

**29/04/2021 Document version 1.5**

## **Financial Inclusion Action Plan Program terms and conditions**

### **1. Background**

- 1.1 Good Shepherd Australia New Zealand (**GSANZ**) conducts a program known as the Financial Inclusion Action Plan (FIAP) Program (the **Program**) to facilitate the development of an agreed strategy of practical actions to improve financial inclusion by its Member organisations.
- 1.2 Your company, as identified on the invoice from GSANZ for the Subscription Fee (**Member**), wishes to join the Program and agrees to the terms and conditions contained in this letter.

### **2. Application of these terms and conditions**

- 2.1 These Program terms and conditions are an agreement between GSANZ and the Member and govern the Member's participation in the Program.
- 2.2 This agreement commences on the date these terms and conditions were accepted by an authorised representative of the Member by paying the invoice for the Subscription issued to the Member by GSANZ and continue for a period as stated on the invoice for the Subscription Fee, unless terminated earlier or renewed in accordance with these terms and conditions (**Term**).
- 2.3 In consideration for the services provided under this agreement and access to the FIAP Portal, a Subscription Fee for the period stated on the invoice for the Subscription Fee becomes due and payable by the Member on the first day of that period, subject to the receipt of a valid tax invoice from GSANZ.

### **3. Program eligibility**

- 3.1 In order to be eligible for the Program, the Member must be invited to and approved for the Program by the FIAP Membership Group.
- 3.2 The Member agrees to collaborate with GSANZ and provide its consent (acting reasonably and without delay) to any public announcements by GSANZ regarding the Member's acceptance into the Program and associated statements of commitment subject to prior review and written approval by Member of such public announcements and associated statements of commitment.

### **4. Program structure**

- 4.1 Once GSANZ has confirmed that the Member is eligible to participate in the Program, GSANZ will:
  - (a) make certain training and marketing materials available to the Member;
  - (b) give the Member access to specified GSANZ brand assets which may only be used in accordance with these terms and conditions;

- (c) provide the Member with FIAP Assistance.
- 4.2 As part of the Program, GSANZ and Member will collaborate to develop:
- (a) a draft Financial Inclusion Action Plan for the Member (with the assistance of professional advisors) that will not be made publicly available (**Draft Plan**); and
  - (b) a finalised Financial Inclusion Action Plan that may, once approved by GSANZ in writing, be made publicly available by GSANZ and the Member online or otherwise, subject to these terms and conditions (**Public Plan**).
- 4.3 GSANZ may at any time;
- (a) terminate the Program by providing notice to the Member;
  - (b) add or withdraw FIAP Assistance or other elements of the Program by providing notice to the Member;
  - (c) determine, acting reasonably and having regard to the Member's obligations under these terms and conditions, that the Member may no longer participate in the Program by providing notice to the Member.
- 4.4 The Member must, as soon as is reasonably practicable, notify GSANZ if any of the information provided by the Member to GSANZ necessary for the operation of the Program (including during the application process) changes, including names and details of key contacts, contact information and Users.
5. **GSANZ logos**
- 5.1 During the Term, GSANZ grants the Member a limited royalty-free, non-transferable, non-exclusive, non-sublicensable licence to reproduce on the Member's website and other promotional material, the GSANZ logos made available to the Member (**Logos**), for the purposes of developing, implementing, and communicating the FIAP Program, the FIAP Plan and other related activities that are incidental for the FIAP Program and FIAP Plan.
- 5.2 The Member must (and must ensure its Personnel) comply with the GSANZ Brand Guidelines as set out in these program terms.
- 5.3 GSANZ may update the Logos from time to time. The Member must (and must ensure its Personnel) use reasonable endeavours to use the most up to date version of the relevant Logo and update any existing materials accordingly.
6. **Member logos**
- 6.1 If the Member supplies GSANZ with its Member Logo and the Member Brand Guidelines, during the Term, the Member grants GSANZ a limited royalty-free, non-transferable, non-exclusive, non-sublicensable licence to reproduce on GSANZ's website and other promotional material directly related to the Program, the Member's Logo made available to GSANZ, for the sole purposes of the Program. Any goodwill and any other right, title or interest that arises or accrues from use of the Member Logos by GSANZ inures to the benefit of the Member. The Member may withdraw this licence at any time on written notice to GSANZ.
- 6.2 GSANZ must (and must ensure its employees, officers, agents and representatives) (a) comply with the Member Brand Guidelines provided to GSANZ (as updated from time to time) and any directions provided by the Member from time to time (including, but not limited to, the colour, font and size of the Member Logo); (b) reproduce the colour, design and appearance of the Member Logo fully and accurately; (c) not misuse, modify, amend or otherwise alter the Member's Logo; and seek the prior

written consent of the Member, before applying the Member Logo to GSANZ's website or any materials.

- 6.3 GSANZ must not (and must ensure its employees and officers do not) use any Member Logo other than as set out clause 6.2 or in any company, business or domain name.
- 6.4 The Member may update the Member Logo from time to time. GSANZ must (and must ensure its employees, officers, agents and representatives) use the most up to date version of the Member Logo and must update any existing materials accordingly.
- 6.5 The Member may terminate this agreement and the licence granted pursuant to clause 6.1 immediately if the Member considers that GSANZ has breached this clause 6.
- 6.6 GSANZ acknowledges that the Member makes no warranties either express or implied in relation to the Member Logo including no warranties in relation to fitness for purpose, suitability or non-infringement and that the Member accepts no responsibility in relation to GSANZ's use of the Member Logo.
- 6.7 GSANZ will not challenge or in any manner impugn the validity or the registration of the Member Logo, its ownership by the Member or the exclusive right of the Member to take appropriate measures for the protection of the Member Logo.
- 6.8 GSANZ acknowledges that (a) all intellectual property rights in the Member Logo are owned by the Member and this agreement does nothing to alter such ownership; (b) GSANZ has no right, title or interest in the Member Logo other than the rights granted by this agreement; and (c) all goodwill or other right, title or interest arising from use of the Member Logo are fully owned by the Member.

## 7. **FIAP Assistance**

- 7.1 As part of the Program, GSANZ will make available certain FIAP Assistance to the Member. The FIAP Assistance available to the Member under the Program may vary from time to time in accordance with the provisions of these terms and conditions.
- 7.2 GSANZ may require that the Member agree to additional terms and conditions prior to receiving additional FIAP Assistance. If this occurs:
  - (a) GSANZ will notify the Member of the additional terms and conditions; and
  - (b) the Member may choose to either accept or reject the additional terms and conditions.

If Member rejects the additional terms and conditions, GSANZ reserves the right to not provide the additional FIAP Assistance.

- 7.3 The Member acknowledges and agrees that GSANZ may also make FIAP Assistance available to other participants in the Program that may differ from the FIAP Assistance GSANZ makes available to the Member as part of the Program.

## 8. **FIAP Portal**

- 8.1 The Member acknowledges and agrees that full participation in the Program and access to FIAP Assistance may be dependent on the Member and its Users accessing the FIAP Portal.
- 8.2 The Member agrees that each of its Users will comply with these terms and conditions.

## 9. **Use of information by GSANZ**

- 9.1 The Member will provide GSANZ with reasonable assistance to obtain the necessary consents (for the purposes of the *Privacy Act 1988* (Cth) and any other applicable legislation) to GSANZ collecting,

using and disclosing personal information in accordance with this clause 9 and GSANZ's Privacy Policy available at <https://www.goodshep.org.au/privacy/>

9.2 Without limiting clause 9.1 or 9.3, the Member consents to GSANZ collecting, using and disclosing personal information about any Personnel of the Member directly involved in the FIAP Program as follows:

- (a) for the purposes of administering the Program;
- (b) to provide the Member with promotional, informational or marketing materials concerning GSANZ or the Program;
- (c) for the purposes of providing invitations to industry events, reporting on attendance and seeking feedback;
- (d) to contact the Member's Personnel for the purposes of the Program;
- (e) to facilitate introductions between the Member and other participants in the Program, advisory service providers and evaluation Members; and
- (f) for any purpose reasonably related to any of the above.

9.3 Without limiting clause 9.1, GSANZ will collect personal information of Users to facilitate and manage access to the FIAP Portal. Without the information, GSANZ may not be able to give the User access to the FIAP Portal. GSANZ may disclose such personal information to its related entities and to service providers who assist it to provide the FIAP Portal.

## 10. **Privacy**

10.1 The parties agree to comply with the *Privacy Act 1988* (Cth) as if they are an entity subject to the Australian Privacy Principles and any other applicable laws in their handling of any personal information created, provided, collected or accessed in relation to the Program (Data Protection Legislation).

10.2 In respect of any personal data provided by Member to GSANZ, or collected, created or processed by GSANZ pursuant to this agreement or GSANZ's activities (**Member Personal Data**):

- (a) GSANZ must provide written notice to the Member promptly, and in any event within 24 hours, after it becomes aware of a breach or suspected breach of the Data Protection Legislation or any data breach or incident (or suspected data breach or incident) which may affect individuals to whom the Member Personal Data relates or which may require notification or some other action under the applicable Data Protection Legislation. GSANZ must promptly take appropriate remedial action to mitigate any loss or interference with privacy flowing from the breach, and cooperate with and provide all reasonable assistance to the Member for the purpose of ensuring that the Member complies with the Data Protection Legislation and any directions or the requirements of any regulator in dealing with the breach;
- (b) process Member Personal Data only for the purposes of and to the extent required in performing its obligations under this Agreement or otherwise on the written instructions of the Member;
- (c) not, except with the prior written consent of the Member, disclose, provide, transfer or otherwise disseminate Member Personal Data to any third party or process outside, or disclose, provide, transfer or otherwise disseminate the Member Personal Data outside the jurisdiction from which the Member Personal Data is obtained; and
- (d) promptly notify the Member in writing of any request made by a third party for access to Member Personal Data.

11. **Security**

11.1 The Member:

- (a) must ensure that any logins and passwords that are used by Users to access the FIAP Portal and the details of the User's account are kept in a safe and secure manner, and that Users practice good password management (such as using unique passwords that are changed on a regular basis);
- (b) must ensure that Users comply with this agreement and will be liable for those acts or defaults of a User as if they were the acts or defaults of the Member;
- (c) must notify GSANZ immediately if the Member is or becomes aware that there is or has been an unauthorised access to or use of any User login and password or account, or any other security breach relating to their account on the FIAP Portal; and
- (d) is responsible and liable for the acts or defaults of any person that uses any User login and password to gain access to the FIAP Portal as if they were acts or defaults of the Member, unless such access has been obtained by malicious means outside of the User's or Member's reasonable control.

11.2 The Member acknowledges and agrees that GSANZ may monitor the User's access and use of the FIAP Portal.

12. **Materials, Plans and Supporting Information**

12.1 During the Term, GSANZ grants the Member a limited royalty-free, non-transferable, non-exclusive, non-sublicensable licence to use and reproduce training, frameworks, methodologies, marketing and other data and materials made available to the Member via email or over the FIAP Portal, (**Materials**), excluding any Materials contained within a Public Plan, solely for internal reference purposes to assist the Member in developing implementing or communicating a Draft Plan and related activities and, unless otherwise permitted by GSANZ, the Member must not use the Material for any other purpose or disclose, reproduce or make Material available to a third party or member of the public, including the Member's clients.

12.2 During the Term, the Member grants to GSANZ a limited royalty-free, non-transferable, non-exclusive, sub-licensable licence to use any data and other materials provided by the Member to GSANZ for the purpose of the Program.

12.3 Ownership of a Public Plan shall vest with the Member. Notwithstanding clause 12.2, the Member grants to GSANZ an exclusive, perpetual, royalty-free, sub-licensable licence to use the Public Plan in connection with the Program, including for the purpose of progress verification, evaluation, communication or analysis.

12.4 Notwithstanding clause 12.2, the Member agrees that GSANZ approval is required for any material amendments to a Public Plan.

12.5 The Member agrees to provide GSANZ and grants GSANZ the right use any data reasonably necessary for the purpose of evaluating, analysing and communicating in an anonymised form the impact and effect of the Program.

12.6 The obligations and rights in clauses 12.3, 12.4 and 12.5 survive termination or expiry of these terms and conditions.

12.7 The Member remains the sole owner of all data and other materials disclosed by the Member to GSANZ or created by GSANZ on behalf of the Member (**Member Data**), regardless of the storage device upon which such data is maintained. Member Data must be delivered to the Member upon the Member's request and at the expiry or termination of this agreement at no cost and in an agreed

format. Notwithstanding anything set out in this agreement, the fact that Member Data and the Member's Confidential Information may be disclosed to GSANZ does not give or create any proprietary right or interest for GSANZ or any third party in any part of the Member Data and Member's Confidential Information and the Member at all times retains all rights, including intellectual property rights, in all such Member Data and Member's Confidential Information. GSANZ is not permitted to disclose any Member Data or Member's Confidential Information except where permitted under this agreement or with the prior written consent of the Member.

### 13. **Intellectual Property**

- 13.1 The Member has no right to or title in any GSANZ Brand (or the Material) except as set out in these terms and conditions. Any goodwill and any other right, title or interest that arises or accrues from use of the Logos by the Member inures to the benefit of GSANZ.
- 13.2 The Member acknowledges and agrees that, as between the Member and GSANZ, GSANZ owns all right, title and interest in all Intellectual Property in the Material to the extent that the Materials do not exist as part of a Public Plan. If either party becomes aware of a claim that the Materials or any part of the Materials or their use in accordance with these terms and conditions infringes the Intellectual Property of any third party, it must promptly notify the other party in writing together with details of the claim.
- 13.3 GSANZ grants the Member a non-exclusive, royalty-free licence to use any Intellectual Property in the Materials during the Term for any purpose related to the Program, including to advise on products or services for end users.
- 13.4 Subject to the limited use rights granted to the Member under these terms and conditions, all powers that would otherwise be conferred on authorised users by s26 of the *Trade Marks Act 1995* (Cth) are expressly excluded.
- 13.5 The Member must comply with all applicable laws and regulations, including consumer law, product and other standards, in relation to the services in connection with which the Member uses the Logos. The grant of the licence in clause 12.1, does not constitute sponsorship, endorsement or certification by us of the Member or the service in relation to which the Member uses a Logo and the Member must not imply otherwise.
- 13.6 The Member must not at any time use, register, challenge or oppose any GSANZ Brand, or any Similar Brand or assist any third party to do any of those things or, by act or omission, use any GSANZ Brand in any manner that may damage the goodwill or reputation associated with the GSANZ Brands or GSANZ's business or reputation. In these terms and conditions, "**Similar Brand**" means any name, trade mark (whether registered or not), logo, slogan or graphic which contains or is substantially identical with or deceptively similar to any GSANZ Brand.
- 13.7 If in GSANZ's opinion, the Member's use of any Logo does not comply with these terms or a direction or guideline for use of the Logo, the Member must at its expense, correct that use to GSANZ's reasonable satisfaction.
- 13.8 The Member must notify GSANZ immediately if the Member becomes aware of any unauthorised third party use of or attempt to register any GSANZ Brand or any Similar Brand.

### 14. **Publicity**

- 14.1 Subject to clauses 3.2 and 14.2, neither party may issue any media release, promotional material or publicity in connection with this agreement without the prior written consent of the other party, such consent not to be unreasonably withheld.
- 14.2 Nothing in clause 14.1 requires GSANZ to obtain consent from the Member in relation to disclosures permitted under clause 15.2 or reports and other materials that do not specifically refer to the Member or contain facts about the Member's activities in connection with the Program only.

15. **Additional obligations**

15.1 Each party must not, and must ensure that its Personnel do not:

- (a) represent, whether expressly or by implication, that:
  - (i) its products or services are endorsed by the other party; or
  - (ii) it is providing advice on behalf of the other party;
- (b) behave or engage in any conduct or activity that:
  - (i) will materially harm, or is likely to materially harm, the other party or the other party's name, reputation, products or services;
  - (ii) is misleading or deceptive, or likely to mislead or deceive;
  - (iii) is offensive, corrupt, disreputable or illegal; or
  - (iv) may bring the other party into disrepute, contempt, scandal or ridicule.

15.2 The Member agrees that nothing in clause 15.1, shall limit GSANZ's right to factually report on the activities of Members in relation to their participation in the Program or their other activities in connection with this agreement.

15.3 For the avoidance of doubt, a breach of clause 15.1 will be considered a failure for the purposes of clause 19.2(b) and a party may terminate this agreement if the failure cannot be remedied in accordance with clause 19.2(b)(ii).

15.4 Each party must ensure that its employees and contractors, including all Users, comply with these terms and conditions, and is liable for the acts and omissions of its employees and contractors, as though they were the acts and omissions of that party.

15.5 If GSANZ becomes aware of or suspects that the conduct of the Member or a User with respect to the FIAP Portal, Logos or Materials is in breach of these terms and conditions or any other applicable terms, GSANZ may take any reasonable remedial action to prevent such breaches, including suspending User access to the FIAP Portal or use of the Logos or Materials.

15.6 The Member agrees that GSANZ may conduct reasonable due diligence, including reasonable audits and inspections of the use by the Users of the FIAP Portal and any materials containing the Logos, to confirm that the User's access to and use of the FIAP Portal and the Member's use of the Logos will not be or is not inconsistent with these terms and conditions. The Member agrees that upon reasonable request by GSANZ, it will provide at its cost samples of the Member's use of the GSANZ Brand to GSANZ, and GSANZ shall be under no obligation to return such samples. Each party shall otherwise bear their own costs for compliance with this clause 15.6.

15.7 If the Member becomes aware of or suspects that the conduct of GSANZ with respect to the Logos or Member Data is in breach of these terms and conditions or any other applicable terms, the Member may take any reasonable remedial action to prevent such breaches.

15.8 GSANZ agrees that the Member may conduct reasonable due diligence, including reasonable audits and inspections of the use by GSANZ of the Member Data and any materials containing the Member Logos, to confirm that such use will not be or is not inconsistent with these terms and conditions.

15.9 GSANZ must comply with all applicable laws, regulations and other similar instruments and any other rules, instruments or provisions in force from time to time applicable to GSANZ's activities.

16. **Indemnity and liability**

- 16.1 The Member indemnifies GSANZ against any Loss which it suffers, incurs or is liable for arising out of or in connection with a breach by the Member, Users or its Personnel of these terms and conditions to the extent that such Loss was not caused or contributed to by GSANZ.
- 16.2 Subject to clause 17.4, GSANZ indemnifies the Member against any Loss which it suffers, incurs or is liable for arising out of or in connection with:
- (a) a breach by GSANZ or its Personnel of these terms and conditions; or
  - (b) any claim by a third party that GSANZ or its Personnel has breached the Intellectual Property of the third party,
- to the extent that such Loss was not caused or contributed to by the Member or its Personnel.
- 16.3 To the full extent permitted by law, any liability of a party to the other party for any Loss or Claim in connection with or relating to this agreement is limited, in aggregate, to the amount of the Subscription Fees.
17. **GSANZ liability**
- 17.1 Any goods or services supplied by GSANZ to the Member under this agreement may come with consumer guarantees (**Consumer Guarantees**) that cannot be excluded under the Australian Consumer Law.
- 17.2 Except as required of GSANZ under the Consumer Guarantees, GSANZ provides no other warranty, guarantee or assurance, express or implied, to the Member in relation to goods or services provided in connection with this agreement, and the Member acknowledge that it is reasonable for GSANZ not to do so.
- 17.3 GSANZ's liability for failure to comply with a Consumer Guarantee in respect of the goods or services is limited to:
- (a) in respect of goods supplied to a Member, to the replacement of the relevant goods or repair of the relevant goods; or
  - (b) in respect of services supplied to a Member, the supply of the relevant services again.
- 17.4 To the full extent permitted by law, GSANZ has and is under no liability (whether in negligence or otherwise) to the Member, its Personnel or Users for any losses, costs, damages, expenses or any other liabilities suffered or incurred by the Member, its Personnel or Users in connection with:
- (a) the unavailability of the FIAP Portal;
  - (b) any loss of data; or
  - (c) the use or reproduction of the Logos or Materials by the Member other than in accordance with this agreement.
18. **Confidentiality**
- 18.1 The parties must keep confidential, and not disclose, any Confidential Information of the other party except:
- (a) as permitted by these terms and conditions;
  - (b) where the party has obtained the other party's prior written permission;



- (c) to the party's Personnel, professional advisers, subcontractors and insurers but only to the extent that such persons have a need to know the Confidential Information for the purposes of these terms and conditions;
- (d) to the party's Related Corporations but only to the extent that such Related Corporations have a need to know the Confidential Information for the purposes of these terms and conditions;
- (e) to the party's auditors; or
- (f) where the party is compelled to do so by law or the rules of any stock exchange on which the Member's or its Related Corporation's securities are listed, provided that (to the extent permitted by law) it gives the other party written notice prior to disclosure.

18.2 Before disclosure of the other party's Confidential Information, a party must

- (a) in the case of disclosure to the party's officers and employees, direct such officers and employees to keep confidential all Confidential Information of the disclosing party; or
- (b) in the case of other persons to whom Confidential Information may be disclosed in accordance with this clause 18, procure that such persons agree in writing to comply with no less onerous obligations in respect of the Confidential Information as those imposed on the party under these terms and conditions.

18.3 The parties must only use the other party's Confidential Information for the purpose for which it was disclosed in connection with these terms and conditions.

18.4 If any Confidential Information which is the subject of legal professional privilege is disclosed by a party to the other party such disclosure is not intended to constitute a waiver of that privilege.

18.5 The obligations of this clause 18 survive termination or expiry of these terms and conditions.

## 19. **Termination**

19.1 The Member or GSANZ may terminate these terms and conditions by written notice to the other party, by giving 30 days' notice.

19.2 Either party may terminate these terms and conditions with immediate effect upon written notice to the other party if:

- (a) an Insolvency Event occurs in relation to the other party;
- (b) the other party fails to comply with any of its obligations under this document and:
  - (i) that failure is not capable of remedy; or
  - (ii) the failure is capable of remedy but is not remedied within 10 Business Days after a notice from that party requiring the other party to remedy the failure.

19.3 The Member may terminate this agreement with immediate effect upon written notice to GSANZ if:

- (a) there is a change in control of GSANZ;
- (b) GSANZ does anything that materially damages the brand or reputation of the Member or GSANZ's use of the Member Logo materially compromises or damages the reputation or goodwill of the Member; or

- (c) The Member reasonably forms the view that the continuation of this agreement, the receipt of services from GSANZ or the Member's membership in the Program breaches, or is likely to breach any applicable law or order or direction made by a court or regulator.

19.4 At the end of the Term the Member must, upon request by GSANZ, cease all use of Logos, Materials and Confidential Information and destroy, permanently delete or return, at GSANZ's election and the Member's expense, all:

- (a) materials and works bearing the Logos in the Member's control or possession; and
- (b) Confidential Information;

except to the extent that such materials, works and Confidential Information are contained within a Public Plan or are contained or recorded on routine-back up or storage tapes which are not readily accessible.

19.5 At the end of the Term GSANZ must, at the Member's request, cease all use of Member Logos, Member Data and Member's Confidential Information and destroy, permanently delete or return, at Member's election and GSANZ's expense, all:

- (a) materials and works bearing the Member Logos in GSANZ's control or possession; and
- (b) Member Data and Member's Confidential Information

## 20. **Disputes**

- (a) Any Dispute which arises must be dealt with in accordance with this clause 20. The parties must continue to perform their obligations under this agreement despite the existence of any Dispute.
- (b) Nothing in this clause 20 prejudices either party's right to commence legal proceedings to seek urgent injunctive or urgent declaratory relief in respect of a Dispute.
- (c) If a Dispute arises then either party may, by written notice to the other party, refer the Dispute to senior representatives of the parties for resolution. The notice must expressly state that it is a notice under this clause 20(c) and set out reasonable particulars of the Dispute.
- (d) The parties must ensure their senior representatives confer with each other in person, by phone or video conference within 10 Business Days after a Dispute is referred to them (or such later date as the parties agree in writing) and, acting in good faith, seek to resolve the Dispute. Each party must ensure that its senior representative has authority to resolve the Dispute.

## 21. **Assignment**

21.1 Neither party may assign or otherwise transfer any of its rights, obligations or licenses under this agreement without the prior written consent of the other party, except to an affiliate of the party, such consent not to be unreasonably withheld.

21.2 GSANZ may assign or transfer any of its rights or obligations under this agreement at any time by providing notice to the Member (**Assignment Notice**). The Member may terminate this agreement within 30 days of receipt of an Assignment Notice by giving written notice to GSANZ, such termination to be effective immediately or as otherwise specified by the Member.

## 22. **Notices**

22.1 Any notice or other communication under or in connection with this agreement shall be in writing and shall be emailed to the party due to receive the notice or communication as follows:

(a) to GSANZ at:

email: [fiap@Gsmcrofinance.org.au](mailto:fiap@Gsmcrofinance.org.au) or [fiap@fiap.org.au](mailto:fiap@fiap.org.au)

(b) to the Member at:

The email address supplied to GSANZ and stated on the invoice for the Subscription Fee.

22.2 A notice that complies with this clause 22 is regarded as given and received at the time it was sent unless the party sending the email knows or reasonably ought to suspect that the email and the attached communication were not delivered to the addressee's domain specified in the email address in the contact details, except that if such time is on or after 5.00pm on a Business Day or not on a Business Day, then it will be given and received on the next Business Day.

23. **Governing law**

23.1 This document will be governed by and construed in accordance with the laws in force in Victoria, and the parties unconditionally submit to the jurisdiction of the courts of Victoria.

24. **Defined terms**

**Business Day** means a day other than a Saturday, a Sunday or a public holiday in Victoria.

**Confidential Information** means, information of a confidential nature including information about a parties business, operations, strategy, administration, technology, affairs, clients, customers, employees, contractors or suppliers, but does not include any information which, without a breach of these terms of conditions,:

- (a) is, or becomes generally available in the public domain;
- (b) was already in the recipient's lawful possession prior to disclosure in connection with these terms and conditions;
- (c) has been independently developed or acquired by the receiving party; or
- (d) the recipient develops independently.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Dispute** means any dispute, controversy or difference between the parties arising out of, relating to or in connection with this agreement including any dispute, controversy or difference as to the formation, validity, existence or termination of these terms and conditions.

**Draft Plan** has the meaning given in clause 4.2(a)

**FIAP Assistance** means the assistance provided by GSANZ to the Member from time to time, for example workshops and access to professional advisors for the purpose of developing Draft Plans and Public Plans, and the Program as a whole.

**FIAP Portal** means the website managed by GSANZ for the facilitation of the Program as notified by GSANZ.

**GSANZ Brand** means the Logos and any other brands specified in the GSANZ Brand Guidelines, including any names, trade marks (whether registered or not), logos, slogans or graphics comprised in those brands and any other brand notified by GSANZ to the Member in writing from time to time.

**GSANZ Brand Guidelines** means the GSANZ brand guidelines as published on the FIAP Portal or otherwise notified to the Member as amended from time to time.

**Insolvency Event** means, for a person:

- (a) being in liquidation or provisional liquidation or under administration;
- (b) having a controller (as defined in the Corporations Act) or analogous person appointed to it or any of its property;
- (c) being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;
- (d) being unable to pay its debts or being otherwise insolvent;
- (e) taking any step that could result in the person becoming an insolvent under administration (as defined in section 9 of the Corporations Act);
- (f) entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors; or

any analogous event to those set out in (a) to (f) under any applicable laws.

**Intellectual Property** means all intellectual property rights in Australia and throughout the world, including:

- (a) patents, copyright, rights in circuit layouts, registered designs, trade or service marks, trade, business or company names, logos and indication of source or appellation of origin;
- (b) any application or right to apply for registration of, or assert or waive, any of the rights referred to in paragraph (a); and
- (c) trade secrets, ideas, concepts, materials, know-how and techniques.

**Logo** has the meaning given in clause 5.1.

**Loss** means any loss, damage, liability, charge, expense, outgoing, cost, fine, payment (including all legal and other professional costs on a full indemnity basis) of any nature.

**Materials** has the meaning given in clause 12.1.

**Member** has the meaning given in clause 1.2. .

**Member Brand Guidelines** means the guidelines which apply to use of the Member Logo as provided to GSANZ from time to time in accordance with clause 6.

**Member Logo** means the logo provided by the Member to GSANZ in accordance with clause 6.1.

**Personnel** means employees, officers, contractors, agents and representatives.

**Public Plan** has the meaning given in clause 4.2(b).

**Related Corporation** in relation to a body corporate means any body corporate which under section 9 of the Corporations Act is a related body corporate of that body corporate.

**Similar Brand** has the meaning given in clause 19.2.

**Subscription Fee** means the fee notified to the Member by GSANZ in writing for participation in the program for the period that is stated on the invoice for that fee.

**User** means employees, contractors or representatives of the Member that the Member has authorised to access the FIAP Portal on their behalf.

The provision of an invoice for the Subscription Fee to the Member constitutes a legally binding offer by GSANZ on the terms of this letter. By paying the Subscription Fee, the Member agrees to be bound by these Program terms and conditions.