

End User Licence Agreement (EULA)

Class is in the process of updating its terms and conditions to better reflect the nature of our current services. The first step in this process is to replace our application terms and conditions with this new End User Licence Agreement (EULA), and to add separate data terms. During the transition process, the new terms and conditions may not yet apply to existing users.

For further information, including the extent to which these changes apply to you, please see our website: class.com.au/application-tc

End User Licence Agreement (EULA)

Recent changes: In March 2020, we updated this EULA. We have included a new paragraph in section 1, which relates to our use of anti-virus detection software. We have also made related amendments to sections 1 and 8.

To the extent that any terms of this EULA are inconsistent with the terms of the "Software Services Agreement" (or other separate signed agreement) between us and our Client (as defined below), the terms of this EULA will not apply to the extent of such inconsistency.

IMPORTANT: This EULA is an agreement between you and Class Technology Pty Ltd (ABN 46 121 158 503) of Level 3, 228 Pitt Street, Sydney, New South Wales 2000 ("us", "we" or "our") for the use by you of our SMSF accounting and administration software, "Class Super", and/or our investment reporting and administration software, "Class Portfolio" (together, the "Software").

To proceed to use the Software, you must be (and you warrant, represent and undertake that you are) an employee or other authorised user ("Authorised User") of the organisation which has given you access to access and use the Software (our "Client"). If you are not such an Authorised User, you have no right to use the Software and should not proceed past this point. Please read this EULA carefully, as it sets out the terms and conditions governing your use of the Software. By clicking the "accept" button or by accessing and using the Software, you are entering into and agreeing to be bound by the terms of this EULA, our policy regarding use of the Software, available at class.com.au/fair-use-policy ("Use Policy"), our data breach notification protocol, available at class.com.au/data-breach-protocol/ ("Data Breach Notification Protocol"), and our privacy policy, available at class.com.au/privacy ("Privacy Policy").

Our Use Policy, Data Breach Notification Protocol and our Privacy Policy are incorporated into this EULA by reference and may be updated by us from time to time.

We will notify you of any changes to the documents referred to in the links above, or to this EULA, when you next login to the Software.

1 Access to and Use of the Software

We grant you a non-transferable and non-exclusive right to access and use the Software remotely via the internet, and to use the specifications, user manuals, training materials and collateral in connection with the Software (“Documentation”), for the business purposes of our Client (**“Approved Purpose”**) strictly in accordance with the terms of this EULA.

You must comply with all applicable laws in connection with your access to and use of the Software, and access and use the Software only in accordance with access requirements (such as user identification and password requirements) notified to you from time to time by us or our Client. The Software must be used in conjunction with hardware of equal or higher specifications than our minimum hardware specifications, set out at class.com.au/minimum-hardware-requirements (which we may update from time to time), and you are entirely responsible for acquiring, maintaining, updating and properly using any computer, device, workstation terminal, other electronic device (including a network server), and communication links and ensuring that you comply with minimum browser requirements notified by us.

You are entirely responsible for the accuracy, quality, integrity, legality, reliability, appropriateness, and rights (including Intellectual Property Rights) of use in respect of any data, files or other information, including Personal Information (as defined in clause 5 below), that you input, upload or store with us in the course of using the Software (**“Your Data”**), including for entering or uploading Your Data into the Software and maintaining Your Data. For the purposes of this EULA, **“Intellectual Property Rights”** means all industrial and intellectual property rights both in Australia and throughout the world, whether now known or devised in the future, and for the duration of the rights including any patents, copyright, registered or unregistered trade-marks or service marks, registered designs and commercial names and designations, circuit layouts, database rights and rights in relation to confidential information and trade secrets, whether or not registered or registrable.

You must ensure that you have all necessary rights and consents for us to access, store, use, copy, modify and delete (collectively, **“Process”**) Your Data in accordance with this EULA. You must ensure that Your Data and our Processing of Your Data in accordance with this EULA does not give rise to any civil or criminal liability for us.

We may allow you to use a third party (or your own) identity verification software to enable you to login and access the Software, however, if we do so:

- (i) we will not be in a position to validate any access to the Software using such identity verification software; and
- (ii) you are entirely responsible for any access to, or use or misuse of, the Software (whether by you, our Client, another Authorised User or any other person) as a result of your use of such identity verification software.



As part of the Software, we may provide you with the ability to upload and store files with us. We may use anti-virus software to scan these files for viruses or other malware (Harmful Code). We may refuse to upload files where we detect Harmful Code in them and we will notify you where we do. Where files have already been uploaded, we will quarantine them and inform you once we have done so, at which point you will have 5 working days to download them. If you decide to download your files, you do so knowing they have been identified as containing Harmful Code and do so entirely at your own risk. We may subsequently delete your files.

From time to time:

- (i) the Software may be unavailable due to scheduled maintenance, system or Software updates, upgrades or changes and operational procedures;
- (ii) we may change, add or delete functions, features, performance or other characteristics of the Software provided that the functionality or availability of the Software will not be materially and adversely affected; and
- (iii) we may deactivate your access to the Software due to systems issues.

2 Restrictions

You must not:

- (i) use the Software or any support material including user manuals, specifications, training materials and collateral in connection with the Software ("Documentation") for any purpose other than for the purposes of our Client ("Approved Purpose"), or otherwise permit access to the Software and Documentation by any other person;
- (ii) reverse engineer or decompile the Software, unless otherwise permitted by law;
- (iii) modify or alter the Software or Documentation;
- (iv) sublicense the Software;
- (v) sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Software; or
- (vi) remove, alter or obscure any identification, copyright, trademark or other proprietary notices, labels or marks on or in the Software and the Documentation.

As between us and you, the Intellectual Property Rights, title and any other interest in the Software (including any modifications and derivative works) and the Documentation is permanently and irrevocably vested in us, and the Software and Documentation are made available to you for the specific purposes of this EULA and this EULA does not convey any rights of ownership in or to the Software and Documentation.

As between us and you, the Intellectual Property Rights, title and any other interest in Your Data is permanently and irrevocably vested in our Client. You warrant, represent and undertake that you have granted our Client all applicable rights (including Intellectual Property Rights) necessary for our Client to permit us to Process Your Data to the extent necessary to perform our obligations under this EULA.

3 Third Party Data and Data Services

- (a) In connection with your access to and use of the Software, you may be able to access transactional and reference data sourced from reputable third party data suppliers (“Third Party Data”), including Third Party Data from those suppliers specified in class.com.au/data-terms (which we may update from time to time)(our “Data Terms”). Where you are able to access any Third Party Data via the Software, we will advise you (via the Software) whether:
- (i) we are providing such Third Party Data as part of our standard feed offerings (“Data Services”), in which case paragraph (b) and the remainder of this EULA will apply to such Third Party Data; or
 - (ii) the relevant third party data supplier is providing such Third Party Data directly to you, in which case:
 - (1) paragraph (b) will not apply to such Third Party Data, and the relevant terms set out in the Data Terms (and not the terms of this EULA) will apply as between you and the third party data supplier;
 - (2) we are not a party to, and will have no rights or obligations under, the relevant Data Terms. The relevant third party data supplier is the supplier of the Third Party Data to you (and not us), and our obligations are limited to merely providing the technical means by which the Third Party Data is delivered to you; and
 - (3) you are responsible for your use of any Third Party Data in accordance with the relevant Data Terms, and so you should carefully review the Data Terms prior to accessing such Third Party Data. The Data Services may be varied subject to availability, cost and the terms of the third party data supplier.
- (b) We and our third party data suppliers make all reasonable efforts to ensure that the Data Services are made available. Where a delay in transmission occurs, the Data Services will be made available at the earliest practical time. The provision by us of Third Party Data should not be construed as an endorsement, approval or recommendation by us, and any links are provided for information and convenience only. However, to the extent permitted by law, and to the extent we are unable to seek recourse from the relevant third party data supplier, we will not be liable in any way for:
- (i) any loss, damage or liability suffered by you through your use of the Data Services or access to the corresponding Third Party Data;
 - (ii) errors, omissions or changes without notice to the Data Services or corresponding components of Third Party Data; or
 - (iii) failures or delays in transmission of the Data Services or corresponding Third Party Data.

- (c) You must not:
- (i) reverse engineer, disassemble, decompile, re-disseminate, redistribute, or publish the whole or any part of the the Data Services or corresponding Third Party Data;
 - (ii) establish, maintain or provide or assist in establishing, maintaining or providing a secondary market in respect of any the Data Services or corresponding Third Party Data; or
 - (iii) use the Data Services to access any data other than the corresponding Third Party Data, or use the Data Services or corresponding Third Party Data for any unlawful purpose.

4 Integrated Services and Support Services

We may make available to you within the Software a “shopping cart” service (“Shopping Cart”) which you can use to purchase products offered by third parties (“Third Party Products”). In addition, other Third Party Products may be made available to you through the Software by means other than the Shopping Cart. We are not responsible for providing these Third Party Products, and the contractual relationship for any such Third Party Product will be solely between you and/or our Client and the provider of such Third Party Products, and we are in no way liable to you in respect of such products. However, to the extent specified in the Shopping Cart or otherwise through the Software, we will invoice you and/or our Client the relevant fees on behalf of the relevant provider of the Third Party Products in accordance with our standard payment terms.

We may provide the functionality for you to approve access by third parties to data and information accessible to you in the Software (whether Your Data or otherwise). You must ensure that in granting any such approval, you are authorised to do so on behalf of our Client and any other person to whom the data relates. We are not responsible for the use of such data and information by any third party who you approve such access for.

We will provide you with support for operational problems, bugs, feature requests, anomalies or enquiries relating to use of the Software (“Issues”) in accordance with the Issue classification, procedures and target timeframes (“Support Services”) specified in class.com.au/education-support/class-support-services (which we may update from time to time).

You are responsible for:

- (i) providing sufficient information and data to allow us to readily reproduce all reported Issues; and
- (ii) making available such remote access facilities as we require in order to provide the Support Services (subject to us complying with any reasonable security or access restrictions you notify us in writing).

5 Privacy

As a consequence of making the Software available to you we will collect certain Personal Information (as that term is defined in the Privacy Act 1988 (Cth)). We understand that privacy is important to you and our [Privacy Policy](#) notifies you of certain matters regarding our collection, use, disclosure and protection of that Personal Information. You must comply with your obligations under our [Data Breach Notification Protocol](#) in respect of any Eligible Data Breach (as defined in our [Data Breach Notification Protocol](#)).

6 Statistical data

We collect and prepare de-identified and aggregated statistical data related to the use of our Software and services, and the data within our software. This is to administer and monitor the use of our Software and services, and for our own internal business improvement purposes, benchmarking, market and industry research, and use in commentary, media releases and other publications. We agree not to take any steps (whether through data analytics or otherwise) which will deliberately cause this de-identified information to become re-identified or Personal Information.

7 Disclaimer

The Software we make available to you under this EULA is not designed or intended for use (and must not be relied on) as a substitute for accounting, legal or any other advice in relation to superannuation or investment reporting, compliance or other matters. The provision of Data Services by us does not constitute the provision of 'personal advice' or 'general advice' as those terms are defined in the Corporations Act 2001 (Cth) and Corporations Regulations 2001 (Cth). Third Party Data is provided to you without taking into account the objectives, financial situation or needs of any individual. You are advised not to rely on the Third Party Data in any way as the basis for entering into any commercial, financial or other transaction. Before making any investment decision, an individual should consider the appropriateness of the advice to their circumstances, and obtain specific financial, legal and taxation advice. Where one exists, all potential investors should obtain a Product Disclosure Statement ("PDS") relating to any relevant financial product and consider the PDS before making any decision to invest.

All express or implied guarantees, warranties or conditions relating to this EULA or its subject matter, not contained in this EULA, are excluded from this EULA to the maximum extent permitted by law.

Nothing in this EULA excludes, restricts or modifies any guarantee, condition warranty, right or remedy implied or imposed by any statute which cannot lawfully be excluded, restricted or modified (a "Non-Excludable Condition").

If a Non-Excludable Condition is implied or imposed in relation to this EULA and cannot be excluded, and we are able to limit your remedy for a breach of the Non-Excludable Condition, then our liability to you for breach of the Non-Excludable Condition is limited to one or more of the following at our option:

- (i) in the case of goods, the replacement of the goods or the supply of equivalent goods, the repair of the goods, the payment of the cost of replacing the goods or of acquiring equivalent goods, or the payment of the cost of having the goods repaired; or
- (ii) in the case of services, the supplying of the services again, or the payment of the cost of having the services supplied again.

8 Liability and indemnity

Subject to the paragraphs below, our maximum aggregate liability to you for all damages, expenses and outgoings, legal costs and disbursements (on a reasonable solicitor client basis) (“Loss”) under or relating to this EULA or its subject matter and however arising (whether from our breach of contract, statute or in tort, including negligence) is limited to fifty Australian dollars (AUD \$50)

Subject to the paragraphs below, neither party limits its liability to the other for:

- (i) the death or personal injury of any person; and
- (ii) the loss, damage to or loss of use of, any real or personal property.

Notwithstanding anything else in this clause 8:

- (i) neither party will be liable for any indirect or consequential loss, loss of profits, loss of revenue, loss of savings or loss of opportunity, or loss of or damage to goodwill;
- (ii) without limiting paragraph (i), and on the basis that the Software enables you to extract Your Data from time to time for backup purposes and we provide you with an opportunity to download files quarantined after being found to contain Harmful Code, we will not be responsible or liable for any loss, damage, deletion or unauthorised access to, alteration of, or failure to upload or store, Your Data;
- (iii) your liability will be reduced to the extent any Loss is caused by us or our employees, agents or contractors; and
- (iv) our liability will be reduced to the extent any Loss is caused by you or our Client.

You will indemnify us and our employees, officers, agents and contractors from and against any claims, proceedings and Losses arising out of a claim by a third party as a result of your wilful misuse of the Software or your wilful breach of this EULA.

9 Confidentiality

Each party agrees to keep confidential, and not to use or disclose, other than as permitted by this EULA, any Confidential Information of the other party, where “Confidential Information” means, in relation to that other party, any information:

- (i) regarding the business, technology or affairs of that party;
- (ii) regarding clients, customers, employees, contractors of, or other persons doing business with, that party;

- (iii) in our case, information and details regarding the function, purpose and/or operation of the Software and of the contents of the Documentation and other explanatory material supplied by us;
- (iv) in your case, Your Data, but excluding any statistical data referred to in clause 6;
- (v) which is by its nature confidential or which is designated as confidential by that party;
- (vi) which the other party knows, or ought to know, is confidential; or
- (viii) the commercial arrangements between the parties.

These obligations of confidence extend to Confidential Information provided to or obtained by a party prior to the effective date of this EULA. These obligations of confidence do not apply to Confidential Information:

- (i) that is in the public domain otherwise than as a result of a breach of this EULA or other obligation of confidence; or
- (ii) that is already known by, or rightfully received, or independently developed, by the recipient free of any obligation of confidence.

Notwithstanding anything to the contrary in this EULA, either party may disclose Confidential Information of the other party where such Confidential Information:

- (i) is required to be disclosed by applicable law, by a court or governmental agency, provided that, prior to disclosing any such Confidential Information, the party making the disclosure has promptly notified the other party in writing to allow that party to take all reasonable steps to maintain such Confidential Information in confidence; or
- (ii) is required to be disclosed in accordance with the rules of any stock exchange upon which the securities of the party making the disclosure are listed.

On request by the party disclosing the Confidential Information the party receiving the Confidential Information must:

- (i) promptly return or destroy (at the option of the disclosing party) the Confidential Information and any copy of it; and
- (ii) if required by the disclosing party, certify in writing that it has returned or destroyed all the Confidential Information.

10 Governing Law

This EULA and all disputes arising under it shall be governed by the laws of New South Wales, Australia, and each party submits to the exclusive jurisdiction of the courts in that state.

11 Severability

If any part of this EULA should be declared invalid, void or unenforceable, such part or parts shall be severed from the remainder of the EULA which will remain in full force and effect. The invalid, void or unenforceable provisions shall be replaced by provisions which correspond to or come as close as possible to the economic or intended purpose of the void provision.

12 Waiver

The failure of a party to pursue its rights with respect to a default or breach of this EULA does not constitute a waiver of the right to enforce its rights with respect to the same or any other breach.

13 Force majeure

Neither party is responsible for any delay in its performance or its failure to perform due to causes beyond its reasonable control.

14 Modifications

We may modify this EULA from time to time to reflect changes in:

- (i) the Software;
- (ii) any law;
- (iii) the terms of the "Software Services Agreement"; or where we otherwise believe it is reasonable to do so.

We will notify you of such changes when you next login to the Software.