

## User Agreement

### 1. Definitions and interpretation

**we, us, our** means SmartTrade Ltd, of New Zealand

**you** means the person, company or other entity supplied with SBO and Services by us or by a Reseller.

**PIP** means our Privacy and Information Policy as amended from time to time, found at [smarttrade.biz/more/legal/privacy-policy](https://smarttrade.biz/more/legal/privacy-policy).

**Reseller** means a person, company or entity who supplies SBO and/or Services to you with our authority.

**SBO** means the SmartBiz Online cloud based software application and various interfaces to third party software such as accounting packages.

**Services** include but are not limited to report and form customisation, support, data operations, and training.

### 2. You

2.1. Will use SBO and obtain Services on the terms contained in this agreement.

2.2. Will use SBO and Services only for business purposes and will make your own assessment of their suitability for your business purposes.

2.3. Own the business information stored in your SBO database, in accordance with our PIP.

2.4. Will, unless otherwise agreed in writing, pay our invoices (inclusive of tax where applicable and without deduction or set-off) within 14 calendar days after the invoice date.

2.5. Agree that all intellectual property rights in SBO and the Services belong to us and will not:

a. Make SBO available to any other person or entity by way of subscription, rental, shareware, freeware or otherwise.

b. Copy, modify, reverse engineer or do any similar act with SBO, nor allow anyone else to do so.

2.6. Will not allow any other software to be integrated with SBO, without our prior written consent.

2.7. Acknowledge that any Reseller is not our agent.

2.8. Will, if you give notice to us, do so by email to [notices@smartbisonline.com](mailto:notices@smartbisonline.com)

### 3. We

3.1. Grant you the non-transferable, non-exclusive right to use SBO and the Services.

3.2. Warrant that SBO will operate substantially in accordance with the user guides and help pages as updated from time to time.

3.3. Do not represent that SBO is free from bugs, errors or interruptions.

3.4. Will support SBO for at least 3 years from the date that you first use it, provided that in the case of an interface with another software application, the supplier of that application continues to support its product.

3.5. Will, at our cost, provided you comply with this agreement:

a. Correct any material bug, error or interruption in SBO that you notify to us.

b. Remedy any defect in any Service, provided that you advise us of the defect within 60 days after we provide the Service to you.

3.6. May change our prices from time to time, provided we give you least 14 calendar days' notice of any increase.

3.7. Will collect and manage personal information and deal with your business information in accordance with our PIP.

3.8. Can cancel your rights to use SBO:

a. Immediately if you fail to remedy a breach of this agreement within 14 calendar days of us giving you notice of the breach.

b. By giving you at least 90 calendar days' notice of termination.

c. Immediately if you breach clause 2.5.

3.9. Will, where we give notice or consent to you, do so by sending an email to any of the addresses listed in the "Send notices to these emails" field in the Settings/Business Information page in your SBO.

3.10. Revise the terms of this agreement from time to time by giving you at least one month's notice.

### 4. Exclusion and Limitation of Liability

4.1. All warranties, conditions, representations, promises or statements (either expressed or implied, statutory, collateral or otherwise) that are not expressly set out in this agreement are excluded to the full extent permitted by law.

4.2. We are not liable for any indirect or consequential loss or loss of profits or loss of use or loss of production however caused.

4.3. We are not liable for any direct loss or damage arising from:

a. Any failure of SBO to integrate with or transfer data to or receive data from any other software application or system.

b. Poor performance due to your internet connection being slow.

c. Any software that that you use that affects SBO's performance, including but not limited to operating systems, internet browsers, firewalls and virus checkers.

d. Viruses from files that you import into or upload to SBO.

e. The actions of any Reseller.

f. Any error or other problem in a report or form that we develop for you.

g. SBO not operating on mobile devices. SBO is developed for and tested on iOS and Android devices. However, the proliferation of devices and the continuous updating of operating systems makes it impossible to guarantee that SBO will operate reliably on all mobile devices.

h. A web service provider not complying with the applicable Terms of Service or Service Level Agreement despite our reasonable efforts to ensure such compliance.

4.4. Our aggregate liability for damage or loss is limited to the total of the amounts paid by you to us.

### 5. Other

5.1. Cancellation of your rights to use SBO will not affect any rights or remedies that we may otherwise have under this agreement or at law.

5.2. Failure or delay to enforce any provisions of this agreement will not waive our rights.

5.3. This agreement constitutes the entire agreement between us and you, and it replaces all negotiations, representations, warranties, understanding and agreements, whether oral or written, between you and us with respect to matters covered in this agreement.

5.4. This agreement is subject to the laws of and to the exclusive jurisdiction of the courts of New Zealand.