

Panel Quote Limited – Software as a Service Subscription Agreement

IMPORTANT – LEGAL AGREEMENT – This Agreement governs your access to and use of *Panel Quote* and constitutes a legally binding contract between Panel Quote Limited (“PQL,” “we,” “us,” or “our”) and any individual, organisation or entity (“User,” “you” or “your”). By being issued login credentials, accessing the software or servers, or otherwise using *Panel Quote*, you acknowledge and agree to be bound by all terms of this Agreement. If you do not agree, you must not access or use *Panel Quote*.

Version: 1.4 – Last updated: 17 December 2024

Added insurer integrations, enhanced IP protections, breach escalation clauses, and updated commercial use restrictions.

Previous Versions:

- **Version 1.3 – 12 March 2019**
Introduced data backup standards, hardware requirements, and clarified limitations of liability.
- **Version 1.2 – 22 August 2010**
Added confidentiality provisions and updated fee review processes.
- **Version 1.0 – 5 May 2007**
Initial release covering basic licensing, access, and payment terms.

1 Definitions

1.1 “Agreement” means these terms together with any Order Form, Schedule or Data-Residency Rider that references them.

1.2 “Customer” or “you” means the legal entity that subscribes to the Services.

1.3 “Customer Data” means data, including Personal Information, that you or your users upload to the Services.

1.4 “Documentation” means the user guides, policies and knowledge-base articles we publish for the Services.

1.5 “Fee” means the charges set out in the applicable Order Form or Schedule.

1.6 “Personal Information” has the meaning in the New Zealand Privacy Act 2020 and the Australian Privacy Act 1988.

1.7 “Services” means access to the cloud-hosted software platform known as *Panel Quote* and the related support we provide under this Agreement.

1.8 “Term” means the period from the Commencement Date until this Agreement ends under clause 15.

1.9 “Protected Works” means the software, user-interface layouts, database structures, report formats, source code and any other materials or works that form part of or underlie the Services.

1.10 “Business Use Only” means that the Services are intended solely for use in the course of trade by businesses and are not designed or licensed for personal, domestic or household use.

1.11 “Competitor” means any business or individual that develops, provides, licenses or markets software or services that manage collision repairs, mechanical workshops, vehicle claims handling, vehicle damage assessment, insurer integration, or quoting and estimating processes, including but not limited to products similar to *AutoQuote*, *Flexli Quote*, *iBodyshop*, *Clear21*, *Estimage*, *Crashzone*, *PPG Business Manager*, *PartsCheck*, *WebTRIM*, *Audatex*, *Auto Integrity*, *We Capture* or similar platforms.

2 Grant of licence

2.1 Subject to payment of the Fees we grant you a non-exclusive, non-transferable right to access and use the Services and Documentation during the Term for your internal business purposes.

2.2 All rights not expressly granted are reserved by Panel Quote Limited. You gain no title or ownership in the Services or underlying software.

2.3 Acceptance by conduct – By accessing or using the Services, clicking “I agree”, or otherwise indicating acceptance electronically or in writing, you acknowledge that you have read, understood and agree to be bound by this Agreement. If you do not agree, you must not use the Services.

3 Access and acceptable use

3.1 Eligibility – You must be a registered business and must not be a competitor as defined in clause 1.11.

3.2 Authorised users – You may allow your employees and independent contractors to use the Services, provided they comply with this Agreement.

3.3 Restrictions – You will not:

- a. copy, modify, reverse-engineer or create derivative works from the Services,
- b. introduce malware or interfere with security or usage limits,
- c. use the Services for unlawful, offensive or infringing content, or
- d. resell or provide the Services to any third party except with our written consent.

3.4 Exclusive-use commitment – While subscribed to the Services you will not use, lease or operate any other collision-repair management, estimating or insurer-integration platform (including successor or substitute products) without our prior written consent.

3.5 Trade warranty – You warrant and represent that you are acquiring the Services *in trade* (as defined in the Consumer Guarantees Act 1993) and solely for business purposes, and that the Consumer Guarantees Act 1993 does not apply to this Agreement.

3.6 Use of Competitor’s Product – If, after entering into this Agreement, you elect to implement, trial, or otherwise use a Competitor’s product (as defined in clause 3.8), we may, in our sole discretion and without liability, immediately suspend your full access to *Panel Quote* in order to protect our intellectual-property rights.

3.7 Data-viewing access – Where we suspend full access under clause 3.6, we may, at our discretion, offer you a “Data-Viewing-Only” mode that allows read-only access to historical data. Such access will be subject to the then-current fee for Data-Viewing-Only service tiers.

3.8 Competitor’s product – For the purposes of this Agreement, a “Competitor’s product” is any software or service that we, acting reasonably, determine to be functionally similar to or competing with *Panel Quote*.

4 Fees and payment

4.1 Billing cycle – On-going licence Fees are billed monthly **in advance** and collected by direct-debit authority from your nominated bank account on the 5th working day of each month (or the next business day if banks are closed). Alternative payment methods (e.g., credit card) are not accepted.

4.2 Late payment – If an undisputed amount remains unpaid ten (10) days after the due date we may charge interest at ten percent (10 %) per annum, calculated daily and compounded monthly, until paid in full. We may also suspend the Services under clause 15.3.

4.3 Fee review – We may adjust subscription and support Fees once per calendar year. We will give at least thirty (30) days' written notice. You may terminate the Agreement on written notice before the new Fees take effect. Continued use of the Services after the effective date constitutes acceptance.

5 Service levels and support

5.1 Availability commitment – We will use commercially reasonable efforts to make the core application available 99.5 % of each calendar month, excluding:

- scheduled maintenance with at least three (3) business days' notice,
- emergency maintenance needed to protect security or performance, and
- outages caused by factors beyond our reasonable control.

5.2 Support hours – Telephone and email support is provided Monday to Friday, 8 am to 5 pm New Zealand time, excluding public holidays. Incidents can be logged online 24 hours a day.

6 Customer responsibilities

6.1 Hardware and browsers – You must provide compatible devices and a reliable broadband connection. Current browser recommendations are published in the Documentation.

6.2 Data accuracy – You are responsible for the content you enter, including compliance with insurer or regulatory requirements.

6.3 Back-ups – We back up production data daily and replicate it to a secondary data centre. We recommend exporting critical reports required for statutory record keeping. Paper copies are not required.

6.4 Internet connection – You must maintain a stable broadband internet connection when using Panel Quote. Use of dial-up connections is not supported and may result in severe performance issues.

6.5 Wireless limitations – We do not guarantee performance or availability where you access *Panel Quote* over a wireless or mobile-broadband connection.

6.6 Accounting records – You are solely responsible for maintaining business records that comply with the Income Tax Act 2007, Goods and Services Tax Act 1985, Companies Act 1993 and any other applicable legislation. This includes keeping any paper or electronic records that those laws require.

6.7 No liability for record retention – Panel Quote Limited is not liable for your failure to keep, print or export records from the Services. You warrant that you will maintain backup copies or hard-copy records that mirror the data you enter in *Panel Quote* where required by law.

7 Data protection, privacy and residency

7.1 Compliance – Each party will comply with the New Zealand Privacy Act 2020, the Australian Privacy Act 1988 (including the Australian Privacy Principles) and any other non-excludable privacy law that applies.

7.2 Purpose – We will process Personal Information only to deliver and support the Services, develop product features, and meet legal obligations. We will not sell Personal Information.

7.3 Sub-processors – We may engage reputable sub-processors to provide infrastructure, analytics or support. We will maintain an online list of sub-processors and impose obligations that are no less protective than those in this Agreement.

7.4 Breach notification – We will notify you without undue delay after becoming aware of unauthorised access to Personal Information and provide information reasonably required for you to comply with your breach-reporting obligations.

7.5 Data residency – If your Order Form includes a Data-Residency Rider we will store primary Customer Data in the region selected (NZ only, AU only or region-agnostic). Backup copies may be stored in other regions provided they remain under our effective control.

8 Security

8.1 Safeguards – We maintain administrative, physical and technical safeguards designed to protect the confidentiality, integrity and availability of Customer Data, including encryption in transit, annual penetration testing and role-based access controls.

8.2 Credential confidentiality – You must keep credentials secure and notify us immediately if you suspect compromise.

8.3 Credential sharing prohibition – Usernames and passwords may only be disclosed to your own employees who require access in the ordinary course of their employment. You must not share credentials with subcontractors, affiliates, competitors or any other third party without our prior written consent. Issuance or use of any login credential constitutes acceptance of and agreement to be bound by this Agreement in full. If you breach this clause you must pay, on demand, a liquidated amount of NZD 5,000,000 (or AUD 5,000,000 where applicable) within seven (7) days of invoice. This amount is a genuine pre-estimate of our loss, is not a penalty, and is **not subject to the liability cap in clause 13.1**.

8.4 Password strength requirements – Every password used to access *Panel Quote* must:

- contain at least twelve (12) characters; and
- include upper- and lower-case letters, numbers and special characters; and
- not incorporate your legal name, trading name, address, phone number, vehicle registration, or other easily guessed information.

8.5 Credential security – You must safeguard all login credentials. Credentials must not be written down in plain text, stored in unencrypted files, or transmitted over unsecured channels. You acknowledge that anyone who obtains valid credentials can access your data from any internet-connected location.

8.6 No liability for weak or exposed passwords – Panel Quote Limited is not liable for any unauthorised access, data loss or damage arising from passwords that fail to meet clause 8.4 or from your failure to comply with clause 8.5.

9 Intellectual property

9.1 Ownership – Panel Quote Limited, our licensors and suppliers retain all intellectual-property rights in the Services, software, interfaces, templates and Documentation.

9.2 Licence to us – Customer Data remains your property. You grant us a non-exclusive licence to host, copy, transmit and process Customer Data to provide and improve the Services.

9.3 Third-party integrations – The Services depend on third-party APIs and hosting services. We are not liable for upstream outages, performance issues or discontinuation of those services.

9.4 Protected works & prohibited acts – The software, user-interface layouts, database structures, report formats, underlying source code, algorithms, data-processing techniques, workflow methodologies, insurer-integration methods and system-generated documents (collectively “**Protected Works**”) constitute valuable trade secrets. Examples include:

- Estimating templates, repair-cost calculation formulas and labour-rate calculations.
- Insurer-integration APIs, custom data-exchange processes and claim-handling workflows.
- Reporting templates, invoicing structures and audit-trail logging formats.
- System logic and algorithms for parts selection, pricing integration or job-sheet automation.
- Algorithms, formatting and data structures for workshop-capacity planning and scheduling tools.
- Vehicle libraries, detailed repair descriptions and associated data structures.

You must not (a) copy, frame or mirror any part of the Protected Works, (b) develop, market, license or use any service that is substantially similar, directly competing or derived from our Protected Works, (c) benchmark the Services for publication or comparison purposes, or (d) remove or obscure proprietary notices.

9.5 Audit & monitoring – We may audit your use of the Services on ten (10) business days’ notice (or immediately if we reasonably suspect infringement). You must co-operate and provide access to relevant records and systems.

9.6 Liquidated damages for infringement – If you wilfully infringe our intellectual property rights (including by unauthorised copying, distribution, or the creation of derivative works), you must pay liquidated damages of **\$NZD 5,000,000 (or \$AUD 5,000,000, as applicable)**. Such amount:

- a. is immediately due and payable as a **debt due and owing** within seven (7) days of our invoice, without set-off, counterclaim, or deduction of any kind;
- b. represents a **genuine pre-estimate** of the loss and harm we would suffer as a result of such infringement;
- c. is expressly **not subject to the liability cap** in clause 13.1 or any other limitation of liability in this Agreement; and
- d. does not limit, restrict, or prejudice our right to seek **injunctive relief, equitable remedies, or additional damages** at law or in equity.

9.7 No claim to IP – You obtain no IP rights in the Services except the limited licence in clause 2. You will not assist any third party to assert rights inconsistent with ours.

9.8 Feedback assignment – If you or your users provide feedback or suggestions, you assign all related IP to Panel Quote Limited; if assignment is impossible, you grant us a perpetual, irrevocable, worldwide, royalty-free licence.

9.9 Trade marks – “Panel Quote” and related marks are our trade marks. You may not use them without written consent.

9.10 Injunctive relief – Unauthorised use or disclosure of Protected Works may cause irreparable harm; we may seek immediate injunctive relief.

9.11 Derivative-works assignment – Any derivative of the Protected Works you create is assigned to Panel Quote Limited; if not assignable, you grant an exclusive, perpetual, irrevocable licence.

9.12 Patent non-assert – You covenant not to assert any patent you own or control against PQL or our customers for use of the Services.

9.13 Brand and domain restriction – You must not register or use any domain, social-media handle or metatag that is confusingly similar to our marks.

9.14 Return or destruction of materials – Within ten (10) days after termination you must destroy or return all software, Documentation, API keys and Confidential Information in your possession and certify compliance.

10 Confidentiality

10.1 Definition. “Confidential Information” means all information disclosed by one party (the “**Disclosing Party**”) to the other (the “**Receiving Party**”) that is identified as confidential or that a reasonable person would understand to be confidential, including source code, trade secrets, pricing, product road-maps, usage data, personal data and the terms of this Agreement.

10.2 Exclusions. Confidential Information does not include information that: (a) is or becomes public through no fault of the Receiving Party, (b) the Receiving Party already lawfully knew at the time of disclosure, (c) is rightfully received from a third party without restriction, or (d) is independently developed without use of the Disclosing Party’s Confidential Information.

10.3 Obligations. The Receiving Party must (a) keep Confidential Information secure using at least the same degree of care it uses for its own similar information (but not less than reasonable care), (b) not disclose it except to personnel and professional advisers who need to know and are bound by equivalent obligations, and (c) use it solely to exercise rights and perform obligations under this Agreement.

10.4 Compelled disclosure. If the Receiving Party is required by law, regulation or court order to disclose Confidential Information, it will give prompt written notice (where legally permitted) and cooperate with the Disclosing Party to seek confidential or protective treatment.

10.5 Statistical use. We may aggregate and anonymise Customer Data and other Confidential Information for statistical or benchmarking purposes. Aggregated data will not identify you, your customers or any individual, and may be shared with third parties.

10.6 Return or destruction. On request or on termination, the Receiving Party will promptly destroy or return all Confidential Information of the Disclosing Party and, on request, certify compliance. This obligation is in addition to clause 9.14.

10.7 Injunctive relief. The parties acknowledge that a breach of this clause may cause irreparable harm that cannot be adequately remedied by damages alone; the Disclosing Party may seek injunctive or equitable relief under clause 9.10.

10.8 Survival. The confidentiality obligations in this clause continue **indefinitely** after disclosure and survive termination without any limit in point of time, except where the information lawfully enters the public domain under clause 10.2.

11 Warranties and statutory rights

11.1 Service warranty – We warrant that we will provide the Services with reasonable care and skill.

11.2 No other warranties – To the maximum extent permitted by law we exclude all other warranties, including implied warranties of merchantability and fitness for a particular purpose.

11.3 Consumer-law carve-out – Nothing in this Agreement excludes, restricts or modifies any right or remedy you have under the Fair Trading Act 1986, the Consumer Guarantees Act 1993, the Australian Consumer Law or any other law that cannot lawfully be excluded.

12 Indemnities

12.1 IP claim – We will defend you against any claim that the Services infringe a third-party patent, trade mark or copyright in any country where we market the Services and, subject to the aggregate cap in clause 13.1, pay up to that amount for sums finally awarded or agreed in settlement, provided you give prompt notice and allow us sole control of the defence. If an injunction is likely we may, at our option: (a) obtain the right for you to continue using the Services, (b) replace or modify the Services, or (c) terminate the affected Service and refund unused prepaid Fees up to the cap.

12.2 Customer-data claim – You indemnify us against any claim arising from Customer Data that infringes third-party rights or breaches law.

13 Limitation of liability

13.1 Aggregate cap – Our total liability arising out of or in connection with this Agreement will not exceed NZD 10 (or AUD 10 where Fees are paid in Australian dollars) in aggregate for all claims.

13.2 Indirect loss – Neither party is liable for loss of profit, revenue, goodwill or any indirect or consequential loss.

13.3 Non-excludable liability – The limits in this clause do not apply to a party's fraud, wilful misconduct, death or personal injury caused by negligence, or liability that cannot lawfully be limited.

13.4 Claims against individuals – Any claim arising out of or in connection with this Agreement may be brought only against Panel Quote Limited; you waive and release any right to claim against our directors, shareholders, officers, employees, agents or contractors. This survives termination and is in addition to the cap in clause 13.1.

14 Force majeure

Neither party is liable for delay or failure to perform its obligations (other than payment) due to events beyond its reasonable control, including natural disaster, epidemic, cyber-attack, war or governmental action. No uptime remedies apply during a force-majeure event.

15 Term, suspension and termination

15.1 Term – This Agreement starts when we provision your account and continues month-to-month unless otherwise agreed.

15.2 Termination for convenience

a. **By Panel Quote Limited** – We may terminate this Agreement or any Service on thirty (30) days' written notice.

b. **By the Customer** – You may terminate this Agreement or any Service on ninety (90) days' written notice. We reserve the right to invoice, and you agree to pay all Fees that would have been payable during the 90-day notice period upon receipt of our invoice.

15.3 Suspension or termination for cause – We may, after giving written notice, suspend or terminate the Services if:

- a. you fail to pay any undisputed amount fifteen (15) days after the due date,
- b. you breach clause 3, 8.3, 9.4 or 10, or
- c. suspension or termination is required by law or to protect the security or integrity of the Services.

15.4 Effect of termination – On termination we will make Customer Data available for download for thirty (30) days, after which we will securely delete it unless retention is required by law.

16 Changes to Services or Agreement

We may make reasonable changes to the Services or these terms. We will give at least thirty (30) days' written notice for any material change. You may terminate the Agreement before the change takes effect if the change materially reduces the functionality you use. Continued use of the Services after the effective date constitutes acceptance.

17 Assignment and change of control

17.1 Assignment – Either party may assign this Agreement in connection with a merger, acquisition or sale of substantially all assets, provided the assignee is not the other party's direct competitor and agrees to be bound by this Agreement. If the assignee is a direct competitor, the non-assigning party may terminate the Agreement on thirty (30) days' written notice.

17.2 Change of control notice (Customer) – You must give us at least ninety (90) days' prior written notice of any proposed sale of your business or change of control (including a share sale or transfer of assets that results in a new controlling entity). We reserve the right to (a) conduct due-diligence on the proposed acquirer, (b) invoice you for all Fees that would have been payable during the 90-day notice period, and (c) terminate this Agreement or impose additional security or subscription conditions at our discretion.

18 Severability and unfair contract terms

If any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions remain in effect. A provision found to be an "unfair contract term" under any applicable consumer or small-business legislation will be severed without affecting the remainder of this Agreement. **Headings are for convenience only and do not affect interpretation.**

19 Insurance integrations

19.1 Notice requirement – If you access or use any insurer integration we provide (including but not limited to *IAG ORM* or *Hello Claims* or *PNet* integrations) you must give us at least three (3) months' written notice before ceasing, switching or materially altering that integration.

19.2 Remediation charge – If you fail to provide the required notice we may charge you up to NZD 10,000 (or AUD 10,000) to compensate us for additional technical work, data reconciliation or disruption caused.

19.3 Continuing fees – Standard subscription Fees continue to apply throughout the notice period and until the integration is fully de-commissioned.

20 Insurance-claims liability disclaimer

20.1 No liability for insurer actions – Panel Quote Limited acts solely as a technology platform. We do not control, influence or participate in how any insurer, assessor, loss-adjuster or third-party administrator (together, “**Insurers**”) processes, approves, declines, values, negotiates or settles any claim.

20.2 No liability for payments or amounts – We are not liable for any calculation, payment, non-payment, under-payment, over-payment, delayed payment, charge-back or claw-back by an Insurer to you, a policyholder or any third party, even where payment information is displayed, calculated or transmitted by the Services.

20.3 Data pass-through only – All claim, authorisation, schedule, parts, labour and pricing data received from Insurers is passed through the Services *as received* without verification. You must validate all such data before relying on it and remain solely responsible for the accuracy of claim submissions and supporting information.

20.4 No liability for assessor decisions – We are not liable for any statement, note, scope, instruction, valuation, amendment, approval, rejection or other decision made by an Insurer assessor or representative, even if displayed within, or exported from, the Services.

20.5 No liability for commercial outcomes – We are not liable for any commercial outcome of a claim including lost profit, margin reduction, cash-flow impact, business interruption or reputational harm arising from Insurer decisions, integrations or system availability.

20.6 Customer indemnity – You indemnify and hold harmless Panel Quote Limited **and its directors, officers, shareholders, employees, agents and contractors** against any claim, loss, damage or cost (including legal fees on a solicitor-client basis) arising from disputes between you and an Insurer or policyholder in connection with claim handling, payments, documentation or data accuracy, except to the extent caused by our wilful misconduct.

20.7 Prevails over other terms – This clause 20 prevails over any other clause of this Agreement to the extent of inconsistency and is in addition to the limitations in clause 13.

21 Breach and liquidated damages

21.1 Notice and opportunity to cure – If we reasonably believe you have breached any obligation under this Agreement we may give written notice describing the breach. We may, at our reasonable discretion, allow up to five (5) business days for you to remedy the breach. No cure period is required for breaches involving unauthorised credential sharing, intellectual-property infringement or non-payment, or for any breach that, by its nature, cannot be cured.

21.2 Suspension or termination – We may suspend or terminate the Services immediately if the breach is not cured within any stated cure period, or immediately for any material breach.

21.3 Liquidated damages – In addition to any other remedy, the following liquidated amounts apply:

- **High-risk breaches** – Any breach of clause 8.3 (Credential sharing prohibition), clause 9.6 (Liquidated damages for IP infringement) or clause 10 (Confidentiality), including but not limited to unauthorised disclosure of Confidential Information, wilful IP theft or exfiltration, distribution of login credentials outside your organisation, or creating or distributing derivative works without permission. For such breaches you agree to pay, on demand, NZD 5,000,000 (or AUD 5,000,000 where applicable).
- **Other breaches** – For any breach of this Agreement not listed as a High-risk breach, you agree to pay, on demand, the greater of (a) NZD 250,000 (or AUD 250,000) or (b) twelve (12) months of subscription Fees calculated on the average monthly Fees paid in the twelve months preceding the breach.

Each amount in this clause 21.3 is a genuine pre-estimate of our loss, is not a penalty, and is **not subject to the liability cap in clause 13.1**.

21.4 Cost recovery – You must reimburse all costs (including legal fees on a solicitor-client basis) that we incur in investigating, enforcing or collecting amounts under this clause.

21.5 Anti-penalty savings – If a competent court determines that any liquidated amount in this Agreement is unenforceable as a penalty, the parties agree that the court may substitute the highest amount it considers enforceable, and the remainder of this clause 21 will continue in full force.

22 Dispute resolution

22.1 Negotiation – If any dispute, controversy or claim arises out of or in connection with this Agreement (a “**Dispute**”), the parties will first attempt in good faith to resolve the Dispute by negotiation between senior executives who have authority to settle the Dispute. Either party may give written notice requesting such negotiation and the executives will meet (in person or by video conference) within ten (10) business days.

22.2 Mediation – If the Dispute is not resolved within twenty (20) business days after notice under clause 22.1, either party may refer the Dispute to mediation administered by the Resolution Institute of New Zealand (or its successor) under its Mediation Rules. Unless the parties agree otherwise, the mediation will take place in Wellington, New Zealand and each party will bear its own costs.

22.3 Arbitration – If the Dispute is not resolved by mediation within twenty (20) business days after the mediator’s appointment, the Dispute will be finally resolved by arbitration under the Arbitration Act 1996 (NZ). The tribunal will consist of one arbitrator appointed by the President of AMINZ. The seat of arbitration will be Wellington, New Zealand, the language will be English, and the arbitrator’s award will be final and binding. The tribunal may award costs.

22.4 Urgent relief – Nothing in this clause prevents a party from seeking urgent injunctive or equitable relief from a court of competent jurisdiction.

22.5 Continued performance – The parties will continue to perform their respective obligations under this Agreement while the Dispute is being resolved, unless and until such obligations are terminated or suspended in accordance with the Agreement.

23 Survival

Clauses 3.3, 8.3, 9, 11, 12, 13, 18, 20, 21 and any other clause which by its nature is intended to survive, survive termination or expiry of this Agreement.

