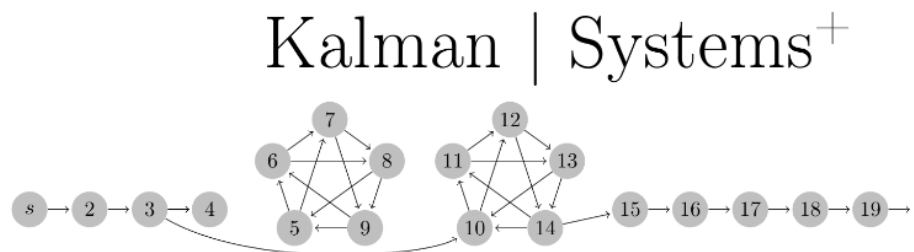


KALMAN | SYSTEMS⁺ BUSINESS TERMS AND CONDITIONS

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THIS AGREEMENT

This agreement sets out the terms under which Kalman Systems Pty Ltd ABN 72 660 552 670 (**Consultant, we, us, our**) provides introductory referral services to you (**Client, you**) for the purposes of referring you to a third-party service provider (**Third Party Service Provider**) (together the **Services**). You will be taken to have accepted these terms and conditions if you sign these terms and conditions or otherwise indicate your assent, or if you order, accept or pay for any services provided by Consultant after receiving or becoming aware of these terms. This agreement is a binding contract and is entered into in consideration for us providing Services to you.

1 SERVICES

- (a) The Consultant will, at all times, perform the Services with due care and diligence and with regard to its industry experience.
- (b) The Consultant may subcontract any aspect of providing the Services and the Client hereby consents to such subcontracting.

2 DISCLAIMERS

2.1 NO PROFESSIONAL ADVICE

- (a) All information provided by the Consultant as part of the Services is general information only.
- (b) This information is based on information you provide to the Consultant.
- (c) No information provided as part of the Services is intended to be professional advice of any kind and it should not be relied on as such.

2.2 NO GUARANTEES

- (a) As part of the Services, the Consultant may introduce the Client to a Third Party Service Provider.
- (b) The Client acknowledges and agrees that it is the Client's sole decision whether to engage with any Third Party Service Provider that the Consultant may introduce the Client to.
- (c) The Consultant does not guarantee:
 - (i) any particular outcome as a result of the Services; or
 - (ii) any particular outcome as a result of the Client engaging the services of a Third Party Service Provider.

2.3 INTERMEDIARY ONLY

- (a) The Client acknowledges and agrees that the Consultant shall act as an introducer and intermediary between the Client and Third Party Service Provider.
- (b) The Consultant does not have any obligations or liabilities to the Client in relation to services provided by the Third Party Service Provider to the Client or otherwise resulting from the introduction.
- (c) The Consultant is not a party to any negotiations between a Client and Third Party Service Provider.
- (d) The Consultant is not a party to any contract or agreement between a Client and a Third Party Service Provider.
- (e) The Client acknowledges that it is responsible for fulfilling all payment obligations to a Third Party Service Provider under any Third Party Contract (defined below).
- (f) If any issue arises between the Client and a Third Party Service Provider, the Consultant will use its best endeavours to provide assistance where possible.

3 CLIENT OBLIGATIONS

- (a) **(General)** The Client must provide the Company with all documentation, information and assistance reasonably required for the Company to perform the Services.
- (b) **(Liaison)** The Client agrees to liaise with the Company as it reasonably requests for the purpose of enabling the Company to provide the Services.
- (c) **(Personal circumstances)** The Consultant will perform the Services, to the best of its ability, with reference to all relevant information provided by the Client. Any suggestions or information provided by the Consultant is based only on the information made available to it in the course of performing the Services.
- (d) **(Compliance with Laws)** The Client is responsible for complying with all applicable Laws, where 'Laws' means any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in the relevant jurisdiction(s) where the Company provides the Services.

4 REFERRALS

4.1 THIRD PARTY SERVICE PROVIDER SERVICES

- (a) As part of the Services, the Consultant will recommend or introduce the Client to Third Party Service Providers.
- (b) If the Client decides to engage a Third Party Service Provider or other third party recommended by the Consultant, the Client acknowledges that any third-party services may be subject to the terms & conditions of that third party (**Third Party Contract**).
- (c) The Client agrees that it is its sole responsibility to review, negotiate and agree to any Third Party Contract and the Consultant will not be liable for any loss or damage suffered by the Client in connection with such Third Party Contract.

4.2 NO OBLIGATION

- (a) The Client is under no obligation to accept an introduction to a Third Party Service Provider or to engage a Third Party Service Provider after such an introduction.
- (b) The Client is free to exercise their complete discretion when deciding whether or not to engage a Third Party Service Provider and will suffer no consequences under this agreement if they decide not to engage a Broker.

4.3 OUR COMMISSION

- (a) If the Client decides to accept an introduction to a Third Party Service Provider and subsequently engages that Third Party Service Provider, the Consultant may receive a commission for introducing the Client and the Third Party Service Provider.
- (b) The Client acknowledges and agrees that under no circumstances will the Consultant be obliged to give any part of the Commission to the Client.

5 CLIENT MATERIALS

5.1 CLIENT MATERIALS

The Client warrants that all information, documentation and other materials it provides to the Consultant for the purpose of receiving the Services, including personal information, financial records, [insert any other information you may be provided] is complete, accurate and up-to-date.

5.2 RELEASE

The Client 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 Client being incomplete, inaccurate or out-of-date.

6 CONFIDENTIALITY

- (a) Except as contemplated by this Agreement, each party must not, and must not permit any of its officers, employees, agents, contractors or related companies to, use or disclose to any person any confidential information disclosed to it by the other party without its prior written consent.
- (b) For the purposes of this clause and the remainder of the Agreement, “**confidential information**” means 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 but not limited to methods of business, pricing and discounts, but does not include information which is, or becomes, without a breach of confidentiality, public knowledge
- (c) This clause 6 does not apply to:
 - (i) information which is generally available to the public (other than as a result of a breach of this Agreement or another obligation of confidence);
 - (ii) information required to be disclosed by any law; or
 - (iii) information disclosed by the Company to its subcontractors, employees or agents for the purposes of performing the Services or its obligations under this Agreement.

7 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 Client may be entitled to certain remedies (like a refund, replacement or repair) if there is a failure with the goods or services provided.

8 LIABILITY

8.1 LIMITATION OF LIABILITY

- (a) To the maximum extent permitted by law and subject to clause 8.1(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 \$100.
- (b) Clause 8.1(a) does not apply to the **Client's** liability in respect of loss or damage sustained by the Consultant arising from the **Client's** breach of third party intellectual property rights.

8.2 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 Company, 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).

9 TERMINATION

9.1 TERMINATION FOR CONVENIENCE

Either party may terminate this agreement for convenience by providing **5 Business Days** notice to the other party.

9.2 TERMINATION FOR CAUSE

Either party (**Non-Defaulting Party**) may terminate this agreement immediately by written notice to the other party (**Defaulting Party**) if the Defaulting Party is in breach of this agreement and either:

- (a) fails to remedy such breach within 14 days of receiving notice from the Non-Defaulting Party requiring it to remedy such breach; or
- (b) that breach is not capable of remedy.

9.3 EFFECT OF TERMINATION

Upon termination of this agreement:

- (a) return all property and Confidential Information to the other party;
- (b) comply with all obligations that are by their nature intended to survive the end of this agreement; and
- (c) stop using any materials that are no longer owned by, or licensed to, them when this agreement is terminated;

9.4 SURVIVAL

Any clause that by its nature would reasonably be expected to be performed after the termination or expiry of this agreement will survive and be enforceable after such termination or expiry.

10 DISPUTE RESOLUTION

- (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 Disputes Centre (**the ADC**) in accordance with the ADC Guidelines for Commercial Mediation operating at the time the matter is referred to the ADC (**Guidelines**). The terms of the Guidelines are hereby deemed incorporated into this agreement.
- (e) If the dispute is not resolved within 28 days after the appointment of the mediator any party may take legal proceedings to resolve the dispute.

11 FORCE MAJEURE

- (a) If a party becomes unable, wholly or in part, to carry out an obligation under this agreement (other than an obligation to pay money) due to an event beyond its reasonable control (**Force Majeure**), that party must give to the other party prompt written notice of:
 - (i) reasonable details of the Force Majeure; and
 - (ii) so far as is known, the probable extent to which that party will be unable to perform or be delayed in performing its obligation.
- (b) Subject to compliance with clause 11(a), the relevant obligation will be suspended during the Force Majeure to the extent that it is affected by the Force Majeure.
- (c) The affected party must use its best endeavours to overcome or remove the Force Majeure as quickly as possible.

12 NOTICES

A notice or other communication to a party under this agreement must be:

- (a) in writing and in English; and
- (b) delivered via email to the other party, to the email address specified in this agreement, or if no email address is specified in this agreement, then the email address most regularly used by the parties to correspond for the purposes of the subject matter of this agreement as at the date of this agreement (**Email Address**). The parties may update their Email Address by notice to the other party.
- (c) Unless the party sending the notice knows or reasonably ought to suspect that an email was not delivered to the other party's Email Address, notice will be taken to be given:
 - (i) 24 hours after the email was sent; or
 - (ii) when replied to by the other party,whichever is earlier.

13 GENERAL

13.1 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.

13.2 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.

13.3 AMENDMENTS

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

13.4 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.

13.5 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.

13.6 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.

13.7 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.

13.8 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.

13.9 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.

13.10 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.

13.11 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 in writing.

Signed by the Client:	
Full name	Signature
Company (if applicable)	Date