

# Hyra iQ SaaS Acceptable Use Policy



Last updated: 23 February 2020

## 1 Who we are and how to contact us

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- (a) Hyra iQ is a software-as-a-service solution provided by Blenktech Pty Ltd ABN 12 620 650 553 (trading as Hyra iQ).
- (b) To contact us, please email us on [info@hyraiq.com](mailto:info@hyraiq.com).

## 2 By using Hyra iQ you accept these terms

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- (a) By using Hyra iQ, you confirm that you accept these terms and that you agree to comply with them.
- (b) If you do not accept these terms, you must not use Hyra iQ.
- (c) We amend these terms from time to time. Every time you wish to use Hyra iQ, please check these terms to ensure you understand the terms that apply at that time.

## 3 You must keep your account details safe

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- (a) If you choose, or you are provided with, a user identification code, password or any other piece of information as part of our security procedures, you must treat such information as confidential. You must not disclose it to any third party.
- (b) We have the right to disable any user identification code or password, whether chosen by you or allocated by us, at any time, if in our reasonable opinion you have failed to comply with any of the provisions of these terms of use.
- (c) If you know or suspect that anyone other than you knows your user identification code or password, you must promptly notify us at [info@hyraiq.com](mailto:info@hyraiq.com).

## 4 Restrictions and prohibitions

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- (a) You must not (and must not permit any third party to):
  - (i) assign, sub-license, transfer, sell, lease, rent, charge or otherwise deal in Hyra iQ, make Hyra iQ available to any third party or use Hyra iQ to provide services to any third party (unless otherwise agreed);
  - (ii) copy, reproduce, decompile, disassemble, reverse compile or otherwise reverse engineer all or any portion of Hyra iQ, including any source code, object code, algorithms, methods or techniques used or embodied therein; or
  - (iii) permit any software or other program to be written or developed based on or derived from Hyra iQ.
- (b) You must not (and must not permit any third party to) use Hyra iQ:
  - (i) unless you are at least 18 years old;
  - (ii) in a way which is offensive, indecent, menacing, a nuisance or defamatory;
  - (iii) to send, knowingly receive, upload, download, store, display or use any material which is offensive, abusive, indecent, defamatory, obscene or menacing or which is in breach of copyright, confidence, privacy or any other third party right (including intellectual property rights);
  - (iv) in connection with the commission of any criminal offence, in an unlawful or fraudulent manner or in contravention of any legislation, laws, regulations, codes of practice, or licence conditions or in breach of any third party rights (including Intellectual Property Rights);
  - (v) to "spam" or to send or provide unsolicited advertising or promotional material or to knowingly receive responses from "spam" or unsolicited advertising or promotional material;
  - (vi) to knowingly upload or make available any virus, other malicious code or corrupt data or otherwise threaten the

- integrity or security of any computer (including by disclosing passwords); or
- (vii) in a way that has a material adverse effect on any telecommunications network.

## 5 Reliance on Hyra iQ

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- (a) We have no control over the information made available by Hyra iQ or its use.
- (b) We do not warrant that use of Hyra iQ will be uninterrupted or error-free.
- (c) Any information we provide is not intended to amount to advice on which you should rely.
- (d) We make no representations, warranties or guarantees, whether express or implied, that the content on Hyra iQ is accurate, complete or up-to-date.
- (e) If a contract is able to be executed from within Hyra iQ, it is your responsibility to ensure that it can be legally signed electronically.
- (f) We make no representations or warranties as to the legality, effectiveness or enforceability of digital signatures.
- (g) You are responsible for taking appropriate action to secure, protect and backup all information and data contained in Hyra iQ in a manner that will provide appropriate security and protection, which might include use of encryption to protect that information and data from unauthorised access and routinely archiving that information and data.
- (h) To the extent applicable, you consent to receiving all party communications through Hyra iQ for the purposes of Rule 33 *Australian Solicitors Conduct Rules* (Communication with another solicitor's client).

## 6 Suspension and termination rights

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- (a) We may suspend or terminate the provision of Hyra iQ to you (or any part of it) without having any liability to you:
  - (i) where there is (or we reasonably suspect there is) any unauthorised access to your network which may result in unauthorised access to the Supplier's network;
  - (ii) where you are (or we reasonably believe you are) subject to a cyber attack;
  - (iii) in order to take precautions in a situation where our systems or any of our third party service providers, or our customers, are at risk of or subject to a cyber attack;
  - (iv) in order to carry out emergency technical maintenance to any of our systems or any systems of our third party service providers;
  - (v) you are in breach of this Acceptable Use Policy; or
  - (vi) we receive a notice from a third party with a legitimate interest to be protected (including any regulatory body) requiring us to cease providing Hyra iQ to you or remove any content you are making available through Hyra iQ;
  - (vii) where your use of Hyra iQ:
    - (A) poses a security risk to us or any third party; or
    - (B) is likely to adversely impact our systems, Hyra iQ or the systems or data of any of our customers.
- (b) We reserve the right to suspend, terminate or vary Hyra iQ (or part of it) where it is required to do so by law, or at the direction of any court or governmental or other regulatory body.

## 7 We are not responsible for websites we link to

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Where Hyra iQ contains links to other sites (including banner advertisements and sponsored links) and resources provided by third parties, these links are provided for your information only. Such links should not be interpreted as approval by us of those linked websites

or information you may obtain from them. We have no control over the contents of those sites or resources, and you access third party websites entirely at your own risk and subject to the terms and conditions of use for those websites.

## **8 Intellectual property**

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- (a) We (or our licensors, as applicable) retain ownership of:
  - (i) all Intellectual Property Rights subsisting in Hyra iQ and Our Materials; and
  - (ii) any modification or enhancement to Hyra iQ or Our Material is deemed to form part of Hyra iQ or Our Materials (as applicable) and all Intellectual Property Rights in such modification or enhancement vest in us immediately from creation.
- (b) You acknowledge and agree that all Intellectual Property Rights in any Feedback you provide are owned by, and vest in, us upon creation.
- (c) You grant to us, for as long as you use Hyra iQ, a non-exclusive, global licence to use, reproduce and modify Your Material solely for purposes providing Hyra iQ (including to third parties in connection with Hyra iQ). This licence includes the right to sublicense.
- (d) You are solely responsible for all Your Material and, to the extent permitted by law, we are not liable in connection with any of Your Material.
- (e) We may collect, copy, transmit, analyse or otherwise use anonymised copies of Your Material (including without limitation, the use of Your Material, information concerning Your Material and data derived therefrom) to maintain and improve Hyra iQ. Once anonymous, such information is Our Material (and not Your Material).
- (f) Once uploaded to Hyra iQ, you acknowledge and agree that we are not responsible for controlling the use, copying, modification or export of Your Material. You further acknowledge and agree that such matters may be in control of a third party (such as the party that granted you with access to Hyra iQ).
- (g) You indemnify us against all loss, liability and damage (of any nature) suffered or incurred by us in connection with a claim by a third party that the use of Your Material infringes the Intellectual Property Rights of any third party.
- (h) Unless we agree otherwise, we have no obligation to return Your Material to you once you cease to use Hyra iQ.
- (i) Once you cease using Hyra iQ, we may retain a copy of Your Material for the purpose of complying with applicable law, litigation, and internal quality assurance and record-keeping (and will maintain confidentiality of that information, other than to the extent needed to give effect to this clause 8(i)).

## **9 Confidentiality**

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We are not responsible for arranging any obligations of confidentiality in respect of material that you provide in Hyra iQ. You may need to put in place additional obligations of confidentiality with users.

## **10 Limitation of liability**

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- (a) To the extent permitted by law, in no event will we, our affiliates or their licensors, service providers, employees, agents, officers or directors be liable for damages of any kind, under any legal theory, arising out of or in connection with your use, or inability to use, Hyra iQ, any websites linked to it, any content on Hyra iQ or such other services or items obtained through Hyra including any direct, indirect, special, incidental, consequential or punitive damages, including but not limited to, personal injury, pain and suffering, emotional distress, loss of revenue, loss of profits, loss of business or anticipated savings, loss of use, loss of goodwill, loss of data, and whether caused by tort (including negligence), breach of contract or otherwise, even if foreseeable.
- (b) If the *Competition and Consumer Act 2010* (Cth) or any other legislation states that there is a guarantee in relation to any good or service supplied by us in connection with this agreement, and our liability for failing to comply with

that guarantee cannot be excluded but may be limited, clause 10(a) (and any inconsistent limitation or exclusion expressed elsewhere in this agreement) does not apply to that liability and instead our liability for such failure is limited to (at the election our election), in the case of a supply of goods, replacing the goods or paying the cost of having the goods repaired or replaced or supplying equivalent goods or repairing the goods, or in the case of a supply of services, supplying the services again or paying the cost of having the services supplied again.

## **11 We are not responsible for viruses**

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We do not guarantee that Hyra iQ will be secure or free from bugs or viruses. You are responsible for configuring your technology to access Hyra iQ. You should use your own virus protection software.

## **12 Privacy**

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- (a) If you provide, disclose or otherwise make available to us (or our Personnel) any Personal Information, you must make all disclosures and obtain all consents required to ensure that:
  - (i) you are lawfully (including without breaching the Privacy Laws) able to provide, disclose or make available the Personal Information to us; and
  - (ii) we are lawfully (including without breaching the Privacy Laws) able to collect, store, use, disclose or otherwise deal with that Personal Information for the purposes of providing Hyra iQ and otherwise performing its obligations under this agreement and as described in our privacy policy.
- (b) We may use cookies (a small electronic file) to improve your experience while browsing, while also sending browsing information back to us. You may manage how you handle cookies in your own browser settings.

## **13 General**

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- (a) The laws of Queensland, Australia govern this agreement.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Queensland, Australia and courts competent to hear appeals from those courts.
- (c) You may not assign, in whole or in part, or novate your rights and obligations under or in connection with this agreement without our prior written consent.

## **14 Definitions**

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In this document, the following definitions apply:

- (a) **Feedback** means any ideas, feedback, suggestions, enhancement, feature requests, usage information insights or other similar information occurring understood by or provided to use during the use of Hyra iQ
- (b) **Intellectual Property Rights** means all industrial and intellectual property rights, both in Australia and throughout the world, and includes any copyright, moral right, patent, registered or unregistered trade mark, registered or unregistered design, trade secret, knowhow, right in relation to semiconductors and circuit layouts, trade or business or company name, indication or source or appellation of origin or other proprietary right, or right of registration of such rights;
- (c) **Our Material** means any material provided by, or to which access is given by, us to you for the purposes of this agreement but does not include Third Party Material.
- (d) **Personal Information** has the meaning given to that term in the Privacy Act.
- (e) **Personnel** means a party's employees, partners, secondees, directors, officers, contractors, professional advisers and agents.
- (f) **Privacy Act** means the *Privacy Act 1988* (Cth) and any ancillary rules, guidelines, orders, directions, directives, codes of conduct or other instruments made or issued there under, as amended from time to time.
- (g) **Privacy Laws** means:
  - (i) the Privacy Act;

- (ii) the Australian Privacy Principles (or APPs) contained in Schedule 1 of the Privacy Act; and
  - (iii) all other applicable laws, regulations, registered privacy codes, privacy policies and contractual terms in respect of the processing of Personal Information.
- (h) **Third Party Material** means any material provided by, or to which access is given by, a third party (such as another user of Hyra iQ).
- (i) **Your Material** means any material provided by, or to which access is given by, you to us for the purposes of this agreement but does not include Feedback.