

# pm-partners

## GENERAL TERMS

These General Terms apply to all Statements of Work and Specific Services Terms you agree to with us, which may relate to:

- Training Services
- Advisory Services
- Delivery Services

Each Specific Services Terms will set out the specific provisions which apply to our performance of those specific Services and will be provided to you along with the Statement of Work.

Each Statement of Work will set out the commercial details that we are agreeing to with you on that particular occasion, and specify which SST applies to that SOW.

By signing any Statement of Work, you agree to be bound by **"this agreement"** which includes these General Terms and the relevant SST identified in the SOW.

### 1 WHOLE AGREEMENT, ORDER OF PRECEDENCE & SPECIAL CONDITIONS

- (a) Your agreement with us consists of:
  - (i) the applicable Statement of Work;
  - (ii) the applicable Specific Services Terms; and
  - (iii) these General Terms.
- (b) In the event of any inconsistency between the documents forming this agreement, the documents will take the order of precedence in which they are listed above.
- (c) However, if a Statement of Work sets out any special conditions, those special conditions will have ultimate precedence over all other relevant terms of our agreement with you to the extent of any inconsistency.

### 2 PERFORMANCE OF SERVICES

#### 2.1 STATEMENTS OF WORK

- (a) The parties may agree to any number of Statements of Work under these General Terms.
- (b) These General Terms will apply to all Statements of Work agreed between the parties.
- (c) An additional Specific Services Terms will not limit or otherwise affect any other current Statements of Work between the parties.

#### 2.2 CHANGES TO STATEMENT OF WORK

- (a) The parties may agree to change a Statement of Work in accordance with this clause 2.2.
- (b) The Client must pay a 'change in scope fee', in an amount reasonably determined by PM-Partners (**Change Fee**), for changes to Services requested by the Client which alter the

scope set out in the relevant Statement of Work and require PM-Partners to perform additional work or incur additional costs (**Changes**).

- (c) Unless otherwise agreed in writing, PM-Partners may at its discretion extend or modify any delivery schedule or deadlines for the Services as may be reasonably required by such Changes.
- (d) PM-Partners will only be required to perform Changes, if:
  - (i) the Client confirms in writing that they wish for PM-Partners to proceed with the Changes and the relevant Change Fee; and
  - (ii) the Client pays the Change Fee, in accordance with clause 3.1 as if it was a Fee.

## 2.3 KEY DATES AND TIMES

- (a) The Key Dates and / or Times set out in a Statement of Work in relation to the Services are indicative only and included as a guide for when the Services are expected to be performed.
- (b) PM-Partners may, due to various reasons beyond its control, need to make reasonable adjustments to the Key Dates and / or Times. PM-Partners will notify the Client if more than a 48-hour variation is required.

## 2.4 SUBCONTRACTORS

- (a) PM-Partners may subcontract any part of the Services to a third party with the prior written consent of the Client.
- (b) PM-Partners will be responsible to the Client for the subcontracted Services, and for the acts and omissions of its subcontractors.

## 2.5 THIRD PARTY TERMS AND CONDITIONS

- (a) At times, we may use third party services or content in the performance of our Services.
- (b) We will notify you if any third-party terms apply to our Services.

# 3 FEES AND PAYMENT

## 3.1 FEES

- (a) The Client must pay the Fees in the amounts, and on or before the Due Date(s), set out in a Statement of Work.
- (b) To the maximum extent permitted under the *Competition and Consumer Act 2010* (Cth) any Fees paid in accordance with this agreement are non-refundable.
- (c) If there is no Due Date set out in a Statement of Work in relation to a Fee, that Fee must be paid at the time set out the relevant invoice issued by PM-Partners.

## 3.2 INVOICES

PM-Partners will issue a valid tax invoice to the Client for payment of the Fees. The Client must pay the Fees in accordance with the remittance method set out in an invoice.

## 3.3 AUDITS

The Client may conduct reasonable audits from time to time to verify and substantiate any invoice submitted by PM-Partners. However, PM-Partners ability to provide all information required will not limit or otherwise effect the enforceability of any payment obligation under this agreement.

## 3.4 SUSPENSION OF SERVICES

PM-Partners reserves the right to suspend all or part of the Services indefinitely where the Client fails to pay the Fees in accordance with clause 3.1

### 3.5 EXPENSES

In each Statement of Work, the parties will agree any expenses that will be charged to the Client, where such expenses may include:

- (a) travel, accommodation and related expenses reasonably incurred by PM-Partners in connection with the Services; and
- (b) any third party costs incurred by PM-Partners in the course of performing the Services.

### 3.6 GST

Unless otherwise indicated, amounts stated in a Statement of Work do not include GST. In relation to any GST payable for a taxable supply by PM-Partners, the Client must pay the GST subject to PM-Partners providing a tax invoice.

### 3.7 CARD SURCHARGES

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

## 4 CLIENT OBLIGATIONS

### 4.1 PROVIDE INFORMATION

The Client must provide PM-Partners with all documentation, information and assistance reasonably required by PM-Partners to perform the Services, including as specifically stated in a Specific Services Terms or Statement of Work.

### 4.2 ACCESS

The Client agrees to provide PM-Partners with access to:

- (a) the Client's premises and personnel, to the extent required to perform the Services; and
- (b) any other third party or other accounts used by the Client (including login details and passwords),

as reasonably required by PM-Partners to perform the Services.

### 4.3 PROVIDE EQUIPMENT

If a Statement of Work states that the Client is required to provide PM-Partners with any computers or other items for the purpose of performing the Services (**Equipment**), PM-Partners will be responsible for that Equipment while it is in PM-Partners possession or control. However, the Client must hold insurance over all Equipment which will respond to damage, loss or destruction causes by PM-Partners. PM-Partners will return the Equipment on demand by the Client or upon termination of of this agreement.

### 4.4 SUPPLIER ENVIRONMENT

The Client must provide PM-Partners with reasonable training on the Client's health and safety, data handling, security, social media policy and all other policies and procedures relevant to PM-Partners' performance of the Services.

## 5 DELIVERY AND ACCEPTANCE OF DELIVERABLES

- (a) When complete, PM-Partners will notify the Client that the Deliverable is ready for review.
- (b) The Client may review each Deliverable to confirm that the Deliverable complies with the description in the Key Details.
- (c) PM-Partners will provide reasonable assistance to the Client to enable them to conduct their review of the Deliverable.
- (d) The Client may request reasonable amendments to a Deliverable if a Deliverable does not substantially conform to the requirements set out in the relevant Statement of Work.
- (e) Once the amendments are complete, the Deliverable will be deemed to be accepted by the Client and payment of the Fees will be due.

## 6 CONFIDENTIALITY AND PRIVACY

### 6.1 PRIVACY

- (a) The parties must comply with:
  - (i) if applicable, their respective obligations under the *Privacy Act 1988* (Cth); and
  - (ii) PM-Partners' privacy policy as in force from time to time.
- (b) PM-Partners will keep the Client informed of any changes to privacy policy during the term.

### 6.2 CONFIDENTIAL INFORMATION

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

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

### 6.3 BREACH

If either party becomes aware of a suspected or actual breach of clause 6.2 by that party or an Additional Disclosee, that party will immediately notify the other party and take reasonable steps required to prevent, stop or mitigate the suspected or actual breach. The parties agree that damages may not be a sufficient remedy for a breach of clause 6.2.

### 6.4 PERMITTED USE

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

### 6.5 RETURN

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

### 6.6 ADDITIONAL DISCLOSEES

Each party will ensure that Additional Disclosees keep the Confidential Information confidential on the terms provided in this clause 5. Each party will, when requested by the other party, arrange for an Additional Disclosee to execute a document in a form reasonably required by the other party to protect Confidential Information.

## 7 INTELLECTUAL PROPERTY

### 7.1 OWNERSHIP OF MATERIALS

- (a) The parties will each retain ownership of all Intellectual Property Rights in their respective Pre-Existing Materials.
- (b) Subject to clause 7.1(c), PM-Partners will own all Intellectual Property Rights in all Developed Materials, from the moment those Developed Materials are created.
- (c) If there are any Pre-Existing Materials of the Client incorporated in the Developed Materials, the Client will continue to own the Intellectual Property Rights in any Pre-Existing Materials that are incorporated in the Developed Materials and PM-Partners will not commercialise those elements of the Developed Materials.
- (d) All Developed Materials will be marked with a PM-Partners Copyright notice, which must not be altered or removed.

## 7.2 LICENCE TO MATERIALS & RESTRICTIONS ON USE

- (a) **(Licence to PM-P of Pre-Existing Material)** To the extent necessary for PM-Partners to perform the Services, the Client grants PM-Partners a non-exclusive, revocable, worldwide, non-transferable and royalty-free licence to use, adapt and modify the Client's Materials during the Term of this agreement for the purpose of performing the Services. PM-Partners will not modify the Client's Pre-Existing Materials unless necessary for the Services. This licence does not include a right to sublicense or commercialise the Client's Pre-Existing Materials.
- (b) **(Licence to Client of Developed Material)** Unless otherwise stated in the scope of Services, PM-Partners grants to the Client a single-use licence to any Developed Materials (and incorporated PM-Partner Pre-Existing Materials) provided to the Client under this agreement, for the sole purpose of the Client enjoying the benefit of the Services. For all Materials provided to the Client, the Client must not:
  - (i) reproduce, copy, imitate, or otherwise attempt to re-use the Materials for internal or external business purposes outside of the scope of Services, including but not limited to delivering training materials again, photocopying hard-copy materials or recording any presentations;
  - (ii) share, sublicense, distribute, sell or otherwise attempt to commercialise the Materials in any way to any third parties, whether for free or by charging fees; or
  - (iii) unless otherwise agreed in the scope of Services, modify or attempt to adapt the Materials in any way. If the scope of Services states that the Client may modify or attempt the Materials for a certain purpose, the right is strictly limited to that purpose.
- (c) **(Additional Uses Royalty-Fees)** If the Client wishes to do any activity restricted by clause 7.2(b), the Client must notify PM-Partners giving details of the intended use case. If PM-Partners agrees to the use case, the parties will agree to a royalty-fee payable to PM-Partners.

## 7.3 THIRD PARTY MATERIALS

The Client acknowledges and agrees that:

- (a) the Developed Materials may include Intellectual Property Rights owned by third parties and licensed to PM-Partners under a separate agreement (**Third Party IP**);
- (b) the ownership and licence restrictions in this clause 7 will apply to all Third Party IP; and
- (c) if the Client breaches this clause 7 which causes the owner of relevant Third Party IP to seek damages, the Client will be liable for any losses caused by the Client's breach.

## 8 RESTRAINT

- (a) Unless otherwise stated in the special conditions of a Statement of Work, you agree that you will not during any Statement of Work and for a period of 12 months after, either directly or indirectly:
  - (i) canvass, solicit, compete for the custom of a client, customer of, or supplier to PM-Partners with whom you had direct or indirect dealings during this agreement; or
  - (ii) provide services or accept any request to provide services to any client of PM-Partners with whom you had direct or indirect dealings during this agreement; or
  - (iii) solicit, induce, encourage, or attempt to solicit, induce or encourage any employee of PM-Partners to leave the employment of PM-Partners where you had personal dealings with that employee during this agreement (unless provided for as a conversion of a temporary contractor to a permanent employee under Delivery Services); or
  - (iv) induce, counsel, procure or otherwise assist any person to do any of the acts referred to in this clause 8(a).
- (b) You acknowledge that the only effective, fair and reasonable manner in which the interests of PM-Partners can be protected is by these restraints and the maximum

duration, extent and application of these restrictions are not greater than is reasonably necessary for the protection of the interests of PM-Partners, given the nature of its business and undertaking.

- (c) You acknowledge and agree that damages may not be an adequate remedy for PM-Partners for any breach of the restraints contained in this clause 8 and the remedies of injunction, specific performance and other equitable relief may be appropriate for any threatened or actual breach of this clause 8.

## 9 SERVICE LIMITATIONS

The Services are made available to you strictly on an 'as is' basis. Without limitation, you acknowledge and agree that we cannot and do not represent, warrant or guarantee that:

- (a) the Services will be free from errors or defects;
- (b) the Services will be accessible at all times;
- (c) information you receive or supply through the Services will be secure or confidential; or
- (d) any information provided through the Services is accurate or true.

## 10 MODERN SLAVERY

Each party acknowledges that the other party may be required to report under the Modern Slavery Act 2018 (Cth). In performing its obligations under the agreement, each party must:

- (a) ensure that it conducts its business in a manner that is consistent with its own modern slavery policy and procedures, as amended from time to time;
- (b) ensure that it complies at all times with all applicable modern slavery laws, statutes and regulations in force from time to time from the date of this agreement, including the Modern Slavery Act 2018 (Cth); and
- (c) will not engage in any activity, practice or conduct that would constitute an offence under Division 270 or Division 271 of the Schedule to the Criminal Code Act 1995 (Cth) if such activity, practice or conduct were carried out in Australia.

Each party will be solely responsible for and will indemnify and keep indemnified the other party (**indemnified party**) from and against all loss suffered or incurred by the indemnified party directly or indirectly in relation to the other party's breach of the *Modern Slavery Act 2018* (Cth).

## 11 GENERAL DISCLAIMER

The Client acknowledges and agrees that:

- (a) any information provided to the Client as part of or in connection with the Services is general in nature and may not be suitable for the Client's circumstances; and
- (b) it is the Client's responsibility to comply with applicable regulations relevant to the Client's business, including industrial relations laws and privacy laws.

## 12 WARRANTIES

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

## 13 INSURANCE

- (a) PM-Partners agrees that, for the duration of any Statement of Work and unless otherwise stated in the special conditions of a Statement of Work, it will effect and maintain the following insurances:

- (i) Public and Products Liability Insurance for an amount not less than \$20 million per claim.
  - (ii) Professional Indemnity Insurance for an amount not less than \$5 million per claim and in the aggregate.
  - (iii) Workers' compensation as required by law
- (b)

## 14 LIABILITY

- (a) **(Liability)** To the maximum extent permitted by applicable law, each party limits its liability to the other party (and any third parties who encounter the services or goods through the other party) in aggregate of all claims for loss or damage of any kind, however arising whether in contract, tort (including negligence), statute, equity, indemnity or otherwise, arising from or relating in any way to this agreement or any goods or services provided by PM-Partners to an amount that is 2 times the amount paid by the Client to PM-Partners under the relevant Statement of Work.
- (b) **(Indemnity)** Each party indemnifies (**indemnifying party**) the other party and its employees, contractors and agents (**those indemnified**) in respect of all liability for any claim(s) by any person (including any third party who encounter the services or goods through the indemnifying party) arising from the indemnifying party or it's employee's, client's, contractor's or agent's:
  - (i) breach of any third party intellectual property rights;
  - (ii) breach of any term of this agreement; or
  - (iii) negligent, wilful, fraudulent or criminal act or omission.
- (c) **(Consequential loss)** To the maximum extent permitted by law, under no circumstances will either party be liable to the other for any incidental, special or consequential loss or damages, or damages for loss of data, business or business opportunity, goodwill, anticipated savings, profits or revenue arising under or in connection with this agreement or any goods or services provided by PM-Partners (except to the extent this liability cannot be excluded under the *Competition and Consumer Act 2010* (Cth)).

## 15 IF THE PARTIES HAVE A DISPUTE

- (a) If an issue between the parties arises under this agreement that cannot be resolved day-to-day, the parties will make genuine efforts in good faith to participate cooperatively in mediation, at equal shared expense of the parties.
- (b) The parties will conduct mediation through the Australian Disputes Centre (**ADC**) and in accordance with the ADC's Guidelines for Commercial Mediation (as current at the time of the dispute).
- (c) The parties will follow the mediator's recommendations on the extent of mediation required, and when to stop mediation if the issue cannot be resolved.
- (d) If mediation does not resolve the issue, the parties must:
  - (i) if they haven't already done so, engage independent legal representation at their own expense to understand the strength of their arguments; and
  - (ii) based on that advice, if settlement is not achieved, participate in arbitration (or other dispute resolution mechanism agreed in mediation) through the ADC at equal shared expense.
- (e) The parties will follow the binding outcome of arbitration (or other agreed mechanism).
- (f) Either party may at any time during this process make an offer for settlement. The parties acknowledge and agree it is in their best interests to properly consider all genuine settlement offers. The parties will use best endeavours to avoid litigation and reach a prompt settlement.
- (g) The process in this clause does not apply where a party requires an urgent injunction.

## 16 TERMINATION

### 16.1 TERMINATION FOR CONVENIENCE

- (a) Either party may end this agreement for no reason, by providing notice to the other party.
- (b) This agreement will end 10 Business Days after the day the notice is sent (the **End Date**).
- (c) On the End Date, in relation to any Statements of Work agreed or on-foot, PM-Partners will provide an invoice to the Client for:
  - (i) any Fees for Services already performed up to the End Date (including Services performed to prepare not yet completed deliverables);
  - (ii) any pre-approved third party costs PM-Partners has incurred on the Client's behalf up to the End Date; and
  - (iii) if terminated by the Client, PM-Partners' pre-estimated genuine losses as a result of the Client ending this agreement, being 50% of the Fees payable under the relevant Statement of Work,  
(together, the **Outstanding Amounts**)
- (d) The Client will pay the Outstanding Amounts to PM-Partners within a further 10 Business Days after the End Date, unless otherwise agreed in a written payment plan between the parties.
- (e) Once the Outstanding Amounts have been paid, PM-Partners will hand over any completed deliverables.
- (f) If PM-Partners terminates this agreement pursuant to this clause, PM-Partners will make reasonable efforts to handover the remaining scope of Services to the Client, so the Client can source an alternative provider.

### 16.2 TERMINATION FOR BREACH

- (a) If a party (the **Notifying Party**) considers that the other party is in breach of this agreement (the **Breach**), the Notifying Party may provide a notice to the other party.
- (b) The notice must include the nature and details of the Breach, with reference to the relevant clause/s of this agreement. The Notifying Party may, if it wishes to do so, make suggestions for resolving the Breach.
- (c) The other party will have 10 Business Days (or longer, in the Notifying Party's discretion) to rectify the Breach (the **Rectification Period**).
- (d) After the Rectification Period, the Notifying Party will:
  - (i) if the Breach has been successfully rectified, notify the other party that the agreement will continue; or
  - (ii) if the Breach has not been successfully rectified, notify the other party that this agreement is terminated (**Termination for Breach Notice**).
- (e) Following a Termination for Breach Notice, the parties will stop all work under this agreement unless otherwise agreed.
- (f) Any disputes regarding termination under this clause must be dealt with in accordance with clause 15. The indemnities, warranties and liability caps in clause 13 will apply to any disputes and resulting claims. Any pre-estimated losses in clause 16.1 will not limit or otherwise effect PM-Partners' rights under this agreement, at law or otherwise in equity; PM-Partners' losses resulting from the Client's breach are likely to far exceed its losses resulting from termination for the Client's convenience.

### 16.3 OTHER CONSEQUENCES FOR TERMINATION

If this agreement ends, in addition to the specific consequences set out in clause 16.1 or 16.2 (as applicable), the parties will:

- (a) return all property and Confidential Information to the other party;

- (b) comply with all obligations that are by their nature intended to survive the end of this agreement; and
- (c) stop using any materials that are no longer owned by, or licensed to, them when this agreement ends in accordance with clause 7.

## 17 FORCE MAJEURE

- (a) A '**Force Majeure Event**' means any occurrence beyond the control of the Affected Party which prevents the Affected Party from performing an obligation under this agreement (other than an obligation to pay money), including any:
  - (i) act of God, lightning strike, meteor strike, earthquake, storm, flood, landslide, explosion or fire;
  - (ii) strike or other industrial action;
  - (iii) war, terrorism, sabotage, blockade, revolution, riot, insurrection, civil commotion, epidemic, pandemic; or
  - (iv) decision of a government authority in relation to COVID-19, or other epidemic or pandemic,
 to the extent the occurrence affects the Affected Party's ability to perform the obligation.
- (b) If a party (**Affected Party**) becomes unable, wholly or in part, to carry out an obligation under this agreement (other than an obligation to pay money) due to a Force Majeure Event, the Affected Party must give to the other party prompt written notice of:
  - (i) reasonable details of the Force Majeure Event; and
  - (ii) so far as is known, the probable extent to which the Affected Party will be unable to perform or be delayed in performing its obligation.
- (c) Subject to compliance with clause 17(b), the relevant obligation will be suspended during the Force Majeure Event to the extent that the obligation is affected by the Force Majeure Event.
- (d) The Affected Party must use its best endeavours to overcome or remove the Force Majeure Event as quickly as possible and resume performing the relevant obligation.

## 18 NOTICES

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

## 19 RELATIONSHIP

The relationship between PM-Partners and the Client is of a principal and an independent contractor. Nothing in these General Terms or any Specific Services Terms or any Statement of Work constitutes or deems the Client to be an employee or agent of PM-Partners.

## 20 DEFINITIONS

In these General Terms, the following words and phrases have the following meaning:

Term	Meaning
<b>Business Day</b>	a day (other than a Saturday, Sunday or any other day which is a public holiday) on which banks are open for general business in Sydney.

<b>Term</b>	<b>Meaning</b>
<b>Client</b>	the Client identified in a Statement of Work.
<b>Confidential Information</b>	information of, or provided by, a party that is by its nature confidential information, is designated as confidential, or that the recipient of the information knows or ought to know is confidential (including all commercial information exchanged between the parties), but does not include information which is, or becomes, without a breach of confidentiality, public knowledge.
<b>Existing Material</b>	means Material, other than New Material.
<b>Fees</b>	the amounts payable by the Client to PM-Partners, as set out in a Statement of Work.
<b>Intellectual Property Rights</b>	all copyright, trade mark, design, patent, semiconductor and circuit layout rights, trade, business, company and domain names, confidential and other proprietary rights, and any other rights to registration of such rights whether created before or after the date of this agreement both in Australia and throughout the world.
<b>Key Dates / Times</b>	any Key Dates and / or Times set out in a Statement of Work.
<b>Material</b>	means tangible and intangible information, documents, reports, software (including source and object code), inventions, data and other materials in any media whatsoever
<b>New Material</b>	means Material that is created, written, developed or otherwise brought into existence during the Term for the purposes of this agreement
<b>Personnel</b>	employees, secondees, agents and subcontractors (who are individuals), including employees and contractors (who are individuals) of subcontractors.
<b>Services</b>	any services to be performed by PM-Partners for the Client in accordance with a Statement of Work and the relevant Specific Services Terms.
<b>PM-Partners</b>	Project Management Partners Pty Ltd ABN 13 084 197 795.
<b>Specific Services Terms</b>	the specific obligations of the parties in relation to specific Services that may be performed under a Statement of Work, as provided to the Client at the time of being provided the relevant Statement of Work.
<b>Statement of Work</b>	an order for Services agreed between the parties, including the commercial terms.

## 21 GENERAL

### 21.1 GOVERNING LAW AND JURISDICTION

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

### 21.2 BUSINESS DAYS

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

### 21.3 AMENDMENTS

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

### 21.4 WAIVER

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

### 21.5 SEVERANCE

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

### 21.6 JOINT AND SEVERAL LIABILITY

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

### 21.7 ASSIGNMENT

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

### 21.8 COUNTERPARTS

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

### 21.9 COSTS

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

### 21.10 ENTIRE AGREEMENT

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

### 21.11 INTERPRETATION

- (a) **(singular and plural)** words in the singular includes the plural (and vice versa);
- (b) **(gender)** words indicating a gender includes the corresponding words of any other gender;
- (c) **(defined terms)** if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) **(person)** a reference to "person" or "you" includes an individual, the estate of an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;
- (e) **(party)** a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (f) **(this agreement)** a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure to or of this agreement, and a reference to this agreement includes all schedules, exhibits, attachments and annexures to it;
- (g) **(document)** a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (h) **(headings)** headings and words in bold type are for convenience only and do not affect interpretation;

- (i) **(includes)** the word “includes” and similar words in any form is not a word of limitation;
- (j) **(adverse interpretation)** no provision of this agreement will be interpreted adversely to a party because that party was responsible for the preparation of this agreement or that provision; and
- (k) **(currency)** a reference to \$, or “dollar”, is to Australian currency, unless otherwise agreed in writing.