**Advisor Agreement**

**{$USR\_Business}**

**AND**

**{$PT2\_Business}**

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PARTIES & EXECUTION

By signing below, the parties agree to the Particulars and General Conditions set out in this Agreement.

|  |  |  |  |
| --- | --- | --- | --- |
| Name | {$USR\_Name|upper}{if !empty($USR\_ABN)}, ABN {$USR\_ABN|phone\_format:”%2 %3 %3 %3”}{/if} (**{$USR\_ABV}**) | | |
| Address | {$USR\_Address|replace:“AU”:”Australia”} | | |
| Contact | {$USR\_Contact\_FN} {$USR\_Contact\_LN} – {$USR\_Contact\_Role} - {$USR\_Contact\_Email} | | |
| Signatory | {$USR\_Signatory\_FN} - {$USR\_Signatory\_LN} – {$USR\_Signatory\_Role} | | |
| Signature | [sig|req|signer1] | Date | [date|req|signer1] |

|  |  |  |  |
| --- | --- | --- | --- |
| Name | {$PT2\_Name|upper}{if !empty($PT2\_ABN)}, ABN {$PT2\_ABN|phone\_format:”%2 %3 %3 %3”}{/if} (**{$PT2\_ABV}**) | | |
| Address | {$PT2\_Address|replace:“AU”:”Australia”} | | |
| Contact | {$PT2\_Contact\_FN} {$PT2\_Contact\_LN} – {$PT2\_Contact\_Role} - {$PT2\_Contact\_Email} | | |
| Signatory | {$PT2\_Signatory\_FN} {$PT2\_Signatory\_LN} – {$PT2\_Signatory\_Role} | | |
| Signature | [sig|req|signer2] | Date | [date|req|signer2] |

PARTICULARS

1. Introduction

|  |  |
| --- | --- |
| * 1. Background | {$USR\_ABV} wishes to engage {$PT2\_ABV} to act as an advisor, providing services to it (or on its behalf) on the terms of this Agreement. |
| * 1. Agreement Date | The date the last party signs this Agreement. |
| * 1. Commencement Date | {$Comc\_Date|date\_format:"d F Y"}. |

1. Services

|  |  |
| --- | --- |
| * 1. Services | {$PT2\_ABV} will provide the following services to {$USR\_ABV}:   * + 1. {if !empty($Duty\_1)}{$Duty\_1}.     2. {/if}{if !empty($Duty\_2)}{$Duty\_2}.     3. {/if}{if !empty($Duty\_3)}{$Duty\_3}.     4. {/if}{if !empty($Duty\_4)}{$Duty\_4}.     5. {/if}{if !empty($Duty\_5)}{$Duty\_5}.     6. {/if}{if !empty($Duty\_6)}{$Duty\_6}.     7. {/if}{if !empty($Duty\_7)}{$Duty\_7}.     8. {/if}{if !empty($Duty\_8)}{$Duty\_8}.     9. {/if}{if !empty($Duty\_9)}{$Duty\_9}.     10. {/if}{if !empty($Duty\_10)}{$Duty\_10}.     11. {/if}Such other duties, tasks and responsibilities as {$USR\_ABV} may reasonably require from time-to-time. |
| * 1. Term | The term of this Agreement shall be {$Term} {$TermLength}{if $Term > 1}s{/if}. |
| * 1. Nominee | {if $ESOP=="Yes" OR empty ($Nominee\_Name)}Not Applicable.{elseif !empty($Nominee\_Name)}{$PT2\_ABV} appoints the following person(s) or entity to hold the Equity:   * + 1. **Name:** {$Nominee\_Name}.{/if}     2. {listif !empty($Nominee\_ACN) AND !empty($Nominee\_Name) AND $ESOP != ”Yes”}**ACN:** {$Nominee\_ACN|phone\_format:"%3 %3 %3"}.{/listif} |
| * 1. Non-Solicitation | Without the written consent of {$USR\_ABV}, {$PT2\_ABV} agrees that for a period of 1 year after the end of this Agreement, {$PT2\_ABV} will not:   * + 1. Solicit away from {$USR\_ABV} any customer of {$USR\_ABV} that had been a customer at any time during the Term; or     2. Solicit away from {$USR\_ABV} the services of any employee of {$USR\_ABV} that had been such during the Term. |

1. Fees, Expenses, Equity and Invoicing

|  |  |
| --- | --- |
| * 1. Fees | {$USR\_ABV} will pay {$PT2\_ABV} ${$Fees\_Amt|number\_format} {$Fees\_Freq}. |
| * 1. Expenses | * + 1. {$USR\_ABV} shall reimburse Expenses incurred by {$PT2\_ABV} provided it has given prior written approval to {$PT2\_ABV} incurring any Expenses and is provided with a valid Tax Invoice (receipt) for each Expense incurred.     2. Unless otherwise stated, the Fees are exclusive of GST, which is payable by {$USR\_ABV} to {$PT2\_ABV}, if applicable, in addition to the Fees, at the prevailing rate on receipt of a valid Tax Invoice. |
| * 1. Equity | {if $Equity == “No”}Not Applicable.{elseif $Equity == “Yes”}   * + 1. {listif $Equity\_Type == "Shares"}{$USR\_ABV} will provide {$PT2\_ABV} (or their Nominee) Shares equating to {$Shares\_Pct}{if stristr($Shares\_Pct, "%")}{else}%{/if} of the total number of shares on issue in {$USR\_Name|ucwords} as at the date of this Agreement (**Equity**).{/listif}.     2. {listif $Equity\_Type == "Options"}{$USR\_ABV} will provide {$PT2\_ABV} (or their Nominee) {$Opt\_No} Options in {$USR\_ABV}. The exercise price of each Option will be {$Opt\_ExPrice|currency\_format:"$"} (**Equity**).{/listif}     3. In order to receive the Equity, {$PT2\_ABV} or their Nominee, must first do the following:        1. Enter into a separate Equity Agreement; and        2. Accede to {$USR\_ABV}’s shareholders’ agreement (if any).{/if} |
| * 1. Invoicing and Payment | * + 1. {$PT2\_ABV} shall deliver a Tax Invoice to {$USR\_ABV} for:        1. the Fees in accordance with C.1 of these Particulars;        2. Expenses incurred in accordance with C.2 of these Particulars;        3. GST due on the value of the Equity issued in accordance with the Equity Agreement; and        4. any interest charged under clause 4.2 in accordance with clause 4.2(b).     2. {$USR\_ABV} will pay any undisputed Tax Invoice promptly and within {$Inv\_Due} Business Days from the date it is received. |

GENERAL CONDITIONS

1. DEFINITIONS
   1. **Definitions****.** In this Agreement capitalised terms have the following meanings:
      1. **Business Day** means a day that is not a Saturday, Sunday or public holiday in the {$REF\_State}.
      2. **Commencement Date** means the date set out in A.3 of the Particulars.
      3. **Confidential Information** means all information belonging to, or licensed to a party to this Agreement (**Discloser**) and includes, without limitation, all Intellectual Property, notes and other records, whether written or otherwise, including information that:
         1. the Discloser advises the other party (Recipient) is confidential;
         2. by its very nature, might reasonably be understood to be confidential or to have been disclosed in confidence;
         3. would be of commercial value to a competitor of the Discloser;
         4. relates to any arrangements or transactions involving the Discloser;
         5. relates to any arrangements or transactions between the Discloser, and its suppliers, contractors, employees or consultants (including their identity and the value in respect of the supplies of goods, services or labour the Discloser acquires from them);
         6. relates to the Discloser’s fees, quotations, prices or charges in respect of services or, formulae, technical information, plans, drawings and specifications;
         7. is a business plan or forecast;
         8. are financial records, reports, accounts and proposals of the Discloser;
         9. relates to the marketing and selling techniques used by the Discloser (including marketing plans, sales plans, research and data surveys);
         10. is personal information within the meaning of the Privacy Act 1988 (Cth);

but excludes information that:

* + - 1. is, or becomes, generally known or available to the public, through no act or omission on the part of the Recipient;
      2. was known, without restriction as to use or disclosure, by the Recipient prior to receiving such information from the Discloser;
      3. is rightfully acquired by the Recipient from a third party who has the right to disclose it and who provides it without restriction as to use or disclosure; or
      4. is independently developed by the Recipient.
    1. **Contact Person** means the individual identified in the Parties & Execution as {$USR\_ABV}’s Contact or as advised in writing to {$PT2\_ABV} by {$USR\_ABV}, from time to time.
    2. **Equity** means the interest in {$USR\_ABV} as described in C.3 of the Particulars.
    3. **Equity Agreement** means a separate agreement between the parties governing the issue and vesting of Equity, which may include vesting conditions.
    4. **Fees** means the amount set out in C.1 of the Particulars.
    5. **Expenses** meansreasonable out-of-pocket expenses incurred by {$PT2\_ABV} while carrying out the Services.
    6. **GST** has the meaning ascribed to it in the GST Act.
    7. **GST Act** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
    8. **Intellectual Property** means all industrial and intellectual property rights, both in Australia and throughout the world, and includes any copyright, moral right, patent, registered or unregistered trade mark, registered or unregistered design, trade secret, knowhow or other proprietary right or right of registration of such rights, including any such rights subsisting in (without limitation): circuit layouts; inventions; product formulations; databases; software code; domain names; brand names; trade name; business name; company name.
    9. **Material** includes documents, software, configurations, equipment, reports, technical information, studies, plans, charges, drawings, calculations, tables, schedules and data stored by any means.
    10. **Nominee means** the entity, if any, described at B.3 of the Particulars.
    11. **Options means** any options to acquire Shares, subject to an Equity Agreement.
    12. **Personal Information means** information which identifies an individual or from which an individual’s identity can be reasonably ascertained.
    13. **Privacy Law means** the Privacy Act 1988 (Cth), the Australian Privacy Principles and any other applicable privacy legislation.
    14. **Privacy Policy** means {$USR\_ABV}’s privacy policy{if empty($USR\_URL)}.{elseif !empty($USR\_URL)} accessible at {$USR\_URL}.{/if}
    15. **Related Body Corporate** has the meaning given to that term by section 9 of the *Corporations Act 2001* (Cth).
    16. **Related Entity means** any company, partnership, trust or sole trader with common ownership or control (whether in whole or part, directly or indirectly, or through interposed entitles or not) to {$USR\_ABV} and includes any Related Body Corporate to {$USR\_ABV}.
    17. **Services** means the advisory services to be provided by {$PT2\_ABV} as described in B.1 of the Particulars.
    18. **Shares** means ordinary shares in {$USR\_ABV}.
    19. **Tax Invoice** means an has the meaning ascribed to it by the GST Act.
    20. **Term** means the term set out in B.2 of the Particulars, together with any Further Term(s) (as applicable).
    21. **Workers’ Compensation** and **Work Cover** shall have the meaning given to those terms under the laws of the {$REF\_State}.

1. APPOINTMENT AND COMMENCEMENT
   1. {$USR\_ABV} wishes to appoint {$PT2\_ABV} to provide {$USR\_ABV} with the Services and {$PT2\_ABV} agrees to provide the Services in accordance with this Agreement.
   2. This Agreement commenced on the Commencement Date and will continue for the Term.
2. PARTIES’ OBLIGATIONS & RELATIONSHIP
   1. **{$PT2\_ABV}’s Obligations.**
      1. {$PT2\_ABV} shall provide the Services for the duration of the Term with due care and skill and in a professional and timely manner consistent with the best interests of {$USR\_ABV}.
      2. {$PT2\_ABV} shall ensure that it does not do anything that may directly or indirectly harm, or be contrary to the interests of {$USR\_ABV}.
      3. {$PT2\_ABV} shall not, without prior consent in writing from {$USR\_ABV}, give or make any commitment, undertaking, warranty, covenant, condition or representation, either orally or in writing, relating to {$USR\_ABV} unless such commitment is contained in {$USR\_ABV}’s promotional material or terms of service.
      4. {$PT2\_ABV} shall not, without prior written consent in writing from {$USR\_ABV}, contract any liability of any kind whatsoever in the name of, or on behalf of {$USR\_ABV}, except as expressly permitted by this agreement.
      5. {$PT2\_ABV} shall report to and provide regular communication on the Services to the Contact Person.
   2. **{$USR\_ABV}’s obligations.** During the Term, {$USR\_ABV} will provide support and assistance to {$PT2\_ABV} as is reasonably necessary for {$PT2\_ABV} to be able to perform the Services.
   3. **Independent Contractor.** The parties acknowledge and agree that:
      1. {$PT2\_ABV} is an independent contractor in business in {$PT2\_ABV}’s own right, and must continue operate as such during the term of this Agreement;
      2. {$PT2\_ABV} operates in business at {$PT2\_ABV}’s own risk and own cost;
      3. {$PT2\_ABV} is not a representative or agent of {$USR\_ABV} for any purpose and {$PT2\_ABV} must not be held out as such;
      4. {$PT2\_ABV} does not have the power to incur any debt, obligation, liability or make any contract on behalf of {$USR\_ABV};
      5. {$PT2\_ABV} is not an employee of {$USR\_ABV} nor is {$PT2\_ABV} entitled to {$PT2\_ABV}'s employee benefits or the protection offered to {$PT2\_ABV}’s employees by law, including, without limitation, employee entitlements under the National Employment Standards any enterprise bargaining agreement or award, superannuation contributions, Workers' Compensation or Work Cover.
3. REMUNERATION
   1. **Disputed Tax Invoice.**
      1. If {$USR\_ABV} disputes any charge on a Tax Invoice received from {$PT2\_ABV}, {$USR\_ABV} must notify {$PT2\_ABV} of the disputed charge within 5 Business Days of receiving the Tax Invoice.
      2. {$USR\_ABV} must pay all amounts on a Tax Invoice received from {$PT2\_ABV}, that are not in dispute, in accordance with item C.4(b) of the Particulars.
      3. {$USR\_ABV} acknowledges and agrees that if it fails to notify {$PT2\_ABV} of a disputed Tax Invoice, in accordance with clause 4.1(a), it will be liable to pay the entire Tax Invoice in accordance with item C.4(b) of the Particulars, and any disputed charge must be dealt with in accordance with clause 9.
   2. **Interest.**
      1. {$PT2\_ABV} may charge, and {$USR\_ABV} must pay interest at a rate of 1% per month, compounding monthly, on any amounts included on a Tax Invoice sent to {$USR\_ABV}, that are not disputed in accordance with C.4(b) of the Particulars, and remain unpaid {$Inv\_Due} Business Days after the Tax Invoice was received.
      2. If {$PT2\_ABV} decides to charge interest in accordance with clause 4.2(a), {$PT2\_ABV} must issue a statement or consolidated Tax Invoice to {$USR\_ABV}, within 5 Business Days of the end of each calendar month in which interest is payable, showing all overdue charges and interest payable for that calendar month.
      3. For the purposes of this clause, interest shall be calculated for each calendar month by:
         1. dividing the number of days that have elapsed in that calendar month, since the charge was due for payment, by 30; and
         2. multiplying the product of clause 4.2(c)i by 1% of the overdue charges and interest from the previous calendar month.
   3. **Late Payment.**
      1. If {$USR\_ABV} does not pay the Fees, reimburse Expenses or issue the Equity, as required by clause in accordance with item C of the Particulars, {$PT2\_ABV} may stop providing the Services until such payments, including any interest due on such payments, are made and the Equity is issued.
      2. If {$PT2\_ABV} has stopped providing the Services for 28 days, or more, under clause 4.3(a) {$PT2\_ABV} may terminate this Agreement, with immediate effect, by providing written notice to {$USR\_ABV}.
      3. Termination of this Agreement by {$PT2\_ABV}, pursuant to clause 4.3(b), does not affect {$USR\_ABV}’s obligation to pay the Fees due, reimburse the Expenses incurred or to issue the Equity due to {$PT2\_ABV} up to and including the date of termination less any period the Services were not provided by {$PT2\_ABV} pursuant to clause 4.3(a).
4. CONFIDENTIAL INFORMATION
   1. **Non-disclosure.** {$PT2\_ABV} (including its employees, agents and any subcontractors engaged for the purpose of this Agreement) must not at any time during or after the term of this Agreement use, copy or disclose any Confidential Information, unless:
      1. it is necessary for {$PT2\_ABV} to provide the Services, or otherwise comply with this Agreement;
      2. {$PT2\_ABV} is legally obliged to disclose the Confidential Information by a court, commission or tribunal, in which case {$PT2\_ABV} will as soon as possible give {$USR\_ABV} advance notice of the possibility of the disclosure; or
      3. {$USR\_ABV} has granted prior written consent.
   2. **Restricted dealings.** Subject to clause 5.1, {$PT2\_ABV} must not (nor permit anybody else to):
      1. seek to obtain Confidential Information to which {$PT2\_ABV} has not been granted access;
      2. remove any Confidential Information from {$USR\_ABV}’s premises; or
      3. make any copies of Confidential Information.
   3. **Uncertainty.** If there is any uncertainty as to whether particular information is Confidential Information, or whether the use or disclosure of particular information is permitted pursuant to clause 5, {$PT2\_ABV} must seek clarification from {$USR\_ABV}.
   4. **Obligations upon disclosure.** When {$PT2\_ABV} discloses Confidential Information in accordance with clause 5.1, {$PT2\_ABV} must ensure that whoever it is disclosed to is made aware of its confidential nature and do everything in {$PT2\_ABV}’s power to ensure that any person to whom it is disclosed does not use or disclose that information.
5. INTELLECTUAL PROPERTY
   1. **{$PT2\_ABV} IP** 
      1. For the purposes of this clause **{$PT2\_ABV} IP** means any Intellectual Property owned by {$PT2\_ABV}, incorporated in the Services.
      2. {$USR\_ABV} acknowledges that {$PT2\_ABV} retains ownership of all of {$PT2\_ABV} IP.
      3. {$PT2\_ABV} grants {$USR\_ABV} a non-exclusive, perpetual, non-transferable, royalty free and worldwide licence to use, for the purposes of its day to day business, the {$PT2\_ABV} IP to the extent that it is contained within the Services.
   2. **{$USR\_ABV} IP** 
      1. For the purposes of this clause **{$USR\_ABV} IP** means any Intellectual Property owned by {$USR\_ABV}, used by {$PT2\_ABV} in the course of providing the Services.
      2. {$PT2\_ABV} acknowledges that {$USR\_ABV} retains ownership of all of {$USR\_ABV} IP.
      3. {$USR\_ABV} grants {$PT2\_ABV} a non-exclusive, perpetual, non-transferable, royalty free and worldwide licence to use {$USR\_ABV} IP to the extent that it is contained within the Services.
      4. {$USR\_ABV} grants {$PT2\_ABV} a non-exclusive, perpetual, non-transferable, royalty free and worldwide licence to use {$USR\_ABV} IP/Client's name and logo in {$PT2\_ABV} marketing or tender documents, unless {$USR\_ABV} directs {$PT2\_ABV} not to.{if $IP\_Owner == "USR"}
   3. **New IP** 
      1. For the purposes of this clause **New IP** means any Intellectual Property that is created by {$PT2\_ABV} in the course of providing the Services.
      2. New IP is owned by {$USR\_ABV} and vests in {$USR\_ABV} immediately. However, {$USR\_ABV} may only use the New IP for the purpose for which it was created.
      3. To the extent that {$PT2\_ABV} may at any time acquire any right, title or interest in the New IP, {$PT2\_ABV}, by this document, agrees to assign to {$USR\_ABV} all such rights, title and interest in the New IP.
      4. Unless otherwise agreed in writing by the parties, and notwithstanding any provision of this Agreement to the Contrary, {$USR\_ABV} grants {$PT2\_ABV} a non-exclusive, perpetual, non-transferable, royalty free and worldwide licence to use, for the purposes of its day to day business, the New IP to the extent that it is contained within the Services.{elseif $IP\_Owner =="PT2"}
   4. **New IP** 
      1. For the purposes of this clause **New IP** means any Intellectual Property that is created by {$PT2\_ABV} in the course of providing the Services.
      2. New IP is owned by {$PT2\_ABV} and vests in {$PT2\_ABV} immediately.
      3. To the extent that {$USR\_ABV} may at any time acquire any right, title or interest in the New IP, {$USR\_ABV}, by this document, agrees to assign to {$PT2\_ABV} all such rights, title and interest in the New IP.
      4. Unless otherwise agreed in writing by the parties, and notwithstanding any provision of this Agreement to the Contrary, {$PT2\_ABV} grants {$USR\_ABV} a non-exclusive, perpetual, non-transferable, royalty free and worldwide licence to use, for the purposes of its day to day business, the New IP to the extent that it is contained within the Services.{/if}
6. PRIVACY
   1. While providing the Services, {$PT2\_ABV} may collect Personal Information from, for or on behalf of {$USR\_ABV}. Where {$PT2\_ABV} collects such Personal Information, {$PT2\_ABV} must comply with:
      1. The Privacy Law; and
      2. {$USR\_ABV}’s Privacy Policy (if any).
7. TERMINATION
   1. **Termination without notice.** {$USR\_ABV} may terminate the Agreement without notice if:
      1. {$PT2\_ABV} breaches any term of this Agreement and such breach, if capable of remedy, has not been remedied within 10 Business Days of the delivery of a notice specifying the particulars of breach upon {$PT2\_ABV};
      2. {$PT2\_ABV} becomes the subject of bankruptcy, liquidation or winding up proceedings or threatens to become insolvent;
      3. {$PT2\_ABV} breaches any legislation, rule or regulation in the provision, or attempted provision, of the Services or which, as a result of the breach, will limit {$PT2\_ABV}’s ability to lawfully provide the Services to any extent;
      4. a Force Majeure continues for more than 20 Business Days or for periods in aggregate of more than 30 Business Days.
   2. **Termination with notice.**
      1. {$USR\_ABV} may terminate this Agreement without cause, by providing {$PT2\_ABV} with {$USR\_Notice} {$USR\_NoticeLength}’ written notice. {if !empty($PT2\_Notice)}
      2. {$PT2\_ABV} may terminate this Agreement without cause, by providing {$USR\_ABV} with {$PT2\_Notice} {$PT2\_NoticeLength}’ written notice. {/if}
   3. **{$PT2\_ABV} obligations on termination.** Immediately upon the termination or assignment of this Agreement, or upon request at any time by {$USR\_ABV}, {$PT2\_ABV} must:
      1. report to {$USR\_ABV} promptly and fully with the information that it requires relating to the Services and the engagement of {$PT2\_ABV} pursuant to this Agreement;
      2. deliver to {$USR\_ABV} all records of Confidential Information in {$PT2\_ABV}’s possession, power or control which are physically capable of delivery;
      3. deliver to {$USR\_ABV} all {$USR\_ABV} Material in {$PT2\_ABV}’s possession, power or control which are physically capable of delivery; and
      4. permanently erase all records of Confidential Information from {$PT2\_ABV}’s physical records or electronic storage devices.
   4. **No representations after termination.** After expiry, termination or assignment of the Agreement, {$PT2\_ABV} must not represent itself as being engaged by or affiliated with {$USR\_ABV} or any Related Entity
   5. **Survival.** The obligations in clauses 5, 6, and 7 survive the termination of this Agreement.
8. DISPUTE RESOLUTION
   1. **Scope of Dispute.** 
      1. This clause 9 shall apply in the event a dispute arises out of, or in connection with this Agreement, or the interpretation of its terms (Dispute).
      2. Subject to clause 9.1(c), a party must not bring court proceedings in respect of any Dispute unless it first complies with the requirements of the dispute resolution mechanism outlined in this clause 9.
      3. Nothing in this clause 9 prevents either party from instituting court proceedings to seek urgent injunctive, interlocutory or declaratory relief in respect of a Dispute.
   2. **Resolution Process.** 
      1. Despite the existence of a Dispute, the parties must continue to perform their respective obligations under this Agreement and any related agreements.
      2. A party claiming that a Dispute has arisen must give written notice to each other party to the Dispute specifying the nature of the Dispute and their terms for resolution.
      3. On receipt of that notice by each other party, all parties must use their best endeavours to resolve the Dispute as soon as possible.
      4. If the parties have not resolved the Dispute within 14 days of receipt of the notice referred to in clause 9.2(b), or such further period as agreed in writing by them, the Dispute must go to mediation.
      5. A mediator appointed to resolve the Dispute must be:
         1. as agreed in writing between the parties; or
         2. failing agreement pursuant to clause (e)i, appointed by the President of the Law Institute or Law Society of the state or territory whose laws govern this Agreement, or his or her nominee.
      6. The mediation will be confidential with the costs of the mediator being borne equally by the parties to the Dispute. Each party will bear their own legal costs in relation to the mediation.
      7. Notwithstanding clause 9.1(c), a party may only initiate court proceedings in relation to a Dispute if it has complied with this clause 9, and the mediation has been unsuccessful.
9. GOOD & SERVICES TAX
   1. **Interpretations.** Terms defined in the GST Act have the same meaning in this clause 10 unless provided otherwise.
   2. **GST pass on.** If GST is or will be imposed on a supply made under or in connection with this Agreement, the supplier may, to the extent that the consideration otherwise provided for that supply under this Agreement is not stated to already include an amount in respect of GST on the supply:
      1. increase the consideration otherwise provided for that supply under this Agreement by the amount of that GST; or
      2. otherwise recover from the recipient the amount of that GST.
   3. **Tax Invoices and Adjustment Notes****.** The recovery of any amount in respect of GST by the supplier under this Agreement is subject to the issuing of the relevant Tax Invoice or Adjustment Note to the recipient. Subject to any other provision of this Agreement, the recipient must pay any amount in respect of GST within 7 days of the issuing of the relevant Tax Invoice or Adjustment Note to the recipient.
      1. Later adjustment to price or GST. If there is an adjustment event in relation to a supply which results in the amount of GST on a supply being different from the amount in respect of GST recovered by the supplier, as appropriate, the supplier:
      2. may recover from the recipient the amount by which the amount of GST on the supply exceeds the amount recovered; and
      3. must refund to the recipient the amount by which the amount recovered exceeds the amount of GST on the supply.
   4. **Reimbursements****.** Costs required to be reimbursed or indemnified under this agreement must exclude any amount in respect of GST included in the costs for which an entitlement arises to claim an input tax credit.
10. GENERAL
    1. **Amendments.** This Agreement may only be amended by written agreement between all parties.
    2. **Counterparts.** This Agreement may be executed in any numbers of counterparts. All counterparts together make one instrument.
    3. **Prevalence.** 
       1. To the extent that the Particulars are inconsistent with the General Conditions, the Particulars will take precedence;
       2. To the extent the SOW is inconsistent with the terms of this Agreement, the terms of the SOW will take precedence.
       3. To the extent that any Special Conditions are inconsistent with any other term of this Agreement, the Special Conditions will take precedence.
    4. **Cumulative rights.** The powers and rights of a party under this Agreement do not exclude any other power or right.
    5. **No merger.** The rights and obligations of the parties under this agreement do not merge on completion of any transaction contemplated by this Agreement.
    6. **No Joint Venture.** The relationship between the parties to this Agreement does not form a joint venture or partnership.
    7. **Entire Agreement.** 
       1. This Agreement supersedes all previous agreements about its subject matter and embodies the entire agreement between the parties.
       2. To the extent permitted by law, any statement, representation or promise made in any negotiation or discussion has no effect except to the extent expressly set out or incorporated by reference in this Agreement.
    8. **Further Assurances.** Each party must do all things necessary (including executing documents) to give full effect to this Agreement and the transactions contemplated by this Agreement.
    9. **Third party rights.** No person other than the parties has or is intended to have any right, power or remedy or derives or is intended to derive any benefit under this Agreement.
    10. **To the extent not excluded by law.** The rights, duties and remedies granted or imposed by this Agreement operate to the extent not excluded by law.
    11. **Costs and Expenses**
        1. Each party must bear its own costs associated with the negotiation, preparation, execution delivery and registration of this Agreement and any other agreement or document entered into or signed under this agreement or any documents contemplated by this Agreement.
        2. Any action taken by a party in performing its obligations under this must be taken at its own cost and expense unless otherwise provided by this Agreement.
    12. **Governing law and jurisdiction** 
        1. The laws of the {$REF\_State} in Australia govern this Agreement.
        2. Each party irrevocably submits to the non-exclusive jurisdiction of the Courts in the {$REF\_State} and the Federal Court of Australia sitting in the {$REF\_State}.
    13. **No waiver**
        1. The failure of a party to require full or partial performance of a provision of this Agreement does not affect the right of that party to require performance subsequently.
        2. A single or partial exercise of or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy.
        3. A right under this Agreement may only be waived in writing signed by the party granting the waiver, and is effective only to the extent specifically set out in that waiver.
    14. **Severability.** A clause or part of a clause of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining clauses or parts of the clause of this Agreement continue in force.
    15. **When notice is given.** A notice, consent or communication delivered under this Agreement is given and received:
        1. If it is hand delivered:
           1. by 5.00 pm (local time in the place of receipt) on a Business Day – on that day; or
           2. after 5.00 pm (local time in the place of receipt) on a Business Day, or at any time on a day that is not a Business Day – on the next Business Day;
        2. if it is sent by post:
           1. within Australia – 3 Business Days after posting; or
           2. to or from a place outside Australia - 7 Business Days after posting.
        3. If it is sent as an electronic communication, in accordance with the *Electronic Transactions Act 1999* (Cth), as set out in that Act.
    16. **Address for notice.** Notices must be sent to the party’s most recent known contact details.
    17. **Assignment.** Neither party may assign its rights under this Agreement without the written approval of the other party.
    18. **Interpretation.**
        1. The singular includes the plural and the opposite also applies.
        2. If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
        3. A reference to a clause refers to clauses in this Agreement.
        4. A reference to legislation is to that legislation as amended, re‑enacted or replaced, and includes any subordinate legislation issued under it.
        5. Mentioning anything after includes, including, or similar expressions, does not limit anything else that might be included.
        6. A reference to a party to this Agreement or another agreement or document includes that party’s successors and permitted substitutes and assigns (and, where applicable, the party’s legal personal representatives).
        7. A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.

{$DISPLAY\_NAME} {$DISPLAY\_Email} {$Login\_ID}