

{Title}

{Organisation}

Statement of Work (SoW)

Agreement ID: {AgreementID}

Prepared by:

Circle T Industries Pty Ltd

ABN: 22 136 426 992

{AgreementDate}

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# Agreement

The client representative may, with written notice 10 days prior to the commencement of any milestone, cancel/amend the upcoming milestone.

## Invoice Schedule

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Invoice number | Milestones | Date | Value INC GST | Notes |
| 1 | 1-7 |  | $11,000.00 |  |
| 2 | Remainder | TBC | **!Undefined Bookmark, TOTALCOST** | Successful completion |
|  |  | **Total** | **$11,000.00** |  |

## Payment Terms

Works will be invoiced based on pre-agreed milestones as per the invoice schedule.

All claims shall be payable 30 days from date of invoice.

Unless otherwise specified, rates are quoted exclusive of GST.

All prices quoted in AUD

## Authorisation

|  |  |
| --- | --- |
| **SIGNED** for and on behalf of **Circle T Industries** by a duly authorised officer  Name of authorised representative signing:  Signature:  (Authorised Officer)  Date: | **SIGNED** for and on behalf of **{Organisation}** by a duly authorised officer  Name of authorised representative signing:  Signature:  (Authorised Officer)  Date: |

# Schedule 1 – General Terms and conditions

### Recitals

The following terms and conditions (**Terms**) apply to the supply of Services and Deliverables under this Statement of Work.

### Definitions

**Acceptance** means the written acceptance of a Service or Deliverable by Customer which, at the discretion of Customer or Circle T, may have been subject to Acceptance Testing. In the case of Services being delivered on a time and materials basis, such written acceptance may be in the form of time sheet approval.

**Acceptance Testing** means any tests undertaken by the Customer or by Circle T at the request of the Customer to demonstrate to Customer’s reasonable satisfaction whether a Service or Deliverable is complete.

**Applicable Laws** means all federal, state and local laws and regulations and all codes of conduct and industry standards relevant to the Services and Deliverables.

**Circle T Intellectual Property** means Intellectual Property that is owned by, or licensed to, Circle T prior to the commencement of these Terms, or developed by Circle T independently of these Terms.

**Commencement Date** means the date of execution of this SoW.

**Confidential Information** in relation to a Discloser means all information relating to the products, services, business or affairs of the Discloser which is disclosed to the Recipient and includes but is not limited to the existence and Terms of this SoW, Intellectual Property, plans, inventions, discoveries, formulae, processes, designs, specifications, software, object code, drawings, prototypes, products, samples, improvements, developments, medical methodologies, applications, engineering and manufacturing and marketing data, customer names, trademarks, trade names and trade secrets, whether or not the same are or may be patents, registered or otherwise publicly protected, as well as any commercial, financial or technical information. Confidential Information does not however include information or material which**:**

1. is now or becomes generally available to the public other than through a breach of this SoW; or
2. was known to the Recipient on a non-confidential basis prior to the disclosure pursuant to this SoW; or
3. becomes available to the Recipient on a non-confidential basis from a Person other than the other party to this SoW; or
4. the Recipient is required by law to disclose; or
5. the Discloser agrees in writing that it can be disclosed to a third party without restriction.

**Customer Intellectual Property** means Intellectual Property that is owned by, or licensed to, Customer prior to the commencement of these Terms.

**Customer** means the company stated on the first page of this SoW, to whom the Services are being Delivered.

**Defect** means during any specified hypercare period any fault, failure, degradation, deficiency or error in a Deliverable or any non-conformance of a Deliverable with any acceptance criteria described within this SoW, or that provision of Service does not comply with or fulfil the requirements of its description within this SoW.

**Deliverable**: means a task to be completed or item, Service or deliverable to be provided to Customer by Circle T under this SoW.

**Developed Intellectual Property** means any Intellectual Property created in all Services and Deliverables provided by Circle T in connection with or as a result of the Services described in this SoW.

**Discloser** means a party whose business or affairs are the subject matter of the Confidential Information.

**Intellectual Property** means any intellectual and industrial property rights, including trade marks, copyright (including future copyright), inventions, patents, designs, circuits and other eligible layouts, database rights, and other intellectual property rights as defined in Article 2 of the Convention establishing the World Intellectual Property Organisation dated 14 July 1967.

**Person** includes any natural person, corporation or body of persons whether or corporate or not.

**Personal Information** means information or an opinion, whether true or not, about an identified or reasonably identifiable individual, contact details of any Person, and the tax file number (as defined in Part VA of the *Income Tax Assessment Act 1936* (Cth)) of any Person, in each case, which is collected, accessed or generated by Circle T, any of its subcontractors, or any of their respective officers, employees or agents as a consequence of or in the performance of the Services and Deliverables.

**Privacy Law** means the *Privacy Act 1988 (Cth)*, including the Australian Privacy Principles set out in the Privacy Act; and any other privacy related statute, regulation, standard, by-law, ordinance, subordinate legislation, industry code of conduct or government order, decree or other instrument which Circle T is required to comply with, or which Customer or any of its related companies are required to comply with as notified by Customer to Circle T from time to time.

**Recipient** means the party which receives, possesses or is given access to Confidential Information from the Discloser.

**Services** means the services performed or to be performed by Circle T for Customer under or in connection with this SoW.

**Source Code**means source code and object code versions of the software and associated material reasonably required for a programmer to understand how the software operates.

**Statement of Work** or **SoW** means this statement of work in its entirety including all its schedules, annexures, appendices, and these Terms.

### Term and termination

1. This SoW and these Terms commence upon execution of this SoW and, subject to provisions of these Terms that, by their nature, survive termination and will continue to apply beyond the expiry or termination of this SoW, continue until the earlier of completion of Services or Deliverables, or termination in accordance with this clause.
2. Customer or Circle T may terminate this SoW for convenience at any time with 30 calendar days written notice.
3. Expiry or termination of these Terms does not affect any rights of Customer or Circle T which arose prior to the time of such expiry or termination.

### Circle T general responsibilities

Circle T must:

1. comply with, and must ensure the Services and Deliverables comply with, all Applicable Laws, Customer’s reasonable directions, and the other requirements of these Terms notwithstanding any input, approval, Acceptance, consultation or direction by Customer or its representatives;
2. not cause Customer to breach any Applicable Laws;
3. immediately notify Customer on becoming aware of any actual or impending deficiency in or delay in the provision of the Services and Deliverables (including where caused by Customer or any third party) and use its best efforts to minimise the effect of any delay;
4. possess (and, on request, provide reasonable evidence of) all relevant approvals, authorisations, permits and licences required to perform its obligations under these Terms;
5. ensure that the Services, the Deliverables and the performance of the Circle T’s obligations under these Terms do not adversely impact Customer or Customer’s computer systems and do not result in any loss, corruption or reduction in the accessibility or useability of any Customer data; and
6. ensure that Circle T’s personnel and all third parties engaged by Circle T in connection with the Services and Deliverables comply with Circle T’s obligations under these Terms.

### Representations and warranties

Circle T represents and warrants, at the time of entering in these Terms and on an ongoing basis, that:

1. all Services will be performed in a professional manner by duly qualified and experienced personnel;
2. the Services and Deliverables will be fit for the purposes for which the Services and Deliverables are to be used by Customer; and
3. the provision of the Services and Deliverables by Circle T and receipt of the Services and Deliverables by Customer (including use of the Services and Deliverables) will not infringe the Intellectual Property of any third party.

### Warranty period

If this SoW defines a period of hypercare and Customer notifies Circle T of a Defect during the period of hypercare, then Circle T will perform all activities necessary to diagnose and rectify the Defect as soon as reasonably practicable. If Circle T is not the original creator of the Services or Deliverables, the Circle T must, to the extent possible, transfer the benefit of any original creator’s warranty to Customer for the period of hypercare.

### Escrow

If required to do so by Customer as confirmed via notice to Circle T, Circle T will enter into an industry standard escrow agreement for the Developed Intellectual Property Source Code with an independent escrow agent.  Circle T will be entitled to reimbursement of reasonable expenses associated with the review, finalisation and execution of the escrow agreement.

### Indemnity

Circle T will indemnify Customer, and Customer will indemnify Circle T, from and against all losses, liabilities, judgments, amounts agreed upon in settlement, costs, expenses (including legal fees) and damages that Customer or Circle T may suffer or incur that arise out of, are in connection with or result from:

1. a breach of these Terms;
2. negligent acts or omissions or wilful misconduct of either parties’ employees, officers, agents, authorised representatives or subcontractors; and
3. bodily injury (including death) or damage to property caused by, arising out of, connected with or resulting from the Services and Deliverables or the acts, or omissions of either parties’ employees, officers, agents, authorised representatives, subcontractors, whether such act or omission to act be negligent or not, and whether or not such act or omission to act be within or without the scope of employment.

### Insurance

Circle T will maintain the following insurance cover:

1. for the provision of all Services and Deliverables, public liability insurance;
2. for the provision of all goods, product liability insurance; and
3. for the provision of all Services, professional indemnity insurance.

Upon the request of Customer, Circle T will provide evidence of such insurance.

### Confidentiality, privacy and Intellectual Property

1. All Confidential Information disclosed by either party must be held in confidence by the Recipient who will not directly or indirectly disclose nor permit the disclosure of any such Confidential Information whether verbally or in writing to any Person other than in accordance with the Terms of this SoW or as required at law and all such Confidential Information will at all times remain the exclusive property of the Discloser. The Recipient agrees to return all Confidential Information to the Discloser immediately following termination or expiration of this SoW.
2. Circle T and Customer shall comply with: the Privacy Act 1988 (Cth) as amended from time to time (Privacy Act); the Australian Privacy Principles (as current) in the Privacy Act; the Do Not Call Register Act 2006 (Cth); the Spam Act 2003 (Cth); and any other requirement (to the extent applicable to either party) under law or industry code relating to privacy, data protection, surveillance, security, direct marketing or the handling of Personal Information.
3. Circle T must use any Personal Information obtained in the course of this engagement only for the proper performance of this SoW and must promptly comply with all reasonable directions of Customer (including any direction to cease using, destroy or de-identify any and all Personal Information or to do anything reasonably required by Customer to assist Customer or any of its related companies to comply with their obligations under the Privacy Laws). Circle T must notify Customer if it receives a privacy related complaint or any breach or alleged breach of the Privacy Law of which it becomes aware, in connection with the Deliverables provided under this engagement. In the event of a data breach, or suspected data breach, then to the extent permitted by law the Customer may on written notice to Circle T: (a) assume control of any assessment, remedial action, preparation of a statement and/or notification processes required under the Privacy Law in respect of that eligible data breach; and require Circle T not to undertake such assessment, remedial action, preparation of a statement and/or notification and to instead rely on the steps taken by Customer in connection with those actions in accordance with the relevant provisions in the Privacy Law.
4. The unencumbered ownership of all Developed Intellectual Property vests in Customer on creation. Circle T assigns the unencumbered legal and beneficial ownership of all Developed Intellectual Property to Customer, and grants to Customer a perpetual, irrevocable, transferable, fully paid up, royalty free world‑wide licence to exercise and sub‑license the Developed Intellectual Property.
5. In the event Accepted Materials contain Circle T Intellectual Property, the Circle T grants Customer a non-exclusive, assignable, royalty free, perpetual and irrevocable licence to use the Circle T's Intellectual Property.

The confidentiality, privacy and Intellectual Property obligations of this SoW will survive any termination or expiry of this SoW and continue in perpetuity.

### Licence

Circle T grants to Customer a non-exclusive, licence to use the Software for the Specified Purpose on the terms set out in this agreement or SoW. Customer acknowledges that the Licence does not include provision of any training, software support, maintenance or enhancement work to the Licensee in relation to the Software (unless otherwise noted in a Statement of Work ) Customer must:

1. not reverse engineer, decompile or disassemble the Software;
2. other than as permitted under this agreement, not rent lease or hire out the Software or make it available to any third party; or
3. not use the Software other than as expressly permitted by this agreement.

### Source Code

Customer acknowledges that no pre-existing Source Code will be provided during or as a result of this SoW.

### Non-exclusivity

Circle T agrees that nothing in these Terms prevents Customer from entering into any arrangement with a third party supplier for the provision of any services or deliverables whether similar in nature to the Services and Deliverables or otherwise.

### Variation

Either party may request a change to this SoW or its Terms, which will be reviewed by the other party. Where both parties agree the change will be implemented and this SoW or its Terms amended accordingly.

### Governing law

The Terms will be governed by, interpreted and enforced in accordance with, the laws of the State of Victoria in Australia.

# Appendix