

# MYOB Greentree Software – End User Licence Agreement

## *Important – Please Read Carefully*

This End User licence agreement (“Licence Agreement” or “agreement”) constitutes a legal agreement between the end user and / or their nominated representative (“you”) and MYOB in relation to the MYOB Greentree Software (“Software”). The Software includes the bundle of features, functionality and services (including the source code, object code, interface design, database structures, applications, documentation, training material, procedures and processes) that MYOB makes available from time to time.

If you make this agreement in Australia then this agreement is with MYOB Australia Pty Ltd and is governed by the laws applicable in Victoria, Australia. If you make this agreement in New Zealand or any other country then the agreement is with MYOB NZ Limited and is governed by the laws of New Zealand. Each of MYOB NZ Limited and MYOB Australia Pty Ltd (as applicable) is referred to as “MYOB”, “we” or “us”.

If you make this Licence Agreement in Australia, this agreement does not exclude, restrict or modify:

- 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);
- the exercise of any right or remedy conferred by the Australian Consumer Law; or
- the liability of MYOB for a failure to comply with any applicable consumer guarantees,

where to do so would:

- contravene the Australian Consumer Law; or
- cause any part of this Licence Agreement to be void.

By installing, copying or otherwise using the Software, you agree:

- to accept and be bound by the terms of this Licence Agreement; and
- to MYOB using the contact information you have provided to call or email you about the latest MYOB product announcements, Software updates, upcoming events, special offers and promotions. Please refer to section 20 for details on how to unsubscribe.

## 1. Grant of Licence

- (a) Upon your acceptance of this Licence Agreement, MYOB grants you a non-exclusive, non-transferable licence to use the Software in accordance with the terms of this agreement. You understand and accept that the Software is only to be used in Australia and New Zealand (as the case may be).
- (b) Your continued use of the Software is subject to payment of any fees specified by MYOB or your MYOB Greentree Business Partner. Please refer to section 11 for further information.
- (c) All right, title, ownership and interest including the intellectual property rights in and to the Software (including any updated or modified version of the Software and any modifications done for you) shall remain and continue to be held by MYOB at all times.
- (d) **Evaluation Client Access Licence:** If you have obtained permission from MYOB to evaluate the Software, you may install the Software on a temporary basis for evaluation purposes only. Unless otherwise stated, the evaluation period is limited to 60 days from the date the Software is installed (“Evaluation Period”). Upon completion of the Evaluation Period your licence to use the Software expires. During the Evaluation Period, the Software is provided on an “as is” basis and you assume the entire risk as to the quality and performance of the Software.

## 2. Licence Restrictions

You may not:

- (a) permit other individuals to use the Software except under the terms of this Licence Agreement;
- (b) modify, translate, reverse engineer, decompile, disassemble (except to the extent that this restriction is expressly prohibited by law) or create derivative works based on the Software;

- (c) copy the Software (except for back-up or archival purposes);
- (d) resell, rent, lease, transfer, or otherwise transfer rights to the Software unless expressly permitted by us;
- (e) remove any proprietary notices or labels on or in the Software; or
- (f) do or omit to do any action or thing in breach of the terms of this agreement.

### 3. Licencing levels and configuration

- (a) Your initial licencing levels and other Software configuration ('Software Configuration') will be as specified on the relevant order form or other notification provided to you. Your Software Configuration can be viewed at any time within the Software under 'Registration Details' field.
- (b) You agree to:
  - (i) comply with all limitations within your Software Configuration, as specified by MYOB or your MYOB Greentree Partner; and
  - (ii) not use any means to avoid or undermine the intent of the limitations of your Software Configuration (e.g. by using "multiplexing" or "pooling" software or hardware).
- (c) Please refer to *Section 11 – Fees* for further information regarding changes to your Software Configuration.

### 4. Jade Software

- (a) Aspects of the Software have been developed using JADE software developed by Jade Software Corporation ("JSC"). All intellectual property rights subsisting in JADE and the trademarks JADE™ are owned by JSC or its related companies.
- (b) MYOB is authorised to license JADE Database Server Connections (number of allowable concurrent connections to the JADE database server) to end users.
- (c) MYOB grants you a licence for Database Server Connections solely for the purpose of running the Software for your internal business purposes and such licence will end when this Licence Agreement comes to an end or is otherwise terminated.

### 5. Product Maintenance

- (a) MYOB provides improvements and enhancements to the Software from time to time, including Software updates and bug fixes (**Product Maintenance**). Please refer to section 11 for further information.

### 6. Software Performance monitoring

You understand and accept that the Software may contain performance monitoring tools, which MYOB may use for the purpose of:

- (i) monitoring the performance of the Software (including through in-product surveys);
- (ii) generating and storing statistics in relation to your use of the Software; and
- (iii) checking your compliance with the terms of this Agreement.

### 7. Third Party Software Products

Except where expressly stated otherwise:

- (a) this agreement does not grant you any rights in relation to any third party software products acquired in conjunction with the Software, for example third party database products; and
- (b) you are responsible for obtaining the necessary licences for such third party software products as you may require. You acknowledge that the licensing scheme for third party software products may not correspond with the licensing scheme for the Software.

## 8. Work Performed by Third Parties

You may, as part of your installation or ongoing operation of the Software, separately engage the services of an MYOB Greentree Business Partner. These services are supplied independently of MYOB and MYOB accepts no responsibility or liability whatsoever in respect of the services provided by any MYOB Greentree Business Partner.

## 9. Other Applications

- (a) Other applications or services may be developed by third parties to be used in conjunction with the Software ('Other Applications'). We make no warranties in relation to any such Other Application, regardless of whether that Other Application is provided by an MYOB Greentree Partner or is otherwise recommended by us.
- (b) If you install or enable Other Applications for use with the Software, you consent to us allowing the Other Applications to access your data as required to enable our Software and the Other Application to operate together.
- (c) Any exchange of data or other interaction between you and a third party 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 our Software by a third party provider of an Other Application.
- (d) Unless otherwise expressly stated in this agreement or required by law, we are not responsible for any Other Application that you may obtain or connect to the Software.

## 10. Licence for QlikTech Products

- (a) This section 10 only applies to End Users that have obtained a licence through MYOB or its affiliates to use certain product(s) owned by QlikTech International AB and its affiliates (**QlikTech Products**). Qliktech Products include Greentree branded products which use QlikTech technology, such as "Greentree IQ, Powered by QlikTech".
- (b) In order to comply with our agreement with QlikTech, we must impose certain additional conditions upon End Users using QlikTech Products. These conditions are set out in this section 10.  
For the purposes of this agreement, QlikTech Products fall within the definition of Software. In the case of any inconsistency with other terms of this agreement, this section 10 shall prevail.
- (c) MYOB grants you a non-exclusive, non-transferable, perpetual and non-assignable licence to the QlikTech Product(s) for your internal business purposes.
- (d) If your QlikTech Products are distributed on a subscription, Software as a Service (SaaS) or Application Service Provider model, your licence shall not be perpetual.
- (e) You are prohibited from using QlikTech Products other than in accordance with the provisions of this agreement. For the avoidance of doubt, this prohibition is only intended to apply to QlikTech products or services licensed through MYOB or its affiliates.
- (f) The scope of your QlikTech Product licence will depend on the product in question. There are broadly two categories:
  - (i) **(If you have acquired a Greentree Only licence)** You are prohibited from using QlikTech Products in any way other than integrated with the data structures of Greentree and QlikView table files. Under no circumstances whatsoever may you use the QlikTech Products independently or separated from the Greentree product. Other third party data sources cannot be connected; or
  - (ii) **(If you have acquired an Extended Data Use licence)** Unlike the Greentree only licence, you are permitted to connect additional data sources. 'Additional data sources' means SAP, Oracle, Salesforce or similar transactional applications.
- (g) We reserve the right to conduct audits at your premises to ascertain whether the use of the QlikTech Product(s) complies with the provisions of this agreement. Please note that MYOB must reserve this right in order to comply with its agreement with QlikTech.
- (h) You shall have no ownership rights in the QlikTech Products. Ownership of the QlikTech Products and the copyright and all other intellectual property rights in, and associated with, the QlikTech Products shall remain at all times with QlikTech or its licensors. You shall not have any rights in the trademarks, service marks or designs of QlikTech, all of which remain the exclusive property of QlikTech.
- (i) You shall ensure that any copy of a QlikTech Product is:
  - (i) produced only in accordance with the terms of this agreement and for your own benefit; and
  - (ii) clearly marked on the copy that such copy is subject to copyright and confidentiality,

and that a written list is maintained of the number of copies and place of storage.

- (j) You may not sub-license, publish, display, disclose, rent, lease, modify, loan, distribute, or create derivative works of the QlikTech Products or any part thereof. You may not transfer the QlikTech Products except as provided in this agreement.
- (k) You may not reverse engineer, decompile, disassemble, translate, or adapt the QlikTech Products, nor shall you attempt to create the source code from the object code of the QlikTech Product software unless explicitly permitted by applicable and mandatory law.
- (l) You shall have no right to grant sub-licences or to assign the benefit or burden of the agreement in whole or in part. Further, you shall discontinue use and destroy or return all copies of the QlikTech Products on termination of this agreement.

## **11. Fees**

### **11.1 *If you use the Software on a subscription basis:***

- (a) You agree to pay all subscription fees due in relation to Software. Depending on the circumstances, such fees may be payable directly to MYOB or through your MYOB Greentree Business Partner.
- (b) Payment of subscription fees entitles you to Product Maintenance (see section 5).
- (c) The nature of the fees (including any calculation method and invoicing period) will be disclosed to you at the time you first subscribe for the Software. MYOB is entitled to vary its fees in accordance with section 11.3, noting you will have termination rights in that case (see section 12.1(b)).

### **11.2 *If you have purchased the Software upfront:***

- (m) Product Maintenance is not included in your upfront licence fee. We strongly recommend that you subscribe for Product Maintenance at all times while using the Software.
- (n) As a condition of your licence, you are required to subscribe for Product Maintenance for this first year after first acquiring the Software. The relevant fee will be disclosed at the time you acquire the Software. Such fees will be payable directly to MYOB unless otherwise specified.
- (o) Product Maintenance fees are charged on an annual basis. Unless an exception applies (see section 12.1(b)), you will still be liable for the applicable fees for the full year if you decide to terminate your access to Product Maintenance during the annual term.

### **11.3 *Other important information about fees***

- (a) Unless otherwise stated, we will invoice you and require payment in advance for any fees payable under this agreement, at a frequency stated in the applicable quotation or other disclosure.
- (b) Unless otherwise stated in this agreement, if you terminate your:
  - (i) *Ongoing Software subscription during a subscription period* – you will be required to pay fees until the effective date of termination.
  - (ii) *Product Maintenance during an annual term* - you will be required to pay fees for the full year.
- (c) Unless otherwise stated in this Agreement:
  - (i) payment obligations are non-cancellable and fees paid are not refundable;
  - (ii) if you authorise an upgrade to your Software configuration, the difference in fees between the existing and upgraded Software configuration will be charged on a pro-rata basis for the remainder of the relevant billing period. Your fees will be increased to reflect your upgrade in the next billing period;
  - (iii) if you authorise a downgrade to your Software configuration, your fees will be decreased in the next billing period.; and
  - (iv) if you change your Software configuration to a different Software configuration of the same value, we will continue to charge you the same fees, and will adjust the Software configuration to the new Software configuration.
- (d) If you exceed the level of inclusions that you've paid for as part of your Software configuration, we will charge you for that excess in your next billing period (at the then current prices).
- (e) By giving you at least 90 days' notice before the change takes effect, we may change:

- (i) the amount of any fee or introduce a new fee; and
- (ii) the circumstances in which, or frequency with which, a fee is payable.

Section 17 tells you about the ways in which we can give you notice. Please also refer to your rights to terminate our agreement set out in section 12.1.

- (g) If any amount payable in relation to the Software is more than 30 days overdue, any due but unpaid fees become immediately payable, and we may, without limiting our rights and remedies, take any of the following actions for as long as your account remains in arrears:
  - (i) ***If you use the Software on a subscription basis:*** We will be permitted to withhold monthly registration codes and / or restrict access to Product Maintenance.:
  - (ii) ***If you have purchased the Software upfront:*** We will not be required to provide access to Product Maintenance.

## 12. Termination and Suspension

### 12.1 Termination by you

- (a) You can terminate your Licence by giving us at least 90 days' written notice (including to your MYOB Greentree Partner). During the notice period, you:
  - (i) will continue to have full access to the Software; and
  - (ii) are still liable for any fees in relation to your use of the Software.
- (b) You may also terminate your Licence or access to Product Maintenance where:
  - (i) we fail to remedy a material breach of this agreement within 20 days of you giving us written notice of the breach; or
  - (ii) we make a change to this agreement that is detrimental to you, in which case you have the option to terminate by giving 10 days written notice.

If you terminate under this section 12.1(b), you will not be liable for the fees for the balance of the period of the subscription or Product Maintenance.

### 12.2 Suspension by MYOB

#### When we can suspend your Licence or access to Product Maintenance without prior notice

We can suspend your Licence or access to Product Maintenance in our sole discretion without prior notice in certain situations if necessary. If we cannot notify you beforehand, we will do so as soon as possible thereafter. The situations are as follows:

- (a) *A breach occurs* – If you commit a material breach of this Agreement.
- (b) *Ongoing operation of the Software* – If in our opinion:
  - (i) the ongoing operation of the Software is rendered substantially unworkable or non-functional;
  - (ii) the actions of a regulator or a change in law or regulation makes ongoing operation of the Software substantially unworkable or non-functional; or
  - (iii) it is necessary to protect the security, integrity, operations or reputation of the Software, or any Software function, service or facility, or otherwise protect our interests.
- (c) *There is a material change to your business which in our opinion may affect the performance of this agreement* – specifically if:
  - (i) we receive notification of a dispute from one or more directors or principals of your business; or
  - (ii) you go into liquidation, administration, insolvency, bankruptcy or such similar arrangement with creditors, or in our opinion, it is reasonably likely you will do so; or
  - (iii) there is a change in who owns or controls your business.

### 12.3 Termination by MYOB

We may terminate your Licence or access to Product Maintenance in our sole discretion without prior notice in certain situations if necessary. If we cannot notify you beforehand, we will do so as soon as possible thereafter. The situations are as follows:

- (a) you fail to remedy a material breach of this agreement within 20 days of us notifying you of the breach; or
- (b) any of the events in section 12.2(b) apply.

Please note that we may also decide to not renew your Licence subscription or continue providing the Software or access to Product Maintenance (or aspects thereof) for any reason. If we make this decision, we will provide you with at least 90 days' notice and refund any pre-paid fees to you.

### 13. Limited Warranty

- (a) We warrant that the Software, as updated and when properly used, will perform substantially in accordance with its documentation and that the Software will be free from other material defects in materials and workmanship, for a period of ninety (90) days from the date of purchase. This warranty is void if the Software fails as a result of your misuse. This limited warranty is provided in addition to other rights and remedies that may be available to you under law.
- (b) We do not warrant that the Software is bug or error free.
- (c) The Software will not operate in compliance with legislation in jurisdictions other than Australia and New Zealand.
- (d) If during the 90 day limited warranty period, you discover that the Software does not perform substantially in accordance with its documentation or you discover material defects in the Software media, then your sole remedy under the 90 day limited warranty shall be, at MYOB's option in its sole discretion, either:

- (i) a refund of the price paid to MYOB by you or your MYOB Greentree Business Partner for the Software; or
- (ii) repair or replacement of the Software that does not meet the warranty.

- (e) To claim under this limited warranty, you must write to MYOB outlining the details of your claim, and enclosing your proof of purchase to:

*For Australia:*

MYOB Australia Pty Ltd  
Enterprise Division Administration  
PO Box 73, Richmond, VIC 3121  
myobgreentreeproduction@myob.com  
Phone 1300 555 110

*For New Zealand:*

MYOB NZ Limited  
Enterprise Division Administration  
PO Box 56354 Dominion Rd Auckland 1446  
myobgreentreeproduction@myob.com  
Phone 0800 696 239

- (f) If you make this Licence Agreement in Australia, the Software may come with guarantees that cannot be excluded under the Australian Consumer Law. If applicable, you may be entitled to a replacement or refund for a major failure in the operation of the Software and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the Software repaired or replaced if the Software fails to be of acceptable quality and the failure does not amount to a major failure.

## 14. Limitation of liability

### *Important notice*

This section is not intended to have the effect of excluding, restricting or modifying:

- the application of all or any of the provisions of the Australian Consumer Law;
- the exercise of a right conferred by such a provision;
- any liability of MYOB in relation to a failure to comply with a guarantee that applies under Division 1 of Part 3-2 of the Australian Consumer Law to a supply of goods or services.

To the extent permitted by law and subject to the other provisions of this agreement, our maximum aggregate liability to you:

- (a) for failure to comply with a consumer guarantee (where applicable) in respect of the supply of the Software or related services which is not of a kind ordinarily acquired for personal, domestic or household use or consumption; and
- (b) for loss or damage suffered by you as a result of any breach of this agreement or other default by us is limited, at our sole discretion to:
  - (i) the replacement of the Software (or the particular component of the Software, which caused the failure) or the supply of an equivalent service (or particular component of the service); or
  - (ii) the payment of the cost of resupply of the Software or related service (or the particular component of the Software or service, which caused the failure).
- (c) All other guarantees, conditions or warranties, express or implied, including but not limited to, any implied conditions or warranties of, with regard to the Software or related services are excluded to the extent that such guarantees, conditions or warranties can be excluded by law.
  - (d) We make no representation that the Software or services are fit for your intended business purpose, and by accepting the terms of this agreement, you acknowledge and accept that you have exercised your own judgment in selecting the Software and services as being fit for your business purpose.
  - (e) Unless section 14(a) applies, we shall not be liable for any damages whatsoever (including, without limitation, damages for loss of business profits, business interruption, loss of business information, or other pecuniary loss) arising out of the use of or inability to use or access the Software or related services, even if we have been advised of the possibility of such damages.

## 15. Your Warranty and Acknowledgement

If you are in New Zealand, you warrant and acknowledge that you have acquired the Software and related services for the purposes of your business and accordingly that the Consumer Guarantees Act 1993 (NZ) does not apply to the Software or related services supplied and acquired pursuant to this agreement.

## 16. Changes to this Agreement

- (a) Subject to your termination rights under section 12.1(b)(ii), we may change any of this agreement.
- (b) We will give you at least 90 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 your Software and related services.
- (c) Right of termination – If we make a change to this Agreement that is detrimental to you (including a change in Fees), you have the option to terminate by giving 10 days written notice. If you terminate your subscription under this section during the Minimum Term, then the requirement to pay us the Minimum Amount will not apply.

## 17. Notices

- (a) You will agree that all communications between you and us in relation to the Software or related services will be:
  - (i) by email;
  - (ii) in-product notification by us;
  - (iii) through your MYOB Greentree Partner; or
  - (iv) by us posting a notification on our website (myob.com).

- (b) 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).
- (c) If the delivery or receipt is on a day which is not a Business Day or is after 5.00pm (addressee's time) it is regarded as received at 9.00am on the following Business Day.
- (d) Where we provide a notice or other communication through our website (myob.com), that notice or other communication is regarded as being given by us and received by you when the posting is made to our website. We recommend that you bookmark and regularly check our website for notices or other communications.

## 18. Legal

You should note a few things about this Agreement:

- (a) Any representations or warranties made by MYOB team members or MYOB Greentree Partners are not effective unless expressly set out in this agreement. Any waiver of our rights or powers under this agreement may only be given in writing signed by an authorised officer of MYOB.
- (b) If any part or provision of this agreement is void, unenforceable or illegal in a jurisdiction, that part or provision does not apply in that jurisdiction. However, the remainder of the agreement will continue in operation in that jurisdiction unless this would alter the basic agreement between you and us, in which case either party may terminate this agreement.
- (c) If we do not insist on strict performance of any part or provision of this agreement, that waiver will not be deemed to be a waiver or a subsequent breach or default of this agreement.
- (d) You cannot assign or otherwise transfer the benefit of this agreement without our prior written consent. We can assign or otherwise transfer the benefit of this agreement.

## 19. Protection of your data

You acknowledge that the data stored on third party products (such as database servers and hardware) is your responsibility to maintain, archive, backup, report from and similar, and to undertake whatever is necessary to ensure the protection of and access to the information, beyond the use of the Software.

## 20. Your Privacy

### 20.1 General

- (a) You must ensure all users adhere to this 'Your Privacy' section and the policies described below before using the Software or providing their Personal Information to us.
- (b) If you provide 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 the Software and related services.

### 20.2 Privacy Disclosure Statement

- (a) We collect, disclose and use your personal information to provide the Software to you and associated services, respond to your enquiries or feedback and to promote products and services offered by us and associated third parties. We may collect personal information from you, from public sources such as social media websites, and from third parties that provide us with marketing leads.
- (b) To do these things, we may provide your personal information to our related companies and to third parties that we outsource functions to. These entities may be located in Australia and New Zealand or other countries. If you do not provide your personal information, it may affect our ability to do business with you.
- (c) You consent to us collecting, using and disclosing your personal information for the purposes outlined above and in accordance with the MYOB Group Privacy Policy.



(d) If you make this agreement in Australia:

- (i) You can ask us not to use your Personal Information to promote products and services by following the process outlined in the MYOB Group Privacy Policy for Australia (located at [www.myob.com.au/privacy](http://www.myob.com.au/privacy)). The MYOB Group Privacy Policy contains information on how to:
- update your preferences about the marketing and promotional material we send to you;
  - request access to seek correction of the Personal Information we hold about you;
  - make a privacy complaint; and
  - how we will deal with your complaint.
- (ii) You can contact us about your privacy by email at [privacy\\_officer@myob.com.au](mailto:privacy_officer@myob.com.au), or by post at “Privacy Officer”, MYOB Australia Pty Ltd, PO Box 73, Richmond Victoria 3121.

(e) If you make this agreement in New Zealand:

- (i) You can ask us not to use your information to promote products and services by contacting the Privacy Officer using the details outlined below. The MYOB Group Privacy Policy for New Zealand is located at [www.myob.co.nz/privacy](http://www.myob.co.nz/privacy).
- (ii) You can contact us about your privacy by email at [privacy\\_officer@myob.co.nz](mailto:privacy_officer@myob.co.nz), or by post at “Privacy Officer”, MYOB NZ Limited, c/- Quigg Partners, Level 7, 36 Brandon Street, Wellington 6011.