
MYOB AccountRight

Terms of Use

June 2016



1. ABOUT THESE TERMS

These are the terms and conditions for our supply of MYOB AccountRight to you, including our obligations to each other (**Terms**).

If you accept these Terms in Australia, these Terms do not exclude, restrict or modify:

- a. the application of any provision of the Australian Consumer Law (whether applied as a law of the Commonwealth or any State or Territory of Australia) (ACL);
- b. the exercise of any right or remedy conferred by the ACL; or
- c. the liability of MYOB for a failure to comply with any applicable consumer guarantees where to do so would:
 1. contravene the ACL; or
 2. cause any part of these Terms to be void.

Definitions

Some words in these Terms have particular meanings:

ATO means the Australian Taxation Office.

Bank Feeds means MYOB BankFeeds, the service which enables you to electronically receive daily or monthly updates of transaction details for nominated Business accounts, including bank accounts and credit cards.

Bank Feeds Data means the transaction information relating to any account linked to Bank Feeds, which is available for you to access as part of MYOB AccountRight.

Business means the business for which the application is made and accepted for MYOB AccountRight.

Data Supplier means the organisation(s) that you have authorised to supply us with Bank Feeds Data, including your bank and other nominated financial institutions.

Fair Use Policy means the MYOB BankFeeds Fair Use Policy for [Australia](#) and [New Zealand](#), respectively.

Fees means the fees and charges relating to the provision of MYOB AccountRight, as notified to you from time to time and as published on our website at myob.com.au/accountright (Australia) or myob.co.nz/accountright (New Zealand), including any fees charged under the Fair Use Policy for [Australia](#) and [New Zealand](#), respectively.

Inland Revenue means the Inland Revenue Department of New Zealand.

Loss or Claim means any loss, liability, action, proceeding, damage, cost or expense (including all reasonable legal costs and expenses), including liability in tort and consequential and economic losses.

Microsoft means Microsoft Regional Sales Corporation and Microsoft Operations Pte. Ltd, and includes any successor, assignee or replacement organisations.

Minimum Term means the initial minimum 12 month term for your MYOB AccountRight subscription, that you agree to when you purchase MYOB AccountRight via our online shopping cart or other point of purchase.

MYOB AccountRight means any of the services, features or functionality that form part of MYOB AccountRight which we make available to you from time to time and which you choose to use as part of your MYOB AccountRight subscription. This includes any online ("Live") services and Bank Feeds.

Other Application means an application or service developed by a third party to integrate and be used in conjunction with MYOB AccountRight.

Personal Information means that term as defined in the Privacy Act. Basically, this is information about an identifiable individual.

Privacy Act means the Privacy Act 1988 (Cth) (if you accept these Terms in Australia) or the Privacy Act 1993 (if you accept these Terms in New Zealand) as updated, amended or replaced from time to time.

Professional Partner means a person who provides bookkeeping, accounting or similar services to the Business, and who may be appointed as a User.

Tax Laws means the Taxation Administration Act 1953 (Cth) (if you accept these Terms in Australia) and Tax Administration Act 1994 (if you accept these Terms in New Zealand) as updated, amended or replaced from time to time, and any binding regulation, ruling or direction issued by the ATO or Inland Revenue (as applicable) from time to time.

Third Party means any person we have contracted with to help us provide MYOB AccountRight. This may include Microsoft, and all other service providers engaged by us for the delivery, maintenance and administration of MYOB AccountRight. In the case of Bank Feeds, any Data Supplier that you authorise to provide Bank Feeds Data to us is also a Third Party under these Terms.

User means a person authorised to use MYOB AccountRight (including a Professional Partner). MYOB AccountRight is a multi-user system.

We, us and our means MYOB Australia Pty Ltd ACN 086 760 198 (if you accept these Terms in Australia) and MYOB NZ Limited, Company Number 902338 (if you accept these Terms in New Zealand).

You means the Business, including each User.

2. GENERAL TERMS

2.1 Services and Minimum Term

- a. **Supply** – We agree to supply, and you agree to use, MYOB AccountRight on the terms and conditions set out in these Terms.
- b. **Minimum Term** – Your initial subscription to MYOB AccountRight will be for the Minimum Term (12 months). Following the expiry of the Minimum Term, your subscription will operate on a monthly or annual basis. See section 2.5.c.2 for more details.

2.2 Protecting your username and password

- a. Unless you take adequate security precautions, it could be possible for an unauthorised person to gain access to your MYOB AccountRight service. It is important to take all reasonable precautions to ensure that your username and password are not misused, and remain secure and confidential. In particular:
 1. you must not tell anyone your username or password, including any member of your family;
 2. you must not let anyone else, whether acting as your agent or not, access MYOB AccountRight using your username and password; and
 3. you must be extra careful when accessing MYOB AccountRight from public computers.
- b. If you think anyone else might know your password you should reset your password from within MYOB AccountRight, or contact us as soon as possible to arrange a new password.
- c. You agree to be liable if your login details are used by an unauthorised person.

2.3 Other responsibilities you have as a User

- a. **No interference with MYOB AccountRight** – You will not:
 1. interfere with the operation of MYOB AccountRight;
 2. reverse-engineer, reverse-assemble, decompile, or otherwise attempt to discover source code, formulas or processes in respect of the software behind MYOB AccountRight;
 3. copy, reproduce, alter, modify, create derivative works, or publicly display, any part of any content from MYOB AccountRight, except where we have given you permission;
 4. use MYOB AccountRight in way that is prohibited by law, regulation or government order in any relevant jurisdiction, or in a way that violates a third party's legal rights;
 5. use MYOB AccountRight in a way that could harm or impair anyone else's use of it;
 6. use MYOB AccountRight to gain unauthorised access to any service, data, account or network by any means;
 7. falsify any protocol or email header information (e.g. spoofing);

8. upload any material (including pdf. files) into MYOB AccountRight which:
 - › is harmful, threatening, abusive, vulgar, obscene or otherwise objectionable;
 - › contains Personal Information of any other person, without that person's express or implied consent;
 - › infringes on the intellectual property rights of any other party; or
 - › contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software, hardware or telecommunications equipment.
9. use MYOB AccountRight to send "spam" or otherwise make available any offering designed to violate these Terms; or
10. remove, modify, tamper with any regulatory or legal notice or link that is incorporated into MYOB AccountRight.

b. Cooperation and limited authority in relation to Third Parties – You:

1. must do all things we consider reasonable and appropriate to enable us to fulfil our obligations to Third Parties in relation to MYOB AccountRight, including, in the case of Bank Feeds, giving your Data Supplier the necessary authority to provide Bank Feeds Data to us; and
 2. authorise us to give a Third Party or other person any authority, consent or instruction in respect of MYOB AccountRight, as reasonably required to enable us to provide MYOB AccountRight to you.
- c. **Compliance with Tax Laws** – It is your responsibility to retain your business records for tax compliance purposes. We are not liable for your failure to meet your retention obligations under the Tax Laws, in relation to any data that you input into MYOB AccountRight. If you decide to terminate MYOB AccountRight we strongly advise you to extract your data in its entirety as soon as possible following termination (see section 6.3 for further details). For specific advice regarding your compliance obligations under the Tax Laws, please consult your professional advisor, the [ATO](#) or [Inland Revenue](#) as appropriate.
 - d. **Giving access to other Users** – If you are listed as the owner of the Business or the authorised administrator for your subscription, you can authorise other people (including Professional Partners) to have access to your MYOB AccountRight data as Users. Subject to the access rights you grant, they will be able to view and modify your data. Their use of MYOB AccountRight is subject to these Terms, so we suggest that you provide them with a copy. You are responsible for their use of MYOB AccountRight. You can stop or change their access rights by updating your User list within MYOB AccountRight or by contacting us.
 - e. **Change of details** – You must let us know of any changes to your details which you have provided to us in relation to MYOB AccountRight, and provide any proof of the change we require.

2.4 Use of MYOB AccountRight and our intellectual property

- a. **What you can do** – Until your use of MYOB AccountRight is terminated, you have a non-exclusive and non-transferable licence to use MYOB AccountRight in the way that we authorise from time to time.
- b. **We retain our intellectual property rights** – Except where specifically set out in these Terms, these Terms do not give you any intellectual property or other rights in any of our:
 1. software, documents, templates, marketing material, trademarks, business names, logos, trading styles, get-up, processes or methodologies; or
 2. other intellectual property, and you (including your staff, agents or contractors) must not otherwise use, reproduce or modify these intellectual property rights.
- c. **Third Party intellectual property rights** – These Terms do not give you any intellectual property or other rights in any of the software or other intellectual property supplied by any Third Party as a part of MYOB AccountRight, and you (including your staff, agents or contractors) must not otherwise use, reproduce or modify these intellectual property rights.

2.5 Payment of Fees and direct debit authority

This section applies to you if you are responsible for paying the Fees for your MYOB AccountRight subscription. If another person (for example, a Professional Partner) is responsible for paying the Fees in relation to your use of MYOB AccountRight, and they stop paying us, then you will need to pay the Fees to continue your use of MYOB AccountRight, in compliance with this section. If you accept these Terms in Australia, please see the MYOB Direct Debit Terms and Conditions for Purchasing Online in Australia for [more details on your direct debit authority](#).

- a. **Payment of Fees** – You must pay all Fees due to us in relation to your use of MYOB AccountRight on the due date and otherwise in compliance with any payment terms you have entered into with us.
- b. **Changes to Fees** – By giving you at least 20 days' notice before the change takes effect, we may:
 1. change the amount of any Fee and introduce a new Fee; and
 2. change the circumstances in which, or frequency with which, a Fee is payable.

Section 9 tells you about the ways in which we can give you notice.

c. Termination rights –

1. If we make a change under section 2.5.b above, then you have the option to terminate your MYOB AccountRight subscription. See section 6.1 for more details.
2. If you terminate your MYOB AccountRight subscription before the end of the Minimum Term, then you must pay the Fees for the remainder of the Minimum Term. This section 2.5.c.2 does not apply to any claims honoured under the [MYOB Money Back Guarantee](#), or [if you terminate your subscription under section 6.1](#).

- d. **Direct debit authorisation** – You authorise us to deduct the periodical instalments and any other Fees payable to us in respect of your use of MYOB AccountRight (including any Fees payable under the Fair Use Policy). You give us this authority by providing us with your credit card or other payment details. The authority continues after the end of the Minimum Term until your MYOB AccountRight subscription is terminated in accordance with these Terms.

e. If your direct debit is declined –

1. if your Fees are debited from your credit card, we will attempt to re-draw 3 times. If these attempts fail, we will advise you and you will be allowed 14 days to respond; or
2. if your Fees are debited from your bank account, we will advise you of the decline and you will be given until the date of your next invoice to respond.

A dishonour fee may also be charged by both us and your financial institution to cover reasonable administrative and processing costs. If the Fees remain unpaid, we may suspend or terminate your use of MYOB AccountRight.

f. If you purchase an annual prepaid subscription –

1. your subscription will commence from the date of purchase and will continue for a full 12 month period, expiring on the same day in 12 months' time. Once an annual prepaid subscription has commenced, it cannot be cancelled or refunded except for in compliance with these Terms; and
2. we will issue you with a renewal reminder notice prior to the expiry of your subscription. If you choose to renew, by paying the renewal fee prior to or up 30 days after the expiry date, you will retain use of and access to MYOB AccountRight and your annual renewal date will remain unchanged. If you do not renew within 30 days of the expiry date, your MYOB AccountRight subscription will be terminated. See section 6.3 for further details on what happens following termination of your subscription.

2.6 Goods and services tax (GST) and duties

- a. All payments due to us (e.g. Fees, reimbursement by you to us of any amounts or payments under indemnities), unless already stated to be GST inclusive, are to be increased by the amount of any GST liability we have in relation to supplies we make to which those payments relate.
- b. You must pay all duties (e.g. stamp duty, other government charges or financial institution account fees, if applicable) payable in relation to your use of MYOB AccountRight. If we have paid them, they must be reimbursed by you on our request.

3. OTHER APPLICATIONS

- 3.1 From time to time we may offer Other Applications for MYOB AccountRight.
- 3.2 We make no warranties in relation to any Other Application offered in relation to MYOB AccountRight, regardless of whether an Other Application is provided by a Professional Partner or is otherwise recommended by us.

3.3 If you install or enable an Other Application for use with MYOB AccountRight, you consent to us allowing the Other Application to access your data as required to enable MYOB AccountRight and the Other Application to operate together.

Any exchange of data or other interaction between you and an Other Application provider is solely between you and them. We are not responsible or liable for any disclosure, modification or deletion of your data as a result of any access to MYOB AccountRight by an Other Application provider.

4. BANK FEEDS

Bank Feeds work by you authorising your Data Supplier to provide us (and your Professional Partner if applicable) with Bank Feeds Data from your nominated transaction accounts. The following terms and conditions apply only to the use of Bank Feeds:

4.1 Access to Bank Feeds Data

In registering for Bank Feeds you are giving your Data Supplier permission to provide us with Bank Feeds Data, for all nominated transaction accounts that you have linked to Bank Feeds. You may also be required to provide your Data Supplier with a hard copy authority form as additional evidence of your consent, depending on your Data Supplier's practices.

4.2 Transaction accounts

You may only use Bank Feeds for transaction accounts attached to your Business.

4.3 Important points about your Data Supplier

Your Data Supplier:

- a. may be paid a commission by us for providing your Bank Feeds Data to us;
- b. is under no obligation to provide us with the Bank Feeds Data. It can stop doing so at any time without notice to you or us; and
- c. is not a party to any agency, partnership, joint venture or other type of similar relationship with us and is not responsible for the actions of us or any other Third Party.

4.4 How you can end your use of Bank Feeds

If you wish to cancel your Bank Feeds but continue to use MYOB AccountRight, you must advise your Data Supplier in writing. Please allow a minimum of 14 days for your Data Supplier to give effect to your request for cancellation.

4.5 When your Data Supplier can terminate your Bank Feeds

- a. Your Data Supplier can terminate your authority to give us Bank Feeds Data at any time, for any reason, by giving you no less than 7 days' notice.
- b. Your Bank Feeds will be automatically cancelled at the end of your MYOB AccountRight subscription. See section 6 for more information on ending your MYOB AccountRight subscription.

4.6 Bank Feeds fees

If your Data Supplier charges you directly for transaction fees in connection with your account and your use of Bank Feeds in relation to that account, you are responsible for and must pay those fees. If you don't do this, we may not be able to provide Bank Feeds to you.

4.7 Fair Use Policy

In addition to your subscription fee for MYOB AccountRight, you may be charged a Fee for excess bank feeds transactions under the Fair Use Policy for Australia and New Zealand, respectively. You will be charged in the currency of the country where you accept these Terms.

5. AVAILABILITY OF MYOB ACCOUNTRIGHT

5.1 MYOB AccountRight could be disrupted if system(s) failure occurs due to technology used by either us or Third Parties involved in providing MYOB AccountRight. Online services are subject to interruption, breakdown, viruses, delays, interception, interference and other errors involving communications networks, computer systems, servers, providers, computer equipment and software. Delayed receipt of Bank Feeds Data could result in transactions not being available on a particular day.

5.2 In relation to any device which you use to access MYOB AccountRight, we recommend that you obtain and maintain up-to-date virus, security and intrusion prevention and scanning software which is specifically designed for all devices you use to access MYOB AccountRight.

5.3 MYOB AccountRight may also be unavailable for short periods because of necessary or desirable system maintenance or upgrades. If this is needed, we will try to inform you beforehand.

5.4 Subject to the terms of section 7 below, we are not responsible or liable to you or the Business for any Loss or Claim arising from MYOB AccountRight or any part of them being delayed, disrupted or unavailable.

5.5 In order to maximise your business continuity, and to make tax compliance easier, we encourage you to take steps to back up and archive your data on a regular basis.

6. TERMINATION

6.1 How you can end your MYOB AccountRight subscription

- a. You can terminate your MYOB AccountRight subscription by phoning us at least 10 days before the end of the current period of your monthly or annual subscription. To action your cancellation, please contact our Customer Service team directly on 1300 555 151 (Australia) or 0800 60 69 62 (New Zealand) and select 'Billing Enquiries' when prompted. The effective date of termination will be the last day of the current period of your subscription.

- b. Your MYOB AccountRight subscription will cease on the effective date of termination. However, during the notice period, you are still liable for any Fees in relation to your use of MYOB AccountRight up to the effective date of termination. If you cancel your subscription before the end of the Minimum Term, then you must pay to us the subscription fees for the remainder of that Minimum Term. Refer also to section 6.3 below for other important content about what happens on the effective date of termination.
- c. You may also terminate your MYOB AccountRight subscription if we fail to remedy a material breach of these Terms within 7 days of you giving us written notice of the breach. If you terminate your subscription under this section 6.1.c during the Minimum Term, then the requirement to pay us Fees for the remainder of the Minimum Term does not apply.

6.2 When we can suspend or terminate your MYOB AccountRight subscription without prior notice

- a. **Circumstances** – These are the situations in which we can suspend or terminate your MYOB AccountRight subscription without prior notice. We will notify you of your suspension or termination as soon as possible.

The situations are:

1. A breach occurs:
 - you fail to remedy a material breach of these Terms within 7 days of us giving you notice of the breach.
2. Something threatens MYOB AccountRight:
 - in our opinion, a change to any Third Party arrangement necessary for MYOB AccountRight renders the ongoing operation of MYOB AccountRight substantially unworkable or non-functional;
 - in our opinion, the actions of a regulator or a change in law or regulation makes the ongoing operation of MYOB AccountRight substantially unworkable or non-functional; or
 - we believe this is necessary either to protect the security, integrity or reputation of MYOB AccountRight or any MYOB AccountRight function, service or facility, or to otherwise protect our interests.
3. There is a material change to the Business:
 - we receive notification of a dispute from one or more of the directors or principals of the Business;
 - you go into liquidation, administration, insolvency, bankruptcy or such other similar arrangement with creditors, or in our opinion, it is reasonably likely you will do so; or
 - there is a change in who owns or controls the Business.

b. Notification –

1. We will notify you in writing (which includes by email) of the suspension or termination.
2. We can reinstate a suspension or termination in our absolute discretion by written notice to you, and this takes effect on receipt or any later time specified in the notice, subject to you meeting any conditions set out in the notice.

3. If you become aware that a circumstance which would permit us to suspend or terminate your subscription under section 6.2.a.3 has arisen or may arise, you must advise us in writing as soon as possible.

6.3 What happens on the effective date of termination?

a. Limited period for data extraction –

1. Subject to any of our arrangements with Third Parties, you will have 30 days from the effective date of termination to extract your data from MYOB AccountRight.

After the effective date of termination, you and other Users (including your Professional Partner) will be able to access data as read-only files or access it and amend it (read and write files), depending on the rights designated by us. We may take steps to delete your data from our servers at any time after 30 days following the effective date of termination, whether or not you have extracted your data.

2. We strongly recommend that you extract your data for tax compliance and archive purposes as soon as possible following your termination of MYOB AccountRight. Failure to extract and retain your data following termination may result in you being unable to comply with your record retention obligations under the Tax Laws.

Licence and/or Subscription	Company file access if MYOB AccountRight Live subscription terminated
Desktop software licence and MYOB AccountRight subssubscription	Read and write on desktop only
MYOB AccountRight subscription. No desktop software licence	Read only access on desktop only

- b. **Continuation of limitations on liability** – Any limitations on liability which you have given under these Terms continue after termination in relation to your use of MYOB AccountRight.

7. LIABILITY, WARRANTIES, REPRESENTATIONS AND INDEMNITIES

7.1 Liability for other guarantees, conditions or warranties

- a. To the extent permitted by law (and subject to section 1 if you accept these Terms in Australia), our liability to you for any non-compliance with a statutory guarantee or Loss or Claim arising out of or in connection with the supply of goods or services under these Terms or any breach by us of these Terms however arising (whether for breach of these Terms, tort (including negligence), statute, custom, law or on any other basis) is limited to:
 1. the resupply of MYOB AccountRight; or
 2. the payment of the cost of resupply of MYOB AccountRight.

- b. All representations, conditions, warranties and terms that would otherwise be expressed or implied in these Terms by general law, statute or custom are expressly excluded (to the extent that such representations, conditions, warranties and terms can be excluded at law).
- c. If you accept these terms in Australia, sections 7.1.a and 7.1.b above are not intended to have the effect of excluding, restricting or modifying:
 - 1. the application of all or any of the provisions of the ACL; or
 - 2. the exercise of a right conferred by such a provision; or
 - 3. any liability of us in relation to a failure to comply with a guarantee that applies under Division 1 of Part 3-2 of the ACL to a supply of goods or services.
- d. You acknowledge and agree that nothing in these Terms is intended to limit any of the liability terms and exclusions set out in the software licence agreement for your MYOB AccountRight product.

7.2 When we and Third Parties will not be liable to you

We and Third Parties (including Microsoft, and, in the case of Bank Feeds, your Data Supplier) are not responsible or liable to you or the Business for:

- a. any Loss or Claim relating to the provision of the data (including Bank Feeds Data) made available through MYOB AccountRight, including delays, disruptions, inaccuracies or the loss of data;
- b. any Loss or Claim relating to your use of, or reliance upon data (including Bank Feeds Data) provided to you through MYOB AccountRight;
- c. the actions or inaction of Third Parties, Other Application providers, or other persons (including those which may be negligent or unauthorised) relating to MYOB AccountRight;
- d. any Loss or Claim arising from a failure by us to comply with the Terms for any cause which could not reasonably be controlled or prevented by us; or
- e. any Loss or Claim arising from a failure by you or the Business to maintain back up copies or archive records of your data.

7.3 Indemnity to us and Third Parties

- a. You indemnify us, our staff and Third Parties (including Microsoft, and, in the case of Bank Feeds, your Data Supplier) (Indemnified Parties) against any Loss or Claim suffered or incurred by the Indemnified Parties or any of them arising from your negligence, misrepresentation, fraud, breach of law or breach of these Terms.

You indemnify the Indemnified Parties for any Loss or Claim suffered or incurred from the unauthorised use of your Username or a Password.

- b. If the Indemnified Party caused or contributed to a Loss or Claim, then your liability under section 7.1.c above is limited to the amount of the Loss or Claim which is directly attributable to your conduct.

8. CHANGES TO TERMS

8.1 What can we do?

We may change any of these Terms (including the Fees, which are specifically dealt with in section 2.5.d).

8.2 Prior notice

We'll endeavour to give you at least 10 days' prior notice (longer if required by legislation or any other code of conduct we subscribe to) of any change that is likely to materially affect or disrupt the manner in which you use MYOB AccountRight, except in circumstances where such a change is due to a change by a Third Party and we were not aware of the change in advance. In these circumstances we will endeavour to notify you in a reasonable time period after becoming aware of the change.

8.3 Urgent changes

However, if we need to restore or maintain the security of MYOB AccountRight immediately, we may change your use and access to MYOB AccountRight without advance notice.

8.4 Right of termination

If we make a change to MYOB AccountRight or these Terms under sections 8.a or 8.b above, then you have the option to terminate this agreement, under section 6.1.

9. NOTICES

- 9.1 You will agree that all communications between you and us in relation to MYOB AccountRight will be by email, by in-product notification through MYOB AccountRight or by us posting a notification on the MYOB website (myob.com or myob.co.nz), unless another method is agreed to by the addressee.
- 9.2 Any notice or other communication to or by a party by email is regarded as being given by the sender and received by the addressee when a delivery confirmation report is received by the sender which records the time that the email was delivered to the addressee's email address (unless the sender receives a delivery failure notification indicating that the email has not been delivered to the addressee).
- 9.3 If the delivery or receipt is on a day which is after 5.00pm (addressee's time) it is regarded as received at 9.00am on the following day.
- 9.4 We may provide a notice or other communication to you by a posting to the MYOB website (myob.com or myob.co.nz) or within your product. That notice or other communication is regarded as being given by us and received by you when the posting is made. We recommend that you regularly check the MYOB website and your product for notices or other communications.

10. LEGAL

You should note a few things about these Terms:

10.1 Our complete agreement

These Terms, the software licence agreement for your MYOB AccountRight product, any price increase notifications provided to you by email, direct mail or phone call from time to time and any other documents incorporated by reference, contain the whole of the agreement between us and you in relation to MYOB AccountRight.

Any representations or warranties made by our staff before you are accepted to subscribe for MYOB AccountRight are not effective unless expressly set out in these Terms or the other documents specified above. Any waiver of our rights or powers under these Terms may only be given in writing signed by our authorised officer.

10.2 What happens if some of these Terms can't operate?

If any part or provision of these Terms are void, unenforceable or illegal in a jurisdiction, that part or provision does not apply in that jurisdiction. However, the remainder of the Terms continue in operation in that jurisdiction unless this would alter the basic agreement between you and us, in which case we can terminate your use of MYOB AccountRight at our election.

10.3 No waiver by us

If we do not insist upon strict performance of any part or provision of these Terms, that waiver will not be deemed to be a waiver of a subsequent breach or default of these Terms.

10.4 Assignment

You cannot assign or otherwise transfer the benefit of the agreement between us and you without our prior written consent. We can assign or otherwise transfer the benefit of the agreement between us and you.

10.5 Which laws apply to the Terms?

If you accept these Terms in Australia, these Terms are governed by the laws of Victoria and the courts of Victoria have jurisdiction over the parties to these Terms (being you and us). If you accept these Terms in New Zealand, these terms are governed by the laws of New Zealand and the courts of New Zealand have jurisdiction over the parties to these Terms (being you and us).

11. YOUR PRIVACY

11.1 We collect, disclose and use your Personal Information to provide you with the products and services you have asked for and associated support, respond to your enquiries or feedback and to promote the products and services offered by us and Third Parties. We may collect Personal Information from you, from public sources such as social media sites or from Third Parties that provide us with marketing leads.

11.2 To do those things, we may provide your Personal Information to our related companies, Third Parties and to service providers that we outsource functions to. Some of the entities may be located in Australia, New Zealand, Singapore, India, the Philippines, the United States or other countries (see section 11.6 below for information that relates specifically to our relationship with Microsoft). If you do not provide your Personal Information, it may affect our ability to do business with you.

11.3 You consent to:

- a. us collecting, using and disclosing your Personal Information for the purposes set out in section 11.1 above; and
- b. the sharing of information including your Personal Information between us and Microsoft in relation to your use of MYOB AccountRight. You acknowledge and consent that MYOB, Microsoft and its agents may, in providing part of MYOB AccountRight transfer, host and process your information, including your Personal Information and any information entered into MYOB AccountRight, which may include the Personal Information of third parties (such as your employees, suppliers or contractors), in Singapore, the United States and other countries.

11.4 If you accept these Terms in Australia, You can ask us not to use your information to promote our products and services by following the process outlined in the [MYOB Group Privacy Policy for Australia](#). The MYOB Group Privacy Policy (Australia) contains information on how to:

- a. update your preferences about the marketing and promotional material we send to you;
- b. request access to and seek correction of the Personal Information we hold about you;
- c. make a privacy complaint; and
- d. how we will deal with your complaint. You can contact us about your privacy by email at

privacy_officer@myob.com.au

or by post at

Privacy Officer
MYOB Australia Pty Ltd
PO Box 371
Blackburn, 3130
Victoria.

11.5 If you accept these Terms in New Zealand, please read the [MYOB Group Privacy Policy for New Zealand](#) to understand how we handle your Personal Information. You can also ask us not to use your information not to promote products and services by contacting the Privacy Officer using the details outlined below. You can contact us about your privacy by email at

privacy_officer@myob.co.nz

or by post at

Privacy Officer
MYOB NZ Limited,
C/o Quigg Partners
Level 7, 36 Brandon Street,
Wellington, 6011.

11.6 Notwithstanding the Privacy Policy, we may observe your use of MYOB AccountRight and access all information you input or can access through MYOB AccountRight. This will enable us to assist you with problems and make improvements for future versions of MYOB AccountRight and other products and services.

11.7 Microsoft may also use your data, including Personal information, to provide part of MYOB AccountRight. This includes Microsoft

1. troubleshooting problems affecting the operation of the Microsoft services relevant to MYOB AccountRight;
2. improving features that detect and protect against emerging and evolving threats (e.g. malware); and
3. obtaining statistical data, trends and usage information for the purposes of providing, operating, maintaining and/or improving their service.

For further information on how Microsoft may use your information please read their Windows Azure Platform Privacy Statement (current at the date of these Terms) at www.windowsazure.com/en-us/support/legal/privacy-statement/

11.8 You must ensure that all Users read this 'Your privacy' section and the policies described above before using MYOB AccountRight or providing their Personal Information to us.

11.9 If you provide any Personal Information about third party individuals to us, you must take reasonable steps to ensure that those individuals are aware of the matters in this 'Your Privacy' section and that we may collect, use and disclose their information to provide you with MYOB AccountRight.