means CA ANZ's privacy policy, available at <http://www.charteredaccountantsanz.com/en/Site-Content/Legal-Information/Privacy-Policy.aspx> and updated from time to time by CA ANZ.

**Related Entity** has the meaning given to it in the *Corporations Act 2001* (Cth).

**Software** means the specific software components which enable you to access the eLearning Content.

**Term** means the period commencing on the date you are granted access to the eLearning Content and finishing 3 months thereafter, unless your eLearn End User Licence is terminated earlier than that date in accordance with these Terms and Conditions.

**Terms of Use** means CA ANZ's website terms of use, available at <http://www.charteredaccountantsanz.com/en/Site-Content/Legal-Information/Terms-of-Use.aspx> and updated from time to time by CA ANZ.

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## **2. eLearn End User Licence**

- 2.1 CA ANZ grants to you, and you accept, during the Term only, a non-exclusive and non-transferable licence to access and use the eLearning Content, and to access and use the Software and Access Code as required to access and use the eLearning Content only, subject to these Terms and Conditions (**eLearn End User Licence**).
- 2.2 You agree that the grant of the eLearn End User Licence does not confer any rights (including proprietary rights) to you or any third party in relation to the eLearning Content or Software and that all Intellectual Property Rights created by any party in connection with eLearning Content or Software will be owned by CA ANZ.
- 2.3 You must:
- 2.3.1 keep your individual Access Code safe and confidential at all times, and not share your Access Code with any other person;
  - 2.3.2 not allow any third party or unauthorised person to use or access the eLearning Content or Access Code;
  - 2.3.3 immediately notify CA ANZ if you become aware of any unauthorised use of the eLearning Content or Access Code;
  - 2.3.4 not disclose or provide the eLearning Content or Access Code to any third party;
  - 2.3.5 not, and not allow any person to, sell, distribute, market, promote, advertise, license, transfer, vary, part with possession of, use or otherwise deal with the eLearning Content;
  - 2.3.6 not, and not allow any person to, edit, copy, reverse engineer, decompile, create a derivative work of, de-code, interfere with, or in any way disassemble, copy, modify, reproduce, adapt, tamper with or re-sell any Intellectual Property Rights incorporated within the eLearning Content;
  - 2.3.7 not and must not permit any third party to download or take screen shots of the eLearning Content (or any part of it) except for the express purpose of providing screen shots to CA ANZ where support is required; and
  - 2.3.8 act in good faith at all times towards CA ANZ, and its Related Entities and provide assistance and cooperation as and when reasonably requested by any of them, including implementing practicable remedies to stop breaches or improper or unauthorised use of the eLearning Content and/or Access Codes from occurring.

- 2.4 Should you breach any of these Terms and Conditions, the Terms of Use or the Privacy Policy your use and access rights to the eLearning Content may be revoked by CA ANZ at any time and in its sole discretion.
- 2.5 You acknowledge that the eLearning Content may contain links to third party websites and content (**Third Party Content**). CA ANZ does not purport to sponsor, approve or endorse any of the Third Party Content. Access to such Third Party Content may be subject to separate licensing conditions.
- 2.6 Without limiting any provision of the Terms of Use or clause 3 below, CA ANZ is not liable to you or any other person for any loss or damage (however caused, including by negligence) arising from or in connection with these Terms and Conditions, the eLearning Content and/or use of the Third Party Content.

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### **3. Liability**

- 3.1 Notwithstanding any other provision of these Terms and Conditions and to the fullest extent permitted by law, CA ANZ and its Related Entities will not be liable to you for, and you indemnify and will keep indemnified CA ANZ, its Related Entities, and their officers and employees from, all present and future claims (including but not limited to third party claims), actions, demands, proceedings, threats, direct losses, costs (including but not limited to legal costs), expenses, penalties and liabilities incurred, suffered or brought against CA ANZ, its Related Entities or any of their officers or employees arising from:
- 3.1.1 your breach of any of your obligations pursuant to these Terms and Conditions;
  - 3.1.2 your negligence in the use and/or access of the eLearning Content; or
  - 3.1.3 your breach of the Intellectual Property Rights of CA ANZ or any of its licensors.
- 3.2 Notwithstanding any other provision of these Terms and Conditions, in no event (including under an indemnity) will CA ANZ or any of its Related Entities be liable to you for:
- 3.2.1 any loss of data, loss of revenue, profit or income, loss of anticipated savings, loss of goodwill or reputation; or
  - 3.2.2 any remote, indirect, consequential, special or incidental loss or damage, namely any loss, not arising naturally, that is according to the usual course of things, from the relevant breach act or omission, whether or not such loss may reasonably be supposed to have been in the contemplation of the parties, at the time they entered the agreement, as the probable result of the relevant breach.
- 3.3 The eLearning Content is provided to you on an 'as is' basis. To the extent permitted by law, CA ANZ makes no guarantees, representations or warranties of any kind, express or implied with respect to the effectiveness or usefulness of or results to be obtained from the eLearning Content provided under this Agreement.
- 3.4 CA ANZ expressly disclaims and excludes all warranties and conditions, whether statutory, express, implied or otherwise, including, but not limited to, any implied warranty of merchantability, fitness for a particular purpose, and non-infringement of third-party rights.

- 3.5 To the maximum extent permitted by law, any liability attributable to CA ANZ for breach of a condition or warranty implied by statute which may not be excluded but may be limited, is limited to CA ANZ doing, at its election, re supplying the services or paying the cost of having the services re-supplied.
- 3.6 You acknowledge that:
- 3.6.1 the delivery of the eLearning Content is dependent on a number of factors outside of CA ANZ's control, including technical difficulties;
  - 3.6.2 access to the eLearning Content may not be continuous or uninterrupted and there may be associated interruptions and failures of the eLearning Content; and
  - 3.6.3 to the maximum extent allowable under applicable law, CA ANZ and its Related Entities will not be held liable for any direct or indirect loss or damage incurred solely or in part from one or more of these factors, including where such loss or damage is incurred by CA ANZ's negligence.
- 3.7 You acknowledge and agree that this clause 3 is not intended to restrict any provision of the Terms of Use (including any provisions limiting CA ANZ's liability under the Terms of Use).
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#### **4. Confidential information**

- 4.1 You must not use or disclose to any person any confidential information which comes into your possession in the course of or by reason these Terms and Conditions, the eLearn End User Licence and or your use/access of the eLearning Content (except as required by law or as agreed by the parties in writing).
- 4.2 Confidential information includes but is not limited to documents, information, strategies, know how, methodology, business practices and data relating to the affairs or business (whether present or future), and also in the case of CA ANZ relating to the eLearning Content, Software and or Access Codes.
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#### **5. Termination**

- 5.1 CA ANZ may terminate these Terms and Conditions (and the eLearn End User Licence) by giving written notice of termination to you:
- 5.1.1 immediately if you breach any term of these Terms and Conditions, the Terms of Use or the Privacy Policy; or
  - 5.1.2 for any reason by providing at least 30 days prior written notice to you.
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#### **6. General**

- 6.1 No breach of any provision of these Terms and Conditions shall be waived except with the express written consent of the party not in breach.
- 6.2 If any provision of these Terms and Conditions is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of these Terms and Conditions will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the

clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).

- 6.3 These Terms and Conditions may be updated from time to time by CA ANZ.
- 6.4 You may not, without the prior written consent of CA ANZ assign, transfer, charge, license or otherwise deal in or dispose of any contractual rights or obligations under these Terms and Conditions.
- 6.5 These Terms and Conditions (along with the Terms of Use and Privacy Policy) shall constitute the entire agreement between the parties in relation to the subject matter of these Terms and Conditions, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.
- 6.6 These Terms and Conditions shall be governed by and construed in accordance with the law of New South Wales, Australia and the parties submit to the non-exclusive jurisdiction of the courts of that State to adjudicate any dispute arising under or in connection with these Terms and Conditions.