**Contractor Agreement**

**{$USR\_Business}**

**AND**

**{$PT2\_Business}**

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| --- |
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**CONTENTS**

[PARTIES & EXECUTION 3](#_Toc151397563)

[PARTICULARS 4](#_Toc151397564)

[GENERAL CONDITIONS 6](#_Toc151397565)

[1. DEFINITIONS 6](#_Toc151397566)

[2. AGREEMENT AND COMMENCEMENT 8](#_Toc151397567)

[3. RELATIONSHIP 8](#_Toc151397568)

[4. CONDITIONS OF SERVICE 8](#_Toc151397569)

[5. SUBCONTRACTING 9](#_Toc151397570)

[6. {$PT2\_ABV|upper}’S WARRANTY AND INDEMNITY 9](#_Toc151397571)

[7. CHANGES TO SOW 10](#_Toc151397572)

[8. {$USR\_ABV}’S LIABILTY 11](#_Toc151397573)

[9. REMUNERATION 11](#_Toc151397574)

[10. CONFIDENTIAL INFORMATION 12](#_Toc151397575)

[11. INTELLECTUAL PROPERTY 13](#_Toc151397576)

[12. PRIVACY 14](#_Toc151397577)

[13. TERMINATION 14](#_Toc151397578)

[14. DISPUTE RESOLUTION 15](#_Toc151397579)

[15. GOODS AND SERVICES TAX 15](#_Toc151397580)

[16. GENERAL 16](#_Toc151397581)

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 provide 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 $Term > 1}s{/if}. |
| * 1. Hours of Work | * + 1. {$PT2\_ABV} shall provide the Services at such times, and for such number of hours per day, as is necessary.     2. {$USR\_ABV} is under no obligation to provide {$PT2\_ABV} with minimum hours of work. |
| * 1. Place of Work | {$PT2\_ABV} will perform the Services at such places in the Location as reasonably required by {$USR\_ABV} or such other places as agreed between the parties in writing. |

1. Fees, Invoicing and Payment

|  |  |
| --- | --- |
| * 1. Fees | {$USR\_ABV} will pay {$PT2\_ABV} ${$Fees\_Amt|number\_format} {$Fees\_Freq}. |
| * 1. Expenses | {$PT2\_ABV} may charge for any Expenses at cost, in addition to Fees, provided that {$PT2\_ABV} has first obtained {$USR\_ABV}’s written consent to incur such Expenses. |
| * 1. Invoicing | * + 1. {$PT2\_ABV} shall deliver a Tax Invoice to {$USR\_ABV} for any Services provided monthly in arrears.     2. {$USR\_ABV} shall pay any Tax Invoice promptly and within {$Inv\_Due} Business Days of from the date it is received. |

GENERAL CONDITIONS

1. DEFINITIONS
   1. **Definitions****.** In this Agreement capitalised terms have the following meanings:
      1. **Agreement** means this Contractor Agreement.
      2. **Agreement Date** means the date as set out in the Particulars.
      3. **Business Day** means a day that is not a Saturday, Sunday or public holiday in the Location.
      4. **Client** means a customer, client or user of {$USR\_ABV}’s goods or services.
      5. **Commencement Date** means the date set out in the Particulars.
      6. **Confidential Information** means all information belonging to, or licensed by 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);
      7. 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.
      8. **Expenses** any goods or services obtained from a third party necessary to provide the Services.
      9. **Fee** means a fee payable by {$USR\_ABV} for Services.
      10. **General Conditions** means the section of this Agreement named “General Conditions”.
      11. **GST** means goods and services tax or similar value added tax levied or imposed in Australia pursuant to the GST Act or otherwise on a supply.
      12. **GST Act** means A New Tax System (Goods and Services Tax) Act 1999 (Cth).
      13. **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.
      14. **Location** means the {$REF\_State}, Australia.
      15. **Loss** means any loss, cost, expense, charge, tax, penalties, fine, premium, or compensation arising from (without limitation):
          1. direct, incidental, consequential or indirect damages;
          2. damage to property, loss of property;
          3. loss or corruption of data;
          4. loss of profits, goodwill, bargain or opportunity,
          5. loss of anticipated savings;
          6. legal costs on a solicitor and own client basis, and the costs of enforcing this Agreement; or
          7. Personal injury or death.
      16. **Online Channel** means any social media platform, website, forum or notice board.
      17. **Particulars** means the section of this Agreement named “Particulars”.
      18. **Personal Information** means information which identifies an individual or from which an individual’s identity can be reasonably ascertained.
      19. **Privacy Law** means the *Privacy Act 1988* (Cth), the Australian Privacy Principles and any other applicable privacy legislation.
      20. **Privacy Policy** means {$USR\_ABV}’s privacy policy available from {$USR\_ABV} on request{if empty($USR\_URL)}{elseif !empty($USR\_URL)} and accessible at {$USR\_URL}{/if}.
      21. **Services** means the work and deliverables to be provided by {$PT2\_ABV} as described in the Particulars.
      22. **Term** meansthe termset out in the Particulars, together with any further term(s) (as applicable).
      23. **Workers' Compensation** and **Work Cover** shall have the meaning given to those terms under the laws of the Location.
2. AGREEMENT AND COMMENCEMENT
   1. The relationship between the parties shall be governed by the terms of this Agreement until terminated under the provisions of this Agreement.
   2. This Agreement commences on the Commencement Date. Where the Commencement Date pre-dates this Agreement Date the Parties expressly acknowledge that:
      1. the terms and conditions of this Agreement (to the extent reasonably possible) commenced on the Commencement Date; and
      2. this Agreement is the formalisation of an existing undocumented agreement between the parties.
3. RELATIONSHIP
   1. **Independent Contractor.** The parties acknowledge and agree that:
      1. {$PT2\_ABV} is an independent contractor in business in its own right, and must continue to operate as such during the term of this Agreement;
      2. {$PT2\_ABV} operates its business at its own risk and at its own cost;
      3. {$PT2\_ABV} is not a representative or agent of {$USR\_ABV} for any purpose and must not hold itself out as such;
      4. {$PT2\_ABV} does not have the power to incur any debt, obligation, liability or make any contract on behalf of {$USR\_ABV}; and
      5. {$PT2\_ABV} is not an employee of {$USR\_ABV} nor is {$PT2\_ABV} entitled to {$USR\_ABV}'s employee benefits or the protection offered to {$USR\_ABV}’s employees by law, including, without limitation, employee entitlements under the National Employment Standards or any enterprise bargaining agreement or award, superannuation contributions, Workers' Compensation or Work Cover.
4. CONDITIONS OF SERVICE
   1. **Equipment.**
      1. {$PT2\_ABV} shall use their own equipment to provide the Services as necessary (including computer equipment with suitable software, if applicable).
      2. Any equipment provided to {$PT2\_ABV} by {$USR\_ABV} shall remain the property of {$USR\_ABV} at all times.
   2. **Policies.** {$USR\_ABV} will keep {$PT2\_ABV} aware of any policies or guidelines it has with respect to its business (including any updates to them). {$PT2\_ABV} must follow all such policies or guidelines.
   3. **No Conflicting Services**. {$PT2\_ABV} must not enter into any other agreement to provide services of any kind to another person or entity that would impact on {$PT2\_ABV}’s ability to deliver the Services during the Term, without the written consent of {$USR\_ABV} (which must not be unreasonably withheld).
   4. **Conduct with Clients.** {$PT2\_ABV} agrees that during the Term and at all times after the end or termination of their Term, {$PT2\_ABV}:
      1. Will deal with Clients in an appropriate and professional manner;
      2. Will follow the reasonable directions of Clients; and
      3. Will comply with any Client rules and procedures that may apply when onsite (such as health and safety).
   5. **Online Conduct.** {$PT2\_ABV} agrees that during the Term (and at all times following termination of this Agreement) {$PT2\_ABV}:
      1. Will not post about any of {$USR\_ABV}'s internal affairs on any Online Channel without the written approval of {$USR\_ABV};
      2. Will refrain from making any negative comments about {$USR\_ABV}, its personnel or its customers on any Online Channel; and
      3. Will promptly bring to {$USR\_ABV}'s attention any material on social media channels which is relevant to {$USR\_ABV} (such as negative comments).
   6. **Non-Disparagement.** {$PT2\_ABV} agrees that during the Term (and at all times following termination of this Agreement) {$PT2\_ABV} will not:
      1. Take any action that:
      2. is intended (or would reasonably be expected) to harm {$USR\_ABV} or its reputation: or
      3. would reasonably be expected to lead to unwanted or unfavourable publicity to {$USR\_ABV}; or
      4. Make any negative comment about {$USR\_ABV}.
   7. **Non-Solicitation.** Without the written consent of {$USR\_ABV}, {$PT2\_ABV} agrees that during the Term and for a period of 1 year after the end of this Agreement, {$PT2\_ABV} shall not:
      1. Solicit away from {$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 {$USR\_ABV} that had been such during the Term.
5. SUBCONTRACTING
   1. {$PT2\_ABV} may engage such third-parties as are necessary to provide the Services subject to {$USR\_ABV}’s approval.
   2. {$PT2\_ABV} shall be responsible for ensuring that all third-party subcontractors comply with {$PT2\_ABV}'s obligations under this Agreement including those of confidentiality.
6. {$PT2\_ABV|upper}’S WARRANTY AND INDEMNITY
   1. {$PT2\_ABV} warrants that:
      1. they have the authority to enter into this Agreement;
      2. they possess the necessary skills, qualifications, training and expertise to perform {$PT2\_ABV}’s obligations under this Agreement and to provide the Services;
      3. the Services will be provided:
         1. in full and on time; and
         2. to such service levels, quality and standards as agreed between the parties, or as can reasonably be expected in the circumstances;
      4. they will not infringe the Intellectual Property of any third party or otherwise breach any law or obligation to any third party in the performance of its obligations under this Agreement or in providing the Services;
      5. at the Commencement Date, no conflict of interest exists or is likely to arise in the performance of its obligations under this Agreement; and
   2. In the event {$PT2\_ABV} breaches the warranty in clause 6.1(c), and such work is capable of remedy, {$USR\_ABV} may direct {$PT2\_ABV}, by notice, to remedy the work within 10 Business Days.
   3. In the event {$PT2\_ABV} does not comply with a direction under clause 6.2, or the breach of warranty is not capable of remedy by {$PT2\_ABV}, {$USR\_ABV} may:
      1. direct {$PT2\_ABV} to cease providing the Services immediately; and
      2. engage a third-party to remedy the work without further notice to {$PT2\_ABV}.
   4. {$PT2\_ABV} agrees to indemnify and hold {$USR\_ABV} harmless from and against, any Loss incurred or suffered by {$USR\_ABV} caused by the acts, errors or omissions of {$PT2\_ABV} in the performance of their obligations under this Agreement, including a breach of this Agreement
   5. {$PT2\_ABV}’s liability under clause 6.4 will be reduced to the extent the Loss was caused by {$USR\_ABV}.
7. CHANGES TO SOW
   1. {$USR\_ABV} and {$PT2\_ABV} acknowledge that changes to a SOW may be necessary during the course of this Agreement. Any change to a SOW requires mutual agreement between the parties.
   2. **Change Request Process.** Either party may submit a Change Request to the other party in writing. The Change Request must clearly outline the proposed changes to the SOW.
   3. **Response to Change Request.** The receiving party shall respond to the Change Request within 5 Business days of receiving it. The response shall indicate whether the proposed changes are accepted or not.
   4. **Change in Fees**. If {$USR\_ABV} submits a Change Request to {$PT2\_ABV}, {$PT2\_ABV} shall promptly advise {$USR\_ABV} of any changes to the Fees as a consequence of the proposed changes to the SOW. This advice shall be provided within the same 5-day timeframe as the response to the Change Request.
   5. **Negotiation and Approval.** Upon receipt of a Change Request, the parties shall engage in good faith negotiations to approve the requested changes as soon as possible. The negotiations shall consider the potential effects of the changes on the services provided to the Client.
   6. Once the parties have reached mutual agreement on the changes, the approved changes shall be documented in writing.
   7. Any changes to the SOW that are not approved in accordance with this Change Request process shall be deemed invalid and shall not have any effect on the obligations of the parties under this Agreement.
   8. If a Change Request requested by {$USR\_ABV} fails to be accepted by both parties within a reasonable time (taking Client requirements into account), and that change is necessary for {$USR\_ABV} to comply with its obligations to the Client, {$USR\_ABV} may terminate the SOW by providing {$PT2\_ABV} with 10 Business Days’ notice.
8. {$USR\_ABV}’S LIABILTY
   1. {$USR\_ABV} will not be liable for any Loss whether based on warranty, contract, tort, negligence, in equity or any other legal theory, and whether or not {$USR\_ABV} knew or should have known of the possibility of such Loss occurring, whether in tort, contract or otherwise.
9. REMUNERATION
   1. **Disputed Tax Invoice**
      1. If {$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 {$PT2\_ABV}, that are not in dispute, in accordance with item C.3 of the Particulars.
      3. {$USR\_ABV} acknowledges and agrees that if it fails to notify {$PT2\_ABV} of a disputed Tax Invoice, in accordance with clause 9.1(a), they will be liable to pay the entire Tax Invoice in accordance with item C.3 of the Particulars.
   2. **Interest**
      1. {$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 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 9.2(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 9.2(c)i by 1% of the overdue charges and interest from the previous calendar month.
   3. **Late Payment**
      1. If {$USR\_ABV} does not pay the Fees or reimburse Expenses in accordance with item C.3 of the Particulars, {$PT2\_ABV} may stop providing the Services until such payments, including any interest due on such payments, are made.
      2. If {$PT2\_ABV} has stopped providing the Services for 28 days, or more, under clause 9.3(a) {$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 9.3(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 {$PT2\_ABV} pursuant to clause 9.3(a).
10. CONFIDENTIAL INFORMATION
    1. **Non-disclosure.** {$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. {$USR\_ABV} has granted prior written consent.
    2. **Restricted dealings.** Subject to clause 10.1, {$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 10.1, {$PT2\_ABV} must seek clarification from {$USR\_ABV}.
    4. **Obligations upon disclosure.** When {$PT2\_ABV} discloses Confidential Information in accordance with clause 10.1, {$PT2\_ABV} must ensure that whoever it is disclosed to is made aware of its confidential nature and do everything in {$PT2\_ABV}’s power to ensure that any person to whom it is disclosed does not use or disclose that information.
11. INTELLECTUAL PROPERTY
    1. **{$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.
       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 {$USR\_ABV} a non-exclusive, perpetual, non-transferable, royalty free and worldwide licence to use, for the purposes of its day to day business, the New IP to the extent that it is contained within the Services.{/if}
12. PRIVACY
    1. While providing the Services, {$PT2\_ABV} may collect Personal Information from {$USR\_ABV}. Where {$PT2\_ABV} collects such Personal Information, {$PT2\_ABV} must comply with:
       1. The Privacy Law; and
       2. {$USR\_ABV}’s Privacy Policy (if any).
13. TERMINATION
    1. **Termination for cause.**Either party may terminate this Agreement immediately, with notice, if the other party:
       1. breaches any term of this Agreement and such breach is incapable of remedy or, if capable of remedy, has not been remedied within 10 Business Days of being provided with notice specifying the particulars of breach;
       2. becomes the subject of bankruptcy, liquidation or winding up proceedings or threatens to become insolvent; or
       3. breaches any legislation, rule or regulation in the provision, receipt, or attempted provision or receipt of the Services which limits {$PT2\_ABV}’s ability to lawfully provide the Services to any extent.
    2. **Termination without cause.**
       1. {$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}**,** {$PT2\_ABV} must:
       1. deliver to {$USR\_ABV} all records of Confidential Information in {$PT2\_ABV}’s possession, power or control which are physically capable of delivery; and
       2. permanently erase all records of Confidential Information from {$PT2\_ABV}’s physical records or electronic storage devices.
    4. **No representations after termination.** After expiry, termination or assignment of this Agreement, {$PT2\_ABV} must not represent itself as being engaged by or affiliated with {$USR\_ABV}.
    5. **Survival.** The obligations in clauses 10, 11, and 12 survive the termination of this Agreement.
14. DISPUTE RESOLUTION
    1. **Scope of Dispute.** 
       1. This clause 14 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 14.1(c), a party must not bring court proceedings in respect of any Dispute unless they first comply with the requirements of the dispute resolution mechanism outlined in this clause 14.
       3. Nothing in this clause 14 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 14.2(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:
       6. as agreed in writing between the parties; or
       7. failing agreement pursuant to clause (e)(e), 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.
       8. 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.
       9. Notwithstanding clause 14.1(c), a party may only initiate court proceedings in relation to a Dispute if they have complied with this clause 14, and the mediation has been unsuccessful.
15. GOODS AND SERVICES TAX
    1. **Interpretations.** Terms defined in the GST Act have the same meaning in this clause 15 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.
    4. **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:
       1. may recover from the recipient the amount by which the amount of GST on the supply exceeds the amount recovered; and
       2. must refund to the recipient the amount by which the amount recovered exceeds the amount of GST on the supply.
    5. **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.
16. GENERAL
    1. **Counterparts.** This Agreement may be executed in any numbers of counterparts. All counterparts together make one instrument.
    2. **Prevalence.** 
       1. To the extent that the Particulars are inconsistent with the General Conditions, the Particulars will take precedence;
       2. To the extent that any Special Conditions are inconsistent with any other term of this Agreement, the Special Conditions will take precedence.
    3. **No Joint Venture.** The relationship between the parties to this Agreement does not form a joint venture or partnership.
    4. **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.
    5. **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.
    6. Governing law and jurisdiction
       1. The laws of the {$REF\_State} govern this Agreement.
       2. Each party irrevocably submits to the non-exclusive jurisdiction of the Courts in the {$REF\_State} and the Federal Court of Australia sitting in the {$REF\_State}.
    7. **Severability.** A clause or part of a clause of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining clauses or parts of the clause of this Agreement continue in force.
    8. **When notice is given.** A notice, consent or communication delivered under this Agreement is given and received:
       1. If it is hand delivered:
       2. by 5.00 pm (local time in the place of receipt) on a Business Day – on that day; or
       3. after 5.00 pm (local time in the place of receipt) on a Business Day, or at any time on a day that is not a Business Day – on the next Business Day;
       4. if it is sent by post:
       5. within Australia – 3 Business Days after posting; or
       6. to or from a place outside Australia - 7 Business Days after posting.
       7. if it is sent by electronic communication, in accordance with the *Electronic Transactions Act 1999* (Cth) (unless required to be physically delivered under law).
    9. **Address for notice.** Notices must be sent to the party’s most recent known contact details.
    10. **Amendment.** This Agreement can only be amended by mutual written agreement between the parties.
    11. **Assignment by {$USR\_ABV}.** {$USR\_ABV} may assign its rights under this Agreement by providing {$PT2\_ABV} written notice, at any time and without requiring the approval of {$PT2\_ABV}.
    12. **Assignment by {$PT2\_ABV**}**.** {$PT2\_ABV} must not assign, sublicense, transfer, charge or in any manner make over or propose to assign, sublicense, transfer, charge or deal with any part of this Agreement of its rights under this Agreement without the prior written approval of {$USR\_ABV}**.**
    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. **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}