



## Video Call Terms & Conditions

### 1. DEFINITIONS AND INTERPRETATION

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1.1 Capitalised terms or expressions used in this agreement have the meanings set out in this clause or in the Details section above:

**Acceptance:** the acceptance or deemed acceptance of the Site by the Customer pursuant to clause 4.

**Acceptance Tests:** the tests to be carried out on the Site as set out in clause 4 and as described in the Details.

**Business Day:** a day on which banks are open for business in Melbourne, other than a Saturday, Sunday or public holiday in that city.

**Change Control Procedures:** the procedures set out in the Details.

**Charges:** the charges in respect of the Services set out in the Details, together with any charges arising from the Change Control Procedures.

**Design Agency:** the Customer's nominated design collaborator (if any) described in the Details.

**Effective Date:** the date described as such in the Details.

**Force Majeure Event:** has the meaning given in 15.

**Government Agency:** any government or governmental, administrative, monetary, fiscal or judicial body, department, commission, authority, tribunal, agency or entity in any part of the world.

**GST:** goods and services tax chargeable under *A New Tax System (Goods & Services Tax) Act 1999* (Cth).

**GST Law:** has the same meaning as "GST Law" in the *A New Tax System (Goods & Services Tax) Act 1999* (Cth).

**Intellectual Property Rights:** all intellectual property rights of any kind, in any jurisdiction, subsisting now or in the future (including, without limitation, business, company or trade names, domain names, patents, inventions, copyright, design rights, know-how, trade marks, the right to sue for passing off and rights to use, and protect the confidentiality of, confidential information), whether registered or unregistered, and including the rights to apply for or renew the registration of any such rights and any rights the subject of any lapsed application or registration.

**Materials:** the content provided to the Supplier by the Customer or its Design Agency (if applicable) from time to time for incorporation in the Site, including the Materials described in the Details.

**Non-Supplier Defects:** those defects described in 4.4.

**Personal Information:** has the meaning given in the *Privacy Act 1988* (Cth).

**Project:** the provision by the Supplier of the Services as set out in this agreement.

**Project Plan:** the timetable within which the Supplier will implement the Project as set out in the Details.

**Related Body Corporate:** has the meaning given in *section 9 of the Corporations Act 2001* (Cth).

**Services:** the design and development services to be provided pursuant to this agreement as set out in the Details.

**Site:** the website at, or to be at, the URL set out in the Details.

**Site Software:** the software for the Site commissioned by the Customer as specified in the Details.

**Site Specification:** the specification for the Site set out in the Details.

**Third Party Products:** those third party software products or platforms set out in the Details.

**Visitor:** a visitor to the Site.

1.2 In this agreement the following rules of interpretation apply, unless the contrary intention appears or context otherwise requires:

- (a) headings and subheadings are for convenience only and do not affect the interpretation of this agreement;
- (b) references to a party to any agreement or document include that party's permitted assignees and successors, including executors and administrators and legal representatives;
- (c) words denoting the singular include the plural and words denoting the plural include the singular;
- (d) the word "person" includes any individual, corporation or other body corporate, partnership, joint venture, trust, association and any Government Agency;
- (e) a reference to any agreement or document (including this agreement) includes any amendments to or replacements of that document;
- (f) a reference to a law includes:
  - (i) legislation, regulations and other instruments made under legislation and any consolidations, amendments, re-enactments or replacements of them;
  - (ii) any constitutional provision, treaty or decree;
  - (iii) any judgment;
  - (iv) any rule or principle of common law or equity,

and is a reference to that law as amended, consolidated, re-enacted, replaced or applied to new or different facts;



- (g) no provision of this agreement will be construed adversely to a party because that party was responsible for the preparation of that provision or this agreement;
- (h) if a period of time begins on a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (i) a reference to an amount of dollars, Australian dollars, \$ or A\$ is a reference to the lawful currency of the Commonwealth of Australia, unless the amount is specifically denominated in another currency;
- (j) specifying anything in this agreement after the terms "include", "including", "includes", "for example", "such as" or any similar expression does not limit the sense of the words, description, definition, phrase or term preceding those terms unless there is express wording to the contrary;
- (k) where a word or phrase is defined, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (l) if there is any conflict between Part 1 (Details) of this agreement and Part 2 (General Terms) of this agreement, the General Terms of this agreement will prevail unless the Details are stated as specifically and expressly overriding a specific General Term of this agreement (in which case those Details prevail); and
- (m) references to **content** include any kind of text, information, images, or audio or video material which can be incorporated in a website for access by a Visitor to that website.

## 2. SCOPE OF THE PROJECT

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The Supplier agrees to:

- (a) liaise with any Design Agency noted in the Details in developing the look and feel of the Site;
- (b) design, develop and deliver the Site in accordance with the Project Plan; and
- (c) provide the Services.

## 3. CUSTOMER RESPONSIBILITIES

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- 3.1 The Customer acknowledges that the Supplier's ability to provide the Services is dependent on the full and timely cooperation of the Customer (which the Customer agrees to provide), as well as the accuracy and completeness of the design specifications provided by the Design Agency (if applicable) and any information and data the Customer provides to the Supplier. Accordingly, the Customer agrees to:
- (a) Promptly provide the Supplier with access to, and use of, all information, data and

documents reasonably required by the Supplier for the performance by the Supplier of its obligations under this agreement; and

- (b) instruct and manage the Design Agency (if applicable).

- 3.2 The Customer is responsible for the accuracy and completeness of the Materials on the Site in accordance with Clause 11.

## 4. DEVELOPMENT AND ACCEPTANCE OF SITE

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- 4.1 Once the Supplier has completed the design and development of the Site in accordance with the Project Plan, the Supplier will run the Acceptance Tests. The procedure set out in this Clause 4 will be repeated in respect of any further development Services agreed by the parties from time to time.
- 4.2 The Acceptance Tests will test compliance of the Site with the Site Specification. The form and detail of such tests is set out in the Details.
- 4.3 Acceptance of the Site occurs when the Site has passed the Acceptance Tests. The Supplier agrees to notify the Customer when the tests have been passed and provide the results of the Acceptance Tests to the Customer in writing.
- 4.4 If any failure to pass the Acceptance Tests results from a defect which is caused by an act or omission of the Customer, or by one of the Customer's subcontractors or agents for whom the Supplier has no responsibility (**Non-Supplier Defect**), the Site is deemed to have passed the Acceptance Tests despite such Non-Supplier Defect. The Supplier agrees to provide assistance reasonably requested by the Customer in remedying any Non-Supplier Defect by supplying additional services or products. The Customer must pay the Supplier in full for all such additional services and products at the Supplier's then current fees and prices.
- 4.5 Acceptance of the Site is deemed to have taken place on the occurrence of any of the following events:
- (a) the Customer uses any part of the Site for any revenue-earning purposes or to provide any services to third parties other than for test purposes; or
  - (b) the Customer unreasonably delays the start of the relevant Acceptance Tests or any retests for a period of seven working days from the date on which the Supplier is ready to commence running such Acceptance Tests or retests.



## 5. THIRD PARTY PRODUCTS

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- 5.1 The Customer is solely responsible for arranging its access to and use of, payment for, and compliance with the Third Party Products as may be required for the Customer to receive the ongoing benefit of the Services.
- 5.2 If the Supplier has arranged any Third Party Products for the Customer in connection with the Services, then:
- (a) the licence or other fees payable by the Customer to the Third Party Product provider (or reimbursable to the Supplier if such fees have been paid by the Supplier on behalf of the Customer) include those described in the Details;
  - (b) by way of its approval under this agreement of the Supplier to do so, the Customer warrants that it has read, understood and will comply with the terms and conditions for the supply of the Third Party Products;
  - (c) the Supplier is not liable for any breach by the Customer of the Third Party Products' terms and conditions, the Customer indemnifying the Supplier for any claims, loss or damage arising out of or in connection with any such breach by the Customer;
  - (d) the Customer acknowledges that, in doing so, the Supplier is not providing any 'hosting' or similar services in connection with the Customer's Site, and that any such hosting services are as between the Customer and the Third Party Product provider only; and
  - (e) the Customer acknowledges that the Supplier may receive payments or other benefits from the Third Party Product provider as described in any terms and conditions for the supply of the Third Party Products.

## 6. PROJECT MANAGEMENT

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- 6.1 Each party has appointed their Notice Recipient in the Details as a project manager, or must otherwise appoint a project manager, who will:
- (a) provide professional and prompt liaison with the other party; and
  - (b) have the necessary expertise and authority to commit the relevant party.
- 6.2 The project managers will meet at the frequency noted in the Details' Project Plan (or if no such frequency noted, when reasonably required by the Supplier) until Acceptance. The Customer must provide minutes of these meetings to the Supplier.

## 7. CHARGES AND PAYMENT

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- 7.1 The Supplier will issue a GST invoice in respect of the Charges, and the Customer agrees to pay to the Supplier the Charges set out in such Supplier's invoice by the Time, each as set out in the Details and in any event by no later than [14] days after the date of the invoice.
- 7.2 All Charges are inclusive of GST unless otherwise noted in the Details.

## 8. WARRANTIES

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- 8.1 Each of the parties warrants to the other that it has full power and authority to enter into and perform this agreement.
- 8.2 The Supplier agrees to perform the Services with reasonable care and skill.
- 8.3 The Supplier warrants that the Site will perform substantially in accordance with the Site Specification for a period of three months from Acceptance. If the Site does not so perform, the Supplier must, for no additional charge, carry out any work necessary to ensure that the Site substantially complies with the Site Specification.
- 8.4 The warranty set out in clause 8.3 will not apply to the extent that any failure of the Site to perform substantially in accordance with the Site Specification is caused by:
- (a) any Materials;
  - (b) any of the Customer's own systems, networks or connections, as may be utilised for the performance of the Site; or
  - (c) any of Customer's other suppliers including any supplier of Third Party Products.
- 8.5 This agreement sets out the full extent of the Supplier's obligations and liabilities in respect of the supply of the Services. All conditions, warranties or other terms concerning the Services which might otherwise be implied into this agreement or any collateral contract (whether by statute or otherwise) are, to the extent permitted by applicable laws, hereby expressly excluded.

## 9. LIMITATION OF REMEDIES AND LIABILITY

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- 9.1 Nothing in this agreement limits or excludes the Supplier's liability:
- (a) for death or personal injury caused by its negligence or wilful misconduct or that of its employees, as applicable;
  - (b) for fraud or fraudulent misrepresentation by it or its employees, as applicable; or



- (c) where liability cannot be limited or excluded by applicable law (in respect of which clause 9.5 below may apply).
- 9.2 Subject to clause 9.1, the Supplier excludes any liability to the Customer, whether in contract (including under an indemnity), tort (including negligence) or otherwise, special, indirect or consequential loss arising under or in connection with this agreement, and for any of the following (whether direct or indirect loss):
- (a) loss of profits;
  - (b) loss of sales or business;
  - (c) loss of production;
  - (d) loss of agreements or contracts;
  - (e) loss of business opportunity;
  - (f) loss of anticipated savings;
  - (g) loss of or damage to goodwill;
  - (h) loss of reputation; or
  - (i) loss of use or corruption of software, data or information.
- 9.3 Subject to clause 9.1, the Supplier's aggregate liability in respect of claims based on events in any calendar year arising out of or in connection with this agreement or any collateral contract, whether in contract (including under an indemnity) or tort (including negligence) or otherwise, will in no circumstances exceed the total Charges paid by the Customer to the Supplier under this agreement in that calendar year.
- 9.4 The Supplier's liability to the Customer (including under any indemnity) will be reduced proportionately to the extent that any negligent or unlawful act or omission of the Customer, the Customer's breach of this agreement, or the Customer's failure to mitigate its losses, contributes to the loss or liability.
- 9.5 This clause 9.5 applies only if or to the extent that the Customer is a 'consumer' to which the Australian Consumer Law applies, in which case:
- (a) the Supplier's Services come with guarantees that cannot be excluded under the Australian Consumer Law;
  - (b) for major failures with the Services, the Customer is entitled:
    - (i) to cancel this agreement with the Supplier; and
    - (ii) to a refund for the unused portion, or to compensation for its reduced value,
    - (iii) and the Customer is also entitled to be compensated for any other reasonably foreseeable loss or damage; and
  - (c) if the failure does not amount to a major failure, the Customer is entitled to have problems with the Services rectified in a reasonable time, and if this is not done, to

cancel this agreement and obtain a refund for the unused portion of the agreement.

## 10. INTELLECTUAL PROPERTY RIGHTS

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- 10.1 All Intellectual Property Rights in the Site (including in the content of the Site and the Site Software), but excluding the Materials, arising in connection with this agreement will be the property of the Supplier, and the Supplier hereby grants the Customer a non-exclusive licence of such Intellectual Property Rights for the purpose of operating the Site. The Customer may also sub-licence its licensed rights in the Site to any provider of Third Party Products required to be so licensed for the Site to operate as intended.
- 10.2 The Customer licenses the Supplier to use the Materials as required for the Supplier to deliver the Services to the Customer. The Customer indemnifies the Supplier against all damages, losses and expenses arising as a result of any action or claim that the Materials infringe the Intellectual Property Rights of a third party.
- 10.3 The Supplier indemnifies the Customer against all damages, losses and expenses arising as a result of any action or claim that the Site infringes any Intellectual Property Rights of a third party in Australia, other than infringements referred to in clause 10.2.
- 10.4 The indemnities in clause 10.2, clause 10.3 and clause 11.2 are subject to the following conditions:
- (a) the indemnified party promptly notifies the indemnifier in writing of the claim;
  - (b) the indemnified party makes no admissions or settlements without the indemnifier's prior written consent;
  - (c) the indemnified party gives the indemnifier all information and assistance that the indemnifier may reasonably require; and
  - (d) the indemnified party allows the indemnifier complete control over the litigation and settlement of any action or claim.
- 10.5 The indemnities in clause 10.2, clause 10.3 and clause 11.2 may not be invoked to the extent that the action or claim arises out of the indemnifier's compliance with any designs, specifications or instructions of the indemnified party.

## 11. SITE CONTENT

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- 11.1 The Customer must ensure that the Materials do not infringe any applicable laws, regulations or third party rights (including material which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred or acts of terrorism, menacing, blasphemous or in



breach of any third party Intellectual Property Rights) (**Inappropriate Content**).

- 11.2 The Customer indemnifies the Supplier against all damages, losses and expenses arising as a result of any action or claim that the Materials constitute Inappropriate Content.

## 12. DATA PROTECTION

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12.1 The Supplier warrants that, to the extent it handles any Personal Information on behalf of the Customer:

- (a) it will handle all Personal Information in accordance with the *Privacy Act 1988* (Cth);
- (b) it must act only on instructions from the Customer; and
- (c) it has in place appropriate technical and organisational security measures against:
  - (i) unauthorised or unlawful access, modification, disclosure or processing of Personal Information; and
  - (ii) accidental interference, loss or destruction of, or damage to, Personal Information.

## 13. TERM AND TERMINATION

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13.1 This agreement starts on the Effective Date and will (subject to earlier termination under this clause 13) terminate automatically on Acceptance of the Site and payment of all outstanding sums, unless the parties agree in writing to extend the term of this agreement.

13.2 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

- (a) the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than seven days after being notified in writing to make such payment;
- (b) the other party commits a material breach of any term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
- (c) the other party:
  - (i) is insolvent as defined by section 95A of the *Corporations Act 2001* (Cth) as disclosed in its accounts or otherwise;
  - (ii) states that it is insolvent;
  - (iii) is presumed to be insolvent under an applicable law (including under section 459C(2) or section 585 of the *Corporations Act 2001* (Cth)); or

(iv) otherwise is, or states that it is, unable to pay all its debts as and when they become due and payable;

- (d) a liquidator or provisional liquidator is appointed to the other party;
- (e) an administrator is appointed to the other party under section 436A, section 436B or section 436C of the *Corporations Act 2001* (Cth);
- (f) a controller (as defined in section 9 of the *Corporations Act 2001* (Cth)) is appointed to the other party or any of its assets;
- (g) a receiver is appointed to the other party or any of its assets;
- (h) an application is made to a court for an order, or an order is made, that the other party may be wound up, declared bankrupt or that a provisional liquidator, receiver or receiver and manager be appointed to that other party, and that application is not withdrawn, struck out or dismissed within 15 Business Days of it being made;
- (i) the other party enters into an arrangement or composition with one or more of its creditors, or an assignment for the benefit of one or more of its creditors, in each case other than to carry out a reconstruction or amalgamation while solvent;
- (j) the other party proposes a winding-up, dissolution or reorganisation, moratorium, deed of company arrangement or other administration involving one or more of its creditors;
- (k) the other party it is taken to have failed to comply with a statutory demand under section 459F(1) of the *Corporations Act 2001* (Cth);
- (l) a notice is issued to the other party under section 601AA or section 601AB of the *Corporations Act 2001* (Cth);
- (m) the other party ceases to carry on business or threatens to do so, other than in accordance with the terms of this agreement;
- (n) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 13.2(c) (inclusive);
- (o) any warranty given by the other party in clause 8 of this agreement is found to be untrue or misleading; or
- (p) the person who has the power to directly or indirectly control the management or policies of the Customer or the board of directors of the Customer ceases to have such power



- 13.3 On termination of this agreement by the Supplier under clause 13.2, all licences granted by the Supplier under this agreement will terminate immediately.
- 13.4 On expiry or termination of this agreement otherwise than on termination by the Supplier under clause 13.2, the Supplier must promptly return all Materials to the Customer, and must provide to the Customer an electronic copy of the Site (including all content on the Site).
- 13.5 Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this agreement will remain in full force and effect.
- 13.6 Termination or expiry of this agreement will not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

#### 14. CHANGE CONTROL

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Any request to change the scope of the Services will be processed in accordance with the Change Control Procedure.

#### 15. FORCE MAJEURE

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- 15.1 Neither party is in breach of this agreement or is liable to the other party for any loss incurred by that other party as a direct result of a party (**Affected Party**) failing or being prevented, hindered or delayed in the performance of its obligations under this agreement where such prevention, hindrance or delay results from events, circumstances or causes beyond the Affected Party's control (**Force Majeure Event**).
- 15.2 If a Force Majeure Event occurs, the Affected Party must notify the other party (**Non-affected Party**) in writing as soon as practicable and that notice must state the particulars of the Force Majeure Event and the anticipated delay.
- 15.3 On providing the notice in clause 15.2, the Affected Party will have the time for performance of the affected obligations extended for a period equivalent to the period during which performance has been delayed, hindered or prevented, however, the Affected Party must continue to use all reasonable endeavours to perform those obligations.
- 15.4 The performance of the affected obligations must be resumed as soon as practicable after such Force Majeure Event is removed or has ceased.

- 15.5 If the delay due to the Force Majeure Event continues for 90 days, the Non-affected Party may terminate this agreement immediately on providing notice to the Affected Party.

#### 16. CONFIDENTIALITY

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- 16.1 Each party (**Recipient**) must keep secret and confidential and not disclose any information relating to another party or its business (which is or has been disclosed to the Recipient by the other party, its representatives or advisers) or the terms of this agreement, except:
- (a) where the information is in the public domain as at the date of this agreement (or subsequently becomes in the public domain other than by breach of any obligation of confidentiality binding on the Recipient);
  - (b) if the Recipient is required to disclose the information by applicable law or the rules of any recognised securities exchange, provided that the Recipient has, to the extent practicable having regard to those obligations and the required timing of the disclosure, consulted with the provider of the information as to the form and content of the disclosure;
  - (c) where the disclosure is expressly permitted under this agreement;
  - (d) if disclosure is made to its officers, employees and professional advisers to the extent necessary to enable the Recipient to properly perform its obligations under this agreement, in which case the Recipient must ensure that such persons keep the information secret and confidential and do not disclose the information to any other person;
  - (e) where the disclosure is required for use in legal proceedings regarding this agreement; or
  - (f) if the party to whom the information relates has consented in writing before the disclosure.
- 16.2 Each Recipient must ensure that its directors, officers, employees, agents, representatives and Related Bodies Corporate comply in all respects with the Recipient's obligations under this clause 16.
- 16.3 This clause 16 survives for a period of five years following termination or expiry of this agreement.
- 16.4 The obligations of confidentiality in this clause 16 are not affected by the expiry or termination of this agreement.
- 16.5 This clause 16 supersedes the terms of any prior confidentiality agreement or non-disclosure agreement as may have been entered between the Supplier and the Customer, including in connection with the Quote, which is hereby terminated.



## 17. NOTICES

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A notice under this agreement must be in writing and delivered on a Business Day, sent by prepaid mail (airmail if overseas) or by email or facsimile to the address or facsimile number of the recipient party set out in the Details or to such other address or facsimile number as that party may from time to time notify the other party for the purposes of this Agreement and will be deemed to be duly given:

- (a) in the case of hand delivery, on the day of delivery;
- (b) three (3) days after the date of posting by pre-paid registered post from within Australia and fifteen (15) days after the date of posting by pre-paid registered post from outside Australia;
- (c) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the total number of pages of the notice unless, within eight business hours after that transmission, the recipient informs the sender that it has not received the entire notice provided that if the message confirming successful transmission is received on a day that is not a Business Day, that transmission will be deemed confirmed on the next Business Day; or
- (d) if sent by email, five (5) hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered, or that its intended recipient is not actively monitoring the recipient's email address (such as by way of 'out of office' notification).

## 18. PUBLICITY

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All media releases, public announcements and public disclosures by either party relating to this agreement or its subject matter, including promotional or marketing material, must be coordinated with the other party and approved jointly by the parties before release.

## 19. ASSIGNMENT, NOVATION AND OTHER DEALINGS

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- 19.1 No party may assign, novate, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under this agreement without the prior written consent of the other parties, whose consent must not be unreasonably withheld.
- 19.2 A breach of clause 19.1 by a party entitles the other parties to terminate this agreement.
- 19.3 Clause 19.2 does not affect the construction of any other part of this agreement.

## 20. ENTIRE AGREEMENT

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This agreement states all the express terms agreed by the parties about its subject matter. It supersedes all prior agreements, understandings, negotiations and discussions (including any Quote) in respect of its subject matter.

## 21. VARIATION

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An amendment or variation of any term of this agreement must be in writing and signed, either by pen or electronically by each party.

## 22. NO WAIVER

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- 22.1 No party may rely on the words or conduct of any other party as being a waiver of any right, power or remedy arising under or in connection with this agreement unless the other party or parties expressly grant a waiver of the right, power or remedy. Any waiver must be in writing, signed by the party granting the waiver and is only effective to the extent set out in that waiver.
- 22.2 Words or conduct referred to in clause 22.1 include any delay in exercising a right, any election between rights and remedies and any conduct that might otherwise give rise to an estoppel.

## 23. SEVERABILITY

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- 23.1 If the whole or any part of a provision of this agreement is or becomes invalid or unenforceable under the law of any jurisdiction, it is severed in that jurisdiction to the extent that it is invalid or unenforceable and whether it is in severable terms or not.
- 23.2 Clause 23.1 does not apply if the severance of a provision of this agreement in accordance with that clause would materially affect or alter the nature or effect of the parties' obligations under this agreement.

## 24. GOVERNING LAW AND JURISDICTION; COUNTERPARTS

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- 24.1 This agreement is governed by the law in force in Victoria, Australia.
- 24.2 Each party irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in Victoria, Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this agreement.
- 24.3 Each party irrevocably waives any right it has to object to the venue of any legal process in the courts described in clause 24.2 on the basis that:



- (a) any proceeding arising out of or in connection with this agreement has been brought in an inconvenient forum; or
- (b) the courts described in clause 24.2 do not have jurisdiction.

24.4 This agreement may be executed in counterparts and by each party electronically using an industry-standard electronic means of execution