

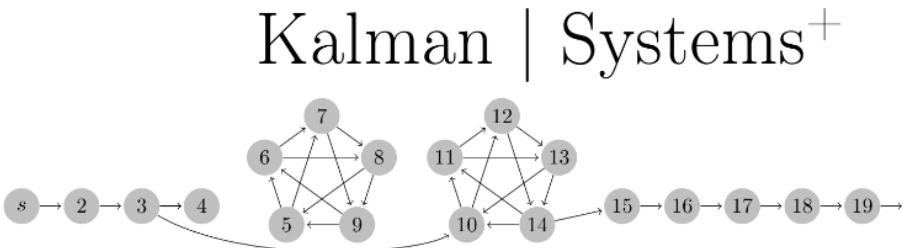
Master Consultancy Agreement

Basis of Agreement

These terms and conditions (**Terms**), together with the Key Details, any Statement of Work (as set out in Schedule 1) and any Completed Referral Form (as set out in Schedule 2), set out the agreement (this '**agreement**') under the terms of which Kalman Systems Pty Ltd ABN 72 660 552 670 ('**Consultant**') provides Services (defined in clause 3) to you or the Principal Company which you represent (the '**Principal Company**').

KEY DETAILS	
Principal Company	Name: [insert name and ABN] Address: [insert] Contact Email: [insert] Contact Person: [insert]
Consultant	Name: Kalman Systems Pty Ltd ABN 72 660 552 670 CAN 660 552 670 Address: Westmead NSW 2145 Contact Email: maresh@kalmansystems.com Contact Person: Mahesh Shastry
Start Date	The date this Key Details is signed by the Principal Company.
Initial Term	NA
Payment Method	Bank Transfer
Payment Amount	

By signing below, the Principal Company and the Consultant agree to the terms and conditions of this Key Details and the Terms attached.



Executed as an agreement on _____ (insert date the final party signs this Key Details)

)
Signed for and on behalf of **[Party Name]** by a
duly Authorised Person:)

Signature of Authorised Person

Full Name of Authorised Person

Date

Signed for and on behalf of **Kalman Systems Pty**)
Ltd by a duly Authorised Person:)
)

Signature of Authorised Person

Full Name of Authorised Person

Date

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TERMS

1 HOW TO READ THIS AGREEMENT

1.1 MEANING OF CAPITALISED WORDS AND PHRASES

Capitalised words and phrases used in these terms and conditions have the meaning given:

- (a) to that word or phrase in the Key Details;
- (b) to that word or phrase in a Completed Referral Form;
- (c) to that word or phrase in a Statement of Work;
- (d) by the word immediately preceding any bolded and bracketed word(s) or phrase(s); or
- (e) in the definitions in clause 22 of this agreement.

1.2 ORDER OF PRECEDENCE

- (a) Subject to clause 1.2(b) and unless otherwise expressly stated, in the event of any inconsistency between these terms and conditions and a Statement of Work, these terms and conditions will prevail to the extent of such inconsistency.
- (b) Any Special Conditions set out in a Statement of Work that are:
 - (i) intended to replace an “Old Clause” with a “New Clause” (as indicated by the use of both columns), then the “New Clause” will replace and prevail over the clause in the Old Clause column entirely; and
 - (ii) intended to add a “New Clause” (as indicated by the use of only the New Clause column) are incorporated in these terms and conditions and will replace and prevail over any other terms to the extent of any inconsistency.

2 DURATION OF THIS AGREEMENT

- (a) This agreement commences on the Start Date and will continue for the Initial Term, and any Renewal Term applicable per clause 2(b), unless terminated earlier in accordance with clause 17 (**Term**).
- (b) Subject to clause 2(c), upon expiration of the Initial Term, this agreement will automatically and indefinitely renew on an ongoing basis for a period equal to the Initial Term (**Renewal Term**).
- (c) This agreement will not automatically renew on expiry of the Initial Term or a Renewal Term (**Renewal Date**), if either party provides written notice that this agreement will not renew at least 3 months prior to the Renewal Date.
- (d) The duration of any Statement of Work is indicated by the dates set out in the Statement of Work.
- (e) The parties may agree in writing to extend the term of any Statement of Work.

3 ORDERING AND PERFORMANCE OF SERVICES

3.1 ORIGINAL STATEMENT OF WORK

The Consultant will perform the Services in accordance with the Statement of Work as completed at the Start Date.

3.2 ADDITIONAL STATEMENTS OF WORK

- (a) The parties may agree to additional Statements of Work under these terms and conditions during the Term.
- (b) These terms and conditions will apply to all additional Statements of Work between the parties.
- (c) If the Principal Company requests an additional Statement of Work, the Consultant will provide a quote in accordance with the Statement of Work template in Schedule 1.

- (d) The Principal Company will be taken to have accepted an additional Statement of Work if the Principal Company informs or otherwise indicates to the Consultant that the Principal Company wishes for the Consultant to proceed with the performing the additional Statement of Work.
- (e) An additional Statement of Work will not limit or otherwise affect any other current Statements of Work between the parties.

3.3 TYPES OF SERVICES

Fixed Price Services

- (a) Where a Statement of Work indicates that the Consultant provides Services at a fixed price (**Fixed Price Services**) the Fixed Price Services commence on the Start Date as specified in the Statement of Work and continue unless and until the Statement of Work is terminated in accordance with this agreement or the Fixed Price Services are completed, and all relevant Fees are paid.

Retainer Services

- (b) Where a Statement of Work indicates that the Consultant provides Services on a retainer or ongoing basis (**Retainer Services**), the Retainer Services commence on the Start Date in the Statement of Work and continue until the End Date in the Statement of Work unless and until the Statement of Work is terminated in accordance with this agreement.

3.4 CHANGES TO A STATEMENT OF WORK

- (a) The Principal Company must pay a 'change in scope fee', in an amount reasonably determined by the Consultant (**Change Fee**), for changes to Services requested by the Principal Company which alter the scope set out in the relevant Statement of Work and require the Consultant to perform additional work or incur additional costs (**Changes**).
- (b) Unless otherwise agreed in writing, the Consultant may at its discretion extend or modify any delivery schedule or deadlines for the Services as may be reasonably required by such Changes.
- (c) The Consultant will only be required to perform Changes, if:
 - (i) the Consultant agrees in writing to perform the Changes;
 - (ii) the Principal Company confirms in writing that they wish for the Consultant to proceed with the Changes and the relevant Change Fee; and
 - (iii) the Principal Company pays the Change Fee, in accordance with clause 8.1 as if it was a Fee.

3.5 GENERAL

Unless otherwise agreed in writing, the Consultant may, in its discretion:

- (a) not commence work on any Services until the Principal Company has paid any Fees or deposit payable in respect of such Services; and
- (b) withhold delivery of Services until the Principal Company has paid an invoice in respect of any Services, including invoices for previous Services that have already been provided.

3.6 STANDARD OF SERVICES

The Consultant must perform the Services:

- (a) in accordance with the Principal Company's reasonable directions;
- (b) in accordance with all applicable Laws and industry standards; and
- (c) with due care and skill and in a professional and diligent manner.

3.7 AUTONOMY AND DISCRETION

The Consultant will have absolute control and discretion over working times, methods, and decision making in relation to the provision of the Services. The Consultant will be responsive to the reasonable needs and concerns of the Principal Company.

3.8 PROMOTING THE PRINCIPAL COMPANY

The Principal Company gives the Consultant the right to use the Principal Company's logos, names, trade marks, trade devices, service marks, symbols or any insignia, design or endorsement associated with the Principal Company's business for the purpose of promoting and/or marketing the Principal Company.

4 INTRODUCTIONS AND REFERRALS

4.1 DEFINITIONS

For the purposes of this clause 4 and the rest of this agreement, the following capitalised terms have the following meanings:

- (a) **"Authorised Representative"** has the meaning given in clause 4.1(d)(ii) below.
- (b) **"Completed Referral"** means an Introduction between the Principal Company and an End Customer, performed by the Consultant, which leads to the End Customer purchasing products or services from the Principal Company, and the Principal Company receives payment.
- (c) **"End Customer"** means a strategic partner or a past, present or prospective customer of the Consultant, or any other person the Consultant may introduce to the Principal Company, but excluding:
 - (i) any person who is an existing customer of the Principal Company at the time of the Introduction of that person; and
 - (ii) any person that has been excluded by the Principal Company, by notice in writing to the Consultant prior to the Introduction of that person.
- (d) **"Introduction"** means an introduction between an End Customer and the Principal Company, where the introduction:
 - (i) is via email;
 - (ii) is to a representative of the End Customer with authority to purchase products or services from the Principal Company on behalf of the End Customer (**Authorised Representative**);
 - (iii) contains the name of the Authorised Representative; and
 - (iv) contains a general indication of the types of products or services the End Customer requires.

4.2 INTRODUCTIONS

- (a) As part of the Services, the Consultant may, but is under no obligation to, Introduce its clients, strategic partners and any other persons to the Principal Company.
- (b) The Consultant must provide the Principal Company with all documentation, information and assistance reasonably required by the Principal Company after an Introduction.

4.3 COMPLETED REFERRALS

- (a) A Commission will only be payable in respect of an Introduction, if it is converted into a Completed Referral.
- (b) The Principal Company is under no obligation to pursue an Introduction, to convert it into a Completed Referral, or to attempt to do so.
- (c) The Principal Company may notify the Consultant that it does not intend to pursue any End Customer, but the Principal Company is not required to notify the Consultant of this.

4.4 COMPLETED REFERRAL FORMS

- (a) The Principal Company must notify the Consultant within 5 Business Days of conversion of a Completed Referral and provide the following details:
 - (i) name of the Completed Referral;
 - (ii) name of the Project;

- (iii) the estimated Project Value;
 - (iv) if applicable, any Milestones;
 - (v) how the Commission is payable.
- (b) Following notification of a Completed Referral, the Consultant will issue the Principal Company with a Completed Referral Form, in the similar format as set out in Schedule 2 to this agreement, unless otherwise agreed in writing.
- (c) Within 5 Business Days of receipt of a Completed Referral Form, the Principal Company must either notify the Consultant of any changes or execute and return the Completed Referral Form.

4.5 AGREEMENT WITH END CUSTOMER

The parties acknowledge that the Consultant will enter into a contract with each End Customer prior to providing an Introduction in order to protect the Consultant and limit its liability. This agreement is in the form of Schedule 3.

5 SOFTWARE SERVICES

5.1 APPLICABILITY

Where a Statement of Work includes "Software Services", this clause 5 will apply.

5.2 SOFTWARE DEVELOPMENT

- (a) The Consultant will perform all activities necessary to develop the Developed Software in accordance with the Statement of Work.
- (b) The Consultant reserves the right to determine the choice of any programming language(s) used in the Developed Software.
- (c) The Consultant reserves the right to determine the choice of any materials used to create the Developed Software.
- (d) The Consultant warrants that the Developed Software will perform substantially in accordance with the intended purpose stated in the Statement of Work.
- (e) The Consultant warrants that, to its knowledge, the use of the Developed Software in accordance with this agreement will not infringe the Intellectual Property Rights of any third party.

5.3 REVIEW, FEEDBACK AND ACCEPTANCE OF DELIVERABLES

- (a) When the Consultant provides Deliverables to the Principal Company for the Principal Company to review, the Principal Company must conduct this review within the Feedback Period specified for that Deliverable in a Statement of Work (**Feedback Period**). If the relevant Statement of Work does not specify a Feedback Period, the Feedback Period is 5 business days.
- (b) Before the end of the Feedback Period, the Principal Company must either:
 - (i) notify the Consultant that the Deliverable has been accepted (**Acceptance**); or
 - (ii) send any feedback or requested amendments to the Consultant, in one email (**Feedback**).
- (c) The Consultant will provide a maximum of one round of amendments based on Feedback in relation to each Deliverable, provided the amendments are within the scope of the Deliverable **capped at X hours**. Any feedback requested in addition to the one round of Feedback, outside the Deliverable Scope **or in excess of X hours** will constitute a Change for the purposes of clause 3.4.
- (d) If the Consultant receives Feedback, the Consultant will prepare an updated version of the relevant Deliverable based on the Feedback within 30 days or a longer reasonable period agreed between the parties in writing, and provide that updated version to the Principal Company.
- (e) If the Consultant:

- (i) receives a notice from the Principal Company indicating that a Deliverable has been Accepted;
 - (ii) does not receive Feedback from the Principal Company before the end of the Feedback Period; or
 - (iii) has received Feedback from a Principal Company in respect of a particular Deliverable, and has provided a subsequent updated version of that Deliverable, based on that Feedback,
 - (iv) then the Deliverable will be taken to have been Accepted by the Principal Company.
- (f) If the Principal Company sends to the Consultant any additional Feedback or requested amendments after a Deliverable has been Accepted, the Consultant will only perform the amendments as a Change in accordance with clause 3.4.

6 RELATIONSHIP

The relationship between the Principal Company and the Consultant is of a principal and an independent contractor. Nothing in this agreement constitutes or deems the Consultant to be an employee or agent of the Principal Company. Either party must not hold itself out as being entitled to contract or accept payment in the name of or on account of the other party.

7 PRINCIPAL COMPANY OBLIGATIONS

7.1 PROVIDE INFORMATION AND LIAISON

- (a) The Principal Company must provide the Consultant with all documentation, information and assistance reasonably required for the Consultant to perform the Services.
- (b) The Principal Company agrees to liaise with the Consultant as it reasonably requests for the purpose of enabling the Consultant to provide the Services.
- (c) If the Commission is to be paid on completion of each Milestone, the Principal Company must provide the Consultant with detailed information regarding the breakdown of each Milestone.

7.2 COMPLIANCE WITH LAWS

The Principal Company warrants that it will not by receiving or requesting the Services, or during receiving or requesting the Services, or otherwise during the Term:

- (a) breach any applicable laws, rules and regulations (including any applicable privacy laws and any relevant industry codes) (**Laws**);
- (b) do anything which may cause the Consultant to breach any Law;
- (c) breach the direction of any government department or authority; or
- (d) infringe the Intellectual Property Rights or other rights of any third party or breach any duty of confidentiality.

7.3 OTHER

- (a) All communication between the Consultant, Principal Company and End Customer must be professional, clean and presentable in content, grammar and etiquette (whether written or verbal communication).
- (b) The Principal Company must provide the Consultant with access to the Project documentation, including ongoing and final Project documentation.

8 PAYMENT

8.1 FEES

- (a) The Principal Company must pay the Fees in the amounts, and on or before the Due Date(s), set out in a Statement of Work.

- (b) If there is no Due Date set out in a Statement of Work in relation to a Fee, that Fee must be paid at the time set out the relevant invoice issued by the Consultant. If there is no time set out in an invoice, that Fee must be paid within 14 days of the date the Consultant provides the Principal Company with an invoice in respect of the Fee.

8.2 COMMISSION

If the Consultant provides the Principal Company with a Completed Referral, the Principal Company will pay to the Consultant the Commission Percentage of the Principal Company's relevant Project Value during the Commission Period (**Commission**), in the amounts and at the times set out in the relevant Completed Referral Form (as set out in Schedule 2), or as otherwise agreed in writing.

8.3 NON-REFUNDABLE

The Principal Company acknowledges and agrees that the Fees and Commission are, to the maximum extent permitted by law, non-refundable.

8.4 TIME FOR PAYMENT

Unless otherwise agreed in a Statement of Work or in writing:

- (a) if the Consultant issues an invoice to the Principal Company, payment must be made by the time(s) specified in such invoice; and
- (b) in all other circumstances, the Principal Company must pay for goods and services within 5 Business Days of receiving an invoice for amounts payable.

8.5 PAYMENT METHOD

The Principal Company must pay Fees using the fee payment method specified in the Key Details.

8.6 SUSPENSION OF SERVICES

The Consultant reserves the right to suspend all or part of the Services indefinitely where the Principal Company fails to pay the Fees in accordance with this clause 8.

8.7 EXPENSES

The parties shall bear expenses as set out in a Statement of Work.

8.8 TAXES

Unless otherwise indicated, all amounts specified in the Key Details exclude GST and any other applicable taxes (together, **taxes**) in the relevant jurisdiction. In relation to any taxes payable for a taxable supply by the Consultant, the Principal Company must pay the taxes subject to the Consultant providing a tax invoice.

8.9 CARD SURCHARGES

The Consultant reserves the right to charge credit card surcharges in the event payments are made using a credit, debit or charge card (including Visa, MasterCard or American Express).

9 AUDIT

- (a) The Principal Company must maintain records and supporting documentation sufficient to permit a complete audit in accordance with this clause.
- (b) Upon request by the Consultant, the Principal Company must provide the Consultant or a third party auditor nominated by the Consultant (as applicable) at reasonable times and on reasonable notice, access to the personnel, records and supporting documentation of any of the Principal Company's businesses connected to a Project, for the purpose of performing an audit to determine whether amounts due to the Consultant under this agreement have been duly paid.
- (c) Without limiting clauses 9(a) and 9(b), the Principal Company must:
 - (i) keep a record of all Projects contracted as a result of a Completed Referral;

- (ii) keep written financial records that correctly record and explain the Principal Company's payments and performance as these relate to the Project; and
- (iii) ensure that each financial statement and accounting record under this clause 9 complies with accounting principles and practices generally accepted internationally consistently applied, except to the extent disclosed in them and all applicable laws.
- (d) If any audit reveals that the Principal Company has underpaid any amount due to the Consultant under this agreement, then the Principal Company must immediately pay such amounts to the Consultant on demand.

10 NON-COMPETE & NON-SOLICITATION

During the Term and for a period of 6 months thereafter (or, if that is unenforceable, the maximum enforceable period), the Consultant must not, without the Principal Company's prior written approval employ or engage (or be knowingly involved in either employing or engaging) any officer, employee or contractor of the Principal Company or client of the Principal Company, which the Consultant had any contact with during the Term.

11 CONFIDENTIALITY

11.1 CONFIDENTIAL INFORMATION

The parties will not, during, or at any time after, the Term, disclose Confidential Information directly or indirectly to any third party, except:

- (a) with the other party's prior written consent;
- (b) as required by Law; or
- (c) to their Personnel on a need to know basis for the purposes of performing its obligations under this agreement (**Additional Disclosees**).

11.2 BREACH

If either party becomes aware of a suspected or actual breach of clause 11.1 by that party or an Additional Disclosee, that party will immediately notify the other party and take reasonable steps required to prevent, stop or mitigate the suspected or actual breach. The parties agree that damages may not be a sufficient remedy for a breach of clause 11.1.

11.3 PERMITTED USE

A party may only use the Confidential Information of the other party for the purposes of exercising its rights or performing its obligations under this agreement.

11.4 RETURN

On termination or expiration of this agreement, each party must immediately return to the other party, or (if requested by the other party) destroy, any documents or other Material in its possession or control containing Confidential Information of the other party.

11.5 ADDITIONAL DISCLOSEES

Each party will ensure that Additional Disclosees keep the Confidential Information confidential on the terms provided in this clause 11. Each party will, when requested by the other party, arrange for an Additional Disclosee to execute a document in a form reasonably required by the other party to protect Confidential Information.

12 PRINCIPAL COMPANY MATERIALS

12.1 PRINCIPAL COMPANY MATERIALS

The Principal Company warrants that all information, documentation and other Material (defined in clause 13) it provides to the Consultant for the purpose of receiving the Services, including financial records and information regarding its systems, procedures and all other materials relating to compliance, is complete, accurate and up-to-date.

12.2 RELEASE

The Principal Company releases the Consultant from all liability in relation to any loss or damage arising out of or in connection with the Services, to the extent such loss or damage is caused or contributed to by information, documentation or any other Material provided by the Principal Company being incomplete, inaccurate or out-of-date.

13 INTELLECTUAL PROPERTY

13.1 EXISTING MATERIAL

- (a) Each party retains ownership of the Intellectual Property Rights in its Existing Material.
- (b) Nothing in this agreement transfers ownership of, or assigns any Intellectual Property Rights in, either party's Existing Material to the other party.

13.2 PRINCIPAL COMPANY CONTENT

- (a) The Principal Company grants to the Consultant (and its subcontractors, employees and agents) a non-exclusive, royalty free, non-transferable, worldwide and irrevocable licence to use the Principal Company Content to the extent reasonably required to perform any part of the Services.
- (b) The Principal Company:
 - (i) warrants that the Consultant's use of Principal Company Content as contemplated by this Agreement will not infringe any third-party Intellectual Property Rights; and
 - (ii) will indemnify the Consultant from and against all losses, claims, expenses, damages and liabilities (including any taxes, fees or costs) which arise out of such infringement or a claim of such an infringement.

13.3 DEVELOPED IP

All Developed IP will be owned by the party set out in the Statement of Work as owning the Developed IP (**Developed IP Owner**), in accordance with the terms of this clause 13.3.

- (a) If the Consultant is the Developed IP Owner, then:
 - (i) the Intellectual Property Rights in Developed IP are immediately assigned to and vest in the Consultant as those rights are created; and
 - (ii) the Consultant grants to the Principal Company a non-exclusive, royalty free, non-transferable and revocable licence to use the Developed IP to the extent required for the Principal Company to use and enjoy the benefit of the Services for their intended purpose.
- (b) If the Principal Company is the Developed IP Owner, then:
 - (i) the Intellectual Property Rights in Developed IP are assigned to and vest in the Consultant as those rights are created;
 - (ii) those Intellectual Property Rights are then assigned to and vest in the Principal Company when the Consultant receives payment of the Fees for the Deliverable in relation to which that Developed IP was created; and
 - (iii) the Principal Company then grants to the Consultant a perpetual, irrevocable, transferable, worldwide and royalty-free licence (including the right to sublicense) to use, copy, modify and adapt the Developed IP in order for the Consultant to use, exploit or otherwise enjoy the benefit of the Developed IP.

13.4 CONSULTANT IP

- (a) The Consultant grants to the Principal Company a non-exclusive, royalty free, non-transferable and revocable licence to use Consultant IP to the extent required for the Principal Company to use, enjoy the benefit of or exploit the Services.

- (b) Unless otherwise agreed in writing by the Consultant or in this clause 13.4, the Principal Company will not acquire Intellectual Property Rights in any Consultant IP under this Agreement or as part of receiving the Services.

13.5 DEFINITIONS

For the purposes of this agreement:

- (a) **"Principal Company Content"** means any Material supplied by the Principal Company to the Consultant under or in connection with this Agreement, including any Intellectual Property Rights attaching to that Material.
- (b) **"Consultant IP"** means all Material owned or licensed by the Consultant that is not Developed IP and any Intellectual Property Rights attaching to that Material.
- (c) **"Developed IP"** means the Material produced by the Consultant in the course of providing the Services, either alone or in conjunction with the Principal Company or others, and any Intellectual Property Rights attaching to that Material.
- (d) **"Existing Material"** means the Material of either party.
- (e) **"Intellectual Property Rights"** means any and all present and future intellectual and industrial property rights throughout the world (whether registered or unregistered), including copyright, trade marks, designs, patents, moral rights, semiconductor and circuit layout rights, trade, business, Principal Company and domain names, and other proprietary rights, trade secrets, know-how, technical data, confidential information and the right to have information kept confidential, or any rights to registration of such rights (including renewal), whether created before or after the date of this Agreement.
- (f) **"Material"** means tangible and intangible information, documents, reports, drawings, designs, software (including source and object code), inventions, concepts, data and other materials in any media whatsoever.

14 WARRANTIES

- (a) To the maximum extent permitted by applicable law, all express or implied representations and warranties not expressly stated in this agreement are excluded.
- (b) Nothing in this agreement is intended to limit the operation of the Australian Consumer Law contained in the *Competition and Consumer Act 2010* (Cth) (**ACL**). Under the ACL, the Principal Company may be entitled to certain remedies (like a refund, replacement or repair) if there is a failure with the goods or services provided.

15 LIABILITY

15.1 LIABILITY

- (a) To the maximum extent permitted by law and subject to clause 15.1(b), the total liability of each party in respect of loss or damage sustained by the other party in connection with this agreement is limited to the amount paid by the Principal Company to the Consultant in the 3 months preceding the date of the event giving rise to the relevant liability.
- (b) Clause 15.1(a) does not apply to the Principal Company's liability in respect of loss or damage sustained by the Consultant arising from the Principal Company's breach of:
 - (i) third party intellectual property rights; or
 - (ii) any term of this agreement.

15.2 CONSEQUENTIAL LOSS

To the maximum extent permitted by law, neither party will be liable for any incidental, special or consequential loss or damages, or damages for loss of data, business or business opportunity, goodwill, anticipated savings, profits or revenue in connection with this agreement or any goods or services provided by the Consultant, except:

- (a) in relation to a party's liability for fraud, personal injury, death or loss or damage to tangible property; or

- (b) to the extent this liability cannot be excluded under the *Competition and Consumer Act 2010* (Cth).

16 SUBCONTRACTING

The Consultant may subcontract any aspect of providing the Services and the Principal Company hereby consents to such subcontracting.

17 TERMINATION

17.1 TERMINATION FOR CONVENIENCE

Either party may terminate this agreement for convenience by providing 3 months' notice to the other party.

17.2 TERMINATION FOR BREACH

- (a) Either party may terminate this agreement immediately by written notice if there has been a Breach of this agreement.
- (b) A "**Breach**" of this agreement means:
 - (i) a party (**Notifying Party**) considers the other party is in breach of this agreement and notifies the other party;
 - (ii) the other party is given **10 Business Days** to rectify the breach; and
 - (iii) the breach has not been rectified within **10 Business Days** or another period agreed between the parties in writing.

17.3 EFFECT OF TERMINATION

Upon termination of this agreement:

- (a) the Principal Company will pay all amounts owed to the Consultant as at the date of termination;
- (b) each party must return all property and Confidential Information to the other party;
- (c) each party must stop using any materials that are no longer owned by, or licensed to, them when this agreement is terminated; and
- (d) each party must comply with all obligations that are by their nature intended to survive the end of this agreement.

17.4 STATEMENTS OF WORK

- (a) The same rights and responsibilities set out in this clause 17 apply to each Statement of Work as it applies to the agreement as a whole.
- (b) In the event either party elects to terminate this agreement as a whole or a single or multiple Statement of Work under this clause 17, any notice required to be given regarding the termination must clearly state whether the termination notice is to effect a single or multiple Statements of Work or the agreement as a whole.
- (c) In the event the termination is for:
 - (i) a single or multiple Statements of Work, such termination will not impact any other Statements of Work then current, or the effect of this agreement as a whole; or
 - (ii) the agreement as a whole, such termination will be deemed to affect the agreement as a whole as well as all Statements of Work then current.

18 IF THE PARTIES HAVE A DISPUTE

- (a) A party claiming that a dispute has arisen under or in connection with this agreement must not commence court proceedings arising from or relating to the dispute, other than a claim for urgent interlocutory relief, unless that party has complied with the requirements of this clause.

- (b) A party that requires resolution of a dispute which arises under or in connection with this agreement must give the other party or parties to the dispute written notice containing reasonable details of the dispute and requiring its resolution under this clause.
- (c) Once the dispute notice has been given, each party to the dispute must then use its best efforts to resolve the dispute in good faith.
- (d) If the dispute is not resolved within a period of 14 days after the date of the notice, a party may by notice to the other party or parties to the dispute refer the dispute for mediation by the Australian Centre for International Commercial Arbitration (**ACICA**) in accordance with the ACICA Mediation Rules Mediation operating at the time the matter is referred to the ACICA (**Guidelines**). The terms of the Guidelines are hereby deemed incorporated into this agreement. Each party shall have the option to participate in mediation sessions by videoconference or other remote means.
- (e) If the dispute is not resolved within 28 days after the appointment of the mediator, the dispute shall be resolved by arbitration in accordance with the ACICA Arbitration Rules for the time being in force, which rules are deemed to be incorporated by reference in this clause. The seat of arbitration shall be Sydney, Australia. The language of the arbitration shall be English.

19 NOTICES

- (a) Any notices required to be sent under this agreement must be sent via email using the party's email addresses set out in the Key Details and the email's subject heading must refer to the name and date of this agreement.
- (b) If no email address is stated in this agreement, the notice may be sent to the email address most commonly used by the parties to correspond in relation to this agreement at the time the notice is sent.
- (c) The notice will be considered to be delivered 24 hours after it was sent, unless the sender has reason to believe the email failed to send or was otherwise not delivered or received.

20 FORCE MAJEURE

- (a) A '**Force Majeure Event**' means any occurrence beyond the control of the Affected Party which prevents the Affected Party from performing an obligation under this agreement (other than an obligation to pay money), including any:
 - (i) act of God, lightning strike, meteor strike, earthquake, storm, flood, landslide, explosion or fire;
 - (ii) strike or other industrial action;
 - (iii) war, terrorism, sabotage, blockade, revolution, riot, insurrection, civil commotion, epidemic, pandemic; or
 - (iv) decision of a government authority in relation to COVID-19, or other epidemic or pandemic,
 to the extent the occurrence affects the Affected Party's ability to perform the obligation.
- (b) If a party (**Affected Party**) becomes unable, wholly or in part, to carry out an obligation under this agreement (other than an obligation to pay money) due to a Force Majeure Event, the Affected Party must give to the other party prompt written notice of:
 - (i) reasonable details of the Force Majeure Event; and
 - (ii) so far as is known, the probable extent to which the Affected Party will be unable to perform or be delayed in performing its obligation.
- (c) Subject to compliance with clause 20(b), the relevant obligation will be suspended during the Force Majeure Event to the extent that the obligation is affected by the Force Majeure Event.
- (d) The Affected Party must use its best endeavours to overcome or remove the Force Majeure Event as quickly as possible and resume performing the relevant obligation.

21 GENERAL

21.1 GOVERNING LAW AND JURISDICTION

This agreement is governed by the law applying in New South Wales, Australia. Each party irrevocably submits to the exclusive jurisdiction of the courts of New South Wales, Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this agreement. Each party irrevocably waives any objection to the venue of any legal process on the basis that the process has been brought in an inconvenient forum.

21.2 BUSINESS DAYS

If the day on which any act is to be done under this agreement is a day other than a Business Day, that act must be done on or by the immediately following Business Day except where this agreement expressly specifies otherwise.

21.3 AMENDMENTS

This agreement may only be amended in accordance with a written agreement between the parties.

21.4 WAIVER

No party to this agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

21.5 SEVERANCE

Any term of this agreement which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity and enforceability of the remainder of this agreement is not limited or otherwise affected.

21.6 JOINT AND SEVERAL LIABILITY

An obligation or a liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally.

21.7 ASSIGNMENT

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this agreement without the prior written consent of the other party.

21.8 COUNTERPARTS

This agreement may be executed in any number of counterparts. Each counterpart constitutes an original of this agreement and all together constitute one agreement.

21.9 COSTS

Except as otherwise provided in this agreement, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing this agreement.

21.10 ENTIRE AGREEMENT

This agreement embodies the entire agreement between the parties and supersedes any prior negotiation, conduct, arrangement, understanding or agreement, express or implied, in relation to the subject matter of this agreement.

21.11 INTERPRETATION

- (a) **(singular and plural)** words in the singular includes the plural (and vice versa);
- (b) **(gender)** words indicating a gender includes the corresponding words of any other gender;
- (c) **(defined terms)** if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;

- (d) **(person)** a reference to “person” or “you” includes an individual, the estate of an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;
- (e) **(party)** a reference to a party includes that party’s executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (f) **(this agreement)** a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure to or of this agreement, and a reference to this agreement includes all schedules, exhibits, attachments and annexures to it;
- (g) **(document)** a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (h) **(headings)** headings and words in bold type are for convenience only and do not affect interpretation;
- (i) **(includes)** the word “includes” and similar words in any form is not a word of limitation;
- (j) **(adverse interpretation)** no provision of this agreement will be interpreted adversely to a party because that party was responsible for the preparation of this agreement or that provision; and
- (k) **(currency)** a reference to \$, or “dollar”, is to Australian currency, unless otherwise agreed upon in writing.

22 DEFINITIONS

In these terms and conditions, the following words and phrases have the following meaning:

Term	Meaning
Additional Disclosees	Has the meaning given in clause 11.1.
Authorised Representative	Has the meaning given in clause 4.1.
Business Day	A day (other than a Saturday, Sunday or any other day which is a public holiday) on which banks are open for general business in Sydney, New South Wales.
Commission	Has the meaning given in clause 8.2.
Commission Percentage	Has the meaning given in the relevant Completed Referral Form.
Commission Period	12 months from the date of the relevant Introduction.
Completed Referral	Has the meaning given in clause 4.1.
Completed Referral Form	Means the template form set out in Schedule 2.
Confidential Information	Information of, or provided by, a party that is by its nature confidential information, is designated as confidential, or that the recipient of the information knows or ought to know is confidential (including all commercial information exchanged between the parties), but does not include information which is, or becomes, without a breach of confidentiality, public knowledge.
Deliverable	Means any set of items that make a deliverable, as set out in a Statement of Work, and includes any Developed Software.
Developed Software	means any Software to be developed for the Principal Company as described in a Statement of Work.
End Customer	Has the meaning given in clause 4.1.

Term	Meaning
Fees	the fees payable by the Principal Company to the Consultant as set out in a Statement of Work.
Introduction	Has the meaning given in clause 4.1.
Key Details	The key agreement details on the cover page of this agreement.
Laws	Any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in Australia, or any other relevant jurisdiction(s), and including any industry codes of conduct.
Milestone	the Project milestones agreed to between the Principal Company and End Customer.
Personnel	Employees, secondees, agents and subcontractors (who are individuals), including employees and contractors (who are individuals) of subcontractors.
Project	the project that the Principal Company agrees to provide the End Customer, subject to a separate contract between the Principal Company and the End Customer.
Project Value	The total value of the Project to be provided by the Principal Company to the End Customer being the subject of the relevant Completed Referral.
Services	The services to be provided by the Consultant to the Principal Company in accordance with a Statement of Work.
Software	Means any software licensed to, or developed for, or otherwise used by the Principal Company under or in connection with this agreement, as the context provides.
Statement of Work	A document agreed and signed by both parties in the form of the attached Statement of Work template in Schedule 1 and which addresses the matters contemplated in that form.
Term	Has the meaning given in clause 2.

Schedule 1 Statement of Work

STATEMENT OF WORK

This Statement of Work is made pursuant to the Master Consultancy Agreement previously entered into between the parties on [insert date]. The Master Consultancy Agreement is deemed incorporated into this Statement of Work.

SOW Number	[insert]	SOW Start Date	[insert]	SOW End Date	[insert]
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1 SCOPE OF SERVICES

Service Type	Scope of Service	Estimated Delivery Date(s)
[Retainer or Fixed Price Service]	[insert description of service]	[insert service dates and times if fixed price, or frequency of services if retainer]
[Retainer or Fixed Price Service]	[insert description of service]	[insert service dates and times if fixed price, or frequency of services if retainer]
Software Development Services	<ul style="list-style-type: none"> [insert] [insert] (Developed Software)	
	Developed IP Owner: [insert the Consultant or the Principal Company]	
<i>Exclusions</i>	[insert things that aren't included]	

2 FEES

FIXED PRICE FEES			
Service	Fee (AUD)	Due Date	
[insert services reference]	[insert] (+ GST)		
RETAINER FEES			
Retainer (Optional)	Monthly Fee (AUD)	Due Date	No. of Months
[insert services reference]	[insert] (+ GST)	[insert]	[insert]
EXPENSES			
Party	Expenses		
The Consultant	The Consultant will bear the following expenses:		

	• [insert]	
The Principal Company	The Principal Company will bear the following expenses: • [insert]	

3 SPECIAL CONDITIONS

If amending a clause, insert current clause in the Old Clause column, and the new clause in the New Clause column. If adding an entirely new clause, insert N/A in the Old Clause column, and the new clause in the New Clause column.

Clause Title and Number	Old Clause	New Clause

Signed for and on behalf of **[Party Name]** by a
duly Authorised Person:

)
)
)

Signature of Authorised Person

Full Name of Authorised Person

Date

Signed for and on behalf of **Kalman Systems Pty**
Ltd by a duly Authorised Person:

)
)
)

Signature of Authorised Person

Full Name of Authorised Person

Date

Schedule 2 Completed Referral Form

COMPLETED REFERRAL FORM

This Completed Referral Form is made pursuant to the Consultancy Agreement previously entered into between the parties on [insert date]. The Consultancy Agreement is deemed incorporated into this Completed Referral Form.

Parties

Principal Company	<insert Principal Company name and ABN>
Consultant	Name: Kalman Systems Pty Ltd ABN 72 660 552 670 Address: 19 Booth St, Westmead NSW 2145 Contact Email: contact@kalman-systems.com Contact Person: Mahesh Shastry

Completed Referral Form Details

End Customer	[insert name of End Customer]		
Completed Referral Date	[insert date of Completed Referral]		
Project	[insert name of Project]		
Project Value	[insert value of Project]		
Milestones	[insert any Milestones or N/A]		
Commission	Commission Percentage	Due Date	
	[insert]% (plus GST)	<input type="checkbox"/> On Completed Referral <input type="checkbox"/> On Completion of the Project <input type="checkbox"/> On Completion of each Milestone	

By signing below, the Principal Company and the Consultant agree to the terms and conditions of this Completed Referral Form.

The person signing on behalf of the Principal Company warrants that they have the Principal Company's authority to do so.

Executed as an agreement on _____ (date)

Signed for and on behalf of **[Party Name]** by a)
duly Authorised Person:)
)

Signature of Authorised Person

Full Name of Authorised Person

Date

Signed for and on behalf of **Kalman Systems Pty**)
Ltd by a duly Authorised Person:)
)

Signature of Authorised Person

Full Name of Authorised Person

Date

Schedule 3 Business T&Cs between End Customer and Consultant

[insert]