

Integral Consulting Services Master Services Agreement

This Consulting Services Master Services Agreement (“**Agreement**”) sets out the terms of a legally binding agreement between the Client named in the Statement of Work or Quote (“**Client**”) and **Integral Technology Solutions Pty Ltd (ABN 38 097 602 901)**, of Level 2, 201 Leichhardt Street, Spring Hill, Queensland 4000, Australia (“**Integral**”).

By validly accepting a Statement of Work or Quote from Integral that refers to or incorporates this Agreement, Client and Integral agree to be bound by this Agreement.

1 OVERVIEW

1.1 Summary

- (a) Integral agrees to provide the Services and the Deliverables to Client in accordance with this Agreement.

1.2 The Agreement

- (a) This Agreement includes these standard terms and conditions, the Appendix, Schedule 1 and any agreed Statements of Work that are agreed pursuant to these standard terms and conditions.

1.3 Statements of Work

- (a) Client may acquire Services from Integral pursuant to one or more Statements of Work.
- (b) For Client to obtain Services from Integral, the parties must agree to one or more Statements of Work that set out a package of work to be undertaken by Integral pursuant to that Statement of Work.
- (c) To be valid, a Statement of Work must be agreed and signed by both parties.
- (d) An example template Statement of Work is set out in the Appendix to this Agreement.
- (e) Each signed Statement of Work will constitute a separate contract.
- (f) Each signed Statement of Work is subject to the terms of this Agreement.

1.4 Precedence

- (a) In the event of any express inconsistency,
- (i) the provisions of the Statement of Work will prevail over these standard terms; and
 - (ii) the provisions of Schedule 1 will prevail over these standard terms; and
 - (iii) the provisions of the Statement of Work will prevail over Schedule 1.

2 TERM

- (a) This Agreement commences on the Commencement Date set out above and for three years, unless terminated earlier in accordance with this Agreement.
- (b) At the end of the initial term set out in (a) above, the Agreement will continue on a month-to-month basis, until terminated by a party on 14 days written notice to the other party.
- (c) Each Statement of Work may have a term. The term for a Statement of Work is to be set out in the Statement of Work and may extend beyond the Term of this Agreement. If that occurs, this Agreement continues to apply to that Statement of Work for the period of the Statement of Work.

3 SERVICES AND DELIVERABLES

3.1 The Services

- (a) The Services are specified in the Statement of Work.
- (b) Integral will provide the Services in a professional manner with due care and skill and in accordance with good industry practice.
- (c) Integral will perform the Services in an efficient and expeditious manner and will ensure that all persons performing any Services are properly trained, qualified and experienced to perform the Services.
- (d) In providing the Services, Integral will:
- (i) comply with all Laws; and

- (ii) comply with all reasonable direction of Client in connection with the provision of the Services.

- (e) Integral will ensure that any Key Personnel nominated as such in the Statement of Work (if any) are involved in performance of the Services.

- (f) Additional services may be provided under this Agreement where the parties agree to and sign a written addendum or additional Statement of Work that specifies the additional services and states that those additional services are being provided pursuant to this Agreement.

3.2 The Deliverables

- (a) Any Deliverables to be provided by Integral to Client as part of the Services are also specified in the Statement of Work.

3.3 Cooperation

- (a) Integral will act in a professional and cooperative manner when dealing with Client.
- (b) The parties will always act reasonably and in good faith when dealing with each other.
- (c) If Integral is required by Client to work with other suppliers or contractors of Client, Integral will act cooperatively and in a friendly manner when doing so.
- (d) If Integral attends Client’s premises, Integral must comply with Client’s relevant policies and directions known or made known to Integral including health and safety policies.
- (e) Client will cooperate with Integral in supplying the Services.
- (f) Client must take reasonable steps to ensure Client’s systems are virus free and backed-up prior to and during the performance of the Services.
- (g) Client will comply with all reasonable requests or directions of Integral for the purpose of facilitating the supply of the Services and the Deliverables.
- (h) Client agrees to prepare for and attend scheduled or agreed meetings, and actively participate in such meetings as required.
- (i) Client’s Personnel who attend such meetings must be knowledgeable about the issues relevant to Client that are agenda items for such meetings.
- (j) Where Client is required to review or approve a document, Deliverable or other item, Client must do so promptly and if required must provide detailed and considered feedback to Integral.
- (k) If the relevant requirements, project plans, schedule, specifications, scope, design, software, hardware, or system environment or architecture are changed by Client or any other person, Integral is not responsible for the change unless Client and Integral specifically consent to the change, scheduling and additional charges, if any, in writing.
- (l) Where required by Integral, Client have all required software loaded in the desired configuration, have technical staff possessing sufficient authority to perform installations and changes to system definitions, and provide a site manager or director who can approve any system changes if necessary.

3.4 Timeframes

- (a) Integral will supply the Services to meet any timeframes set out in the Statement of Work.
- (b) If Integral believes that Integral will be late or is late in meeting the timeframes in the Statement of Work, Integral will notify Client in writing as soon as reasonably practical.
- (c) If the Statement of Work specifies that Integral requires Client to provide anything to Integral or to do anything so that Integral can provide the Services, and Client fails to do so, then Integral is excused from providing the Services until Client provides or does what is needed.
- (d) Client cannot make any claim against Integral, including for failure to meet any timeframes, if Client does not fulfil its obligations or fails to provide any necessary materials, access or information, including as required by the Statement of Work.

3.5 Security Services

- (a) If the Services are or include computer security and cybersecurity services (including managed services or development services that have a computer security or cybersecurity aspect), then this clause 3.5 applies.
- (b) Client acknowledges that computer security and cybersecurity is never guaranteed, and that no workable system can be fully secure.
- (c) Integral does not guarantee that any Services or Deliverables provided by Integral will make any system fully secure.
- (d) Client should implement a range of measures to deal with security. The Services and Deliverables are only a subset of necessary security measures.
- (e) The Services are provided at a “point in time”. Because Client’s systems change and security threats evolve, what is good security today may not be sufficient tomorrow.
- (f) Integral does not guarantee that the Services will prevent Client from being affected by any security breach or cyberattack.

3.6 Penetration Testing Services

- (a) If the Services include penetration testing services, then this clause 3.6 applies.
- (b) Client acknowledges that the Services may:
 - (i) involve simulating or performing controlled cyberattacks on Client’s systems;
 - (ii) involve deliberate attempts to penetrate the security systems of Client;
 - (iii) involve deliberately allowing unauthorised access to Client’s network or systems for the purpose of analysing threat vectors and origination;
 - (iv) cause instability, down time, breakages and other adverse effects; and
 - (v) result in unforeseen outcomes.
- (c) If specified systems or assets are specified in the Statement of Work as being the subject of the penetration testing services, Integral may also conduct activities on other systems or assets, for example, a connected system may be relevant to the testing of a specified system. However, subject to clause 3.6(d), Integral will not intentionally conduct testing services on any system or asset specified in the Statement of Work as being “out of bounds” for testing.
- (d) A test launched at a system or asset defined for testing potentially can, unknown to the tester, relay to another system or asset. This can result in the overall effect of the tester having attacked an asset that is connected to an in-scope asset but is out of scope itself.
- (e) Client expressly authorises Integral to perform the activities set out in the Statement of Work in and in clauses 3.6(b) to (d).

- (f) Client agrees to have at least one person available during the penetration testing engagement to restore, as soon as possible, any system or asset that becomes unavailable.
- (g) If any of Client’s assets which are to be tested exist within a data centre, Client must seek approval from those data centres prior to testing. Integral will not test third party systems without prior authorisation of the owners and operators of such systems.
- (h) The Services are testing services and do not involve fixing issues raised. Penetration testing services are not security services and do not implement any security measures and are not designed to prevent security breaches or cyberattacks.
- (i) The Services test and look for a range of issues by way of testing and sampling. Integral will develop and implement a reasonable testing strategy. However, the Services do not cover every possible way a third party could breach Client’s security measures or gain unauthorised access to Client’s systems.
- (j) Client releases Integral and Integral Personnel from, and indemnifies Integral and Integral Personnel for, any Loss suffered during the testing process.

4 INTELLECTUAL PROPERTY

- (a) No Intellectual Property Rights are transferred from one party to the other party by this Agreement or due to the provision of the Services or Deliverables unless expressly stated to be assigned in a Statement of Work.
- (b) Provided that Client makes all payments to Integral as required by this Agreement, Integral grants Client a non-exclusive, non-transferable, non-sublicensable, royalty free license to use in Australia the Intellectual Property Rights in the Deliverables, the Services and any other material created by Integral in delivering the Services to Client for the sole and limited purpose of the Client enjoying the benefit of the Deliverables and the Services.
- (c) Where a Statement of Work expressly states that Intellectual Property Rights are to be assigned from Integral to Client, then:
 - (i) such assignment only takes effect once Client makes all payments to Integral as required by the Statement of Work;
 - (ii) Client grants Integral a non-exclusive, royalty free license to use such Intellectual Property Rights for the purposes of education and training of Integral Personnel and for Integral internal research; and
 - (iii) nothing in this Agreement or the Statement of Work assigns to Client any of Integral’s pre-existing Intellectual Property Rights or any Intellectual Property Rights in Integral’s templates and tools.
- (d) Integral will not infringe any Intellectual Property Rights when performing the Services or in creating the Deliverables.
- (e) Integral warrants that Client’s use of the Deliverables will not infringe any Intellectual Property Rights.
- (f) If Integral uses a stock asset in any Deliverable, Client will be entitled to use the stock asset on the terms of the third party license relating to the stock asset. The Statement of Work will specify a fee for the use of stock assets.
- (g) Integral indemnifies Client against any liability (including liability for reasonable legal costs) based on a claim that use of the Deliverables is an infringement of the Intellectual Property Rights of any third person, provided that:
 - (i) Client notifies Integral in writing within 30 days of the claim;
 - (ii) Integral has sole control of the defence and all related settlement negotiations; and
 - (iii) Client provides Integral with the assistance, information and authority reasonably necessary to perform the above, although

reasonable out-of-pocket expenses incurred by Client in providing such assistance will be reimbursed by Integral.

- (h) Integral acknowledges and agrees that Client owns all rights, title and interests (including Intellectual Property Rights) in any materials provided by Client to Integral or that Client otherwise has the right to supply such materials to Integral, and nothing in this Agreement is intended to transfer ownership of or any interest in Client's works, trademarks or brands (including any Intellectual Property Rights) to Integral.
- (i) Integral has no liability for any claim of infringement resulting from (i) Client's use of a superseded or altered release of some or all of the Deliverables if infringement would have been avoided by the use of a subsequent unaltered release of the Deliverables which is provided to Client, (ii) use of materials not furnished by Integral, or (iii) Client not following any instructions for use provided by Integral, Or (iv) Client using any Deliverable other than as intended by the Statement of Work.
- (j) If some or all of the Deliverable is held or is believed by Integral to infringe, Integral has the option, at its expense, (i) to modify the Deliverable to be non-infringing; (ii) to obtain for Client a license to continue using the Deliverable; or (iii) to require return of the infringing Deliverable to Integral in which case Integral will refund all Fees relating to future use of the infringing Deliverables on a pro rata basis.
- (k) Client indemnifies Integral against any liability (including liability for reasonable legal costs) based on a claim that use of any materials provided by Client to Integral or that complying with Client's instructions is an infringement of the Intellectual Property Rights of any third person, provided that:
 - (i) Integral notifies Client in writing within 30 days of the claim;
 - (ii) Client has sole control of the defence and all related settlement negotiations; and
 - (iii) Integral provides Client with the assistance, information and authority reasonably necessary to perform the above, although reasonable out-of-pocket expenses incurred by Integral in providing such assistance will be reimbursed by Client.
- (l) This clause states the parties' entire liability and exclusive remedy for infringement of Intellectual Property Rights.

5 FEES, PAYMENT AND GST

5.1 Fees and Payment

- (a) Client must pay the Fees set out in each invoice within 30 days of receipt, in accordance with this clause 5.
- (b) If Client, acting reasonably, disputes an invoice within 30 days of receipt, then Client must pay the undisputed part of the invoice on time and the parties will promptly meet to resolve the dispute.
- (c) Integral may only issue invoices to Client in accordance with the terms of this Agreement and in accordance with any timeframes for invoicing or payment set out in the Statement of Work.
- (d) Integral's Fees and rates are reviewed and adjusted annually on 1 July in line with the Consumer Price Index. Integral will as soon as reasonably practicable after 1 July provide notification of any increased Fees and rates.
- (e) Integral reserves the right to at any time on 30 days prior written notice increase the consultant rates payable under this Agreement.
- (f) Integral reserves the right to apply a loading as outlined:
 - (i) 150% fee payable for work scheduled on weekends; and
 - (ii) 200% fee payable for work scheduled on gazetted Public Holidays in the State in which the work is to be undertaken.
- (g) Overtime in the proceeding clause will only be charged after receiving written confirmation from Client in writing prior to the overtime being incurred.

5.2

- (a) If GST is payable on a supply made under or in connection with this Agreement, the party providing the consideration for that supply must pay as additional consideration an amount equal to the amount of GST payable on that supply.
- (b) Unless otherwise stated, all amounts referred to in this Agreement, including the Fees, are stated on a GST exclusive basis.
- (c) If an adjustment event occurs in relation to a supply made under or in connection with this Agreement, the GST payable on that supply will be recalculated to reflect that adjustment and an appropriate payment will be made between the parties.
- (d) In providing an invoice, a party shall provide proper tax invoices if GST is applicable to the Fees.
- (e) Terms which have a defined meaning in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) shall have that meaning in this Agreement.

6 CONFIDENTIALITY

- (a) Each party agrees to keep strictly confidential, and not to disclose, the Confidential Information of the other party.
- (b) Each party agrees to use the Confidential Information of the other party solely to carry out Integral obligations or receive the benefit of this Agreement.
- (c) Notwithstanding the foregoing, a party may disclose Confidential Information of the other party:
 - (i) to its legal advisors, accountants, auditors on a confidential need-to-know basis;
 - (ii) to its employees and its Related Bodies Corporate on a confidential need-to-know basis;
 - (iii) in enforcing this Agreement or in a proceeding arising out of or in connection with this Agreement; or
 - (iv) to the extent required by Law or pursuant to a binding order of a government agency or court.
- (d) Client acknowledges that in performing the Services, Integral may obtain access to Client Confidential Information and Confidential Information regarding Client's customers.
- (e) Any report that is a Deliverable produced by Integral specifically for Client as a result of the Services will be treated as Confidential Information of Client.
- (f) Integral may identify Client as a Client of Integral including in marketing and promotional materials. In bids for new work, Integral may use Client as a reference site but will inform Client prior to doing so.

- (g) If Client is affected by any kind of security breach or cyberattack, Client (and its Personnel) must not link such security breach or cyberattack to Integral including in any announcement, publication, declaration, or other communications, without Integral's prior written consent (unless required by Law to do so).

7 PRIVACY AND SECURITY

- (a) Each party must comply with the Privacy Act (as though it were an entity bound by the Privacy Act and notwithstanding the small business exception in the Privacy Act) and any other applicable Privacy Laws, in respect of any Personal Information that:
 - (i) one party discloses to the other party; or
 - (ii) comes into the possession or control of that party arising out of or in relation to the performance of this Agreement.
- (b) Integral must not, directly or indirectly, store or use Personal Information of Client's clients or transfer such Personal Information outside Client's network or environment unless specified or required by the Statement of Work. Where Client gives Integral access to Client's computer network or environment, Client acknowledges that

Integral may have access to Personal Information of Client's clients that is stored in such network or environment.

- (c) Client must, throughout the Term, obtain all necessary consents, and provide all necessary collection notices, relevant to the Services, including those required by the Privacy Laws in relation to the collection, use, disclosure and storage of Personal Information of any individual whose Personal Information may be provided to Client, directly or indirectly, as contemplated by this Agreement.
- (d) If Integral becomes aware of a privacy or security breach relating to the Services, Integral will promptly notify Client.
- (e) Integral will comply with the Data Security Schedule set out in Schedule 1.

8 FORCE MAJEURE

- (a) Subject to the requirement to give notice under this clause, if the performance by any party (**Affected Party**) of all or any of its obligations under this Agreement is prevented or delayed (in whole or in part) due to any Force Majeure Event, this Agreement will continue and remain in effect but the Affected Party will not be in breach of this Agreement for that reason only, and the Affected Party will be granted a reasonable extension of time to complete performance of its affected obligations.
- (b) The Affected Party must promptly after becoming aware of a Force Majeure Event, give written notice to the other party of the nature of the Force Majeure Event and the way and the extent to which its obligations are prevented or delayed and notify the other party of any material change in these matters and use its reasonable endeavours to limit the effects of the Force Majeure Event, and promptly carry out its obligations as soon as, and to the extent that, it is able to do so.

9 TERMINATION

- (a) Either party may terminate this Agreement with immediate effect by giving written notice to the other party at any time if:
 - (i) the other party experiences an Insolvency Event; or
 - (ii) the other party breaches any material provision of this Agreement, which is incapable of being remedied, or where the breach is capable of being remedied, fails to remedy the breach within 21 days after receiving written notice from the terminating party requiring it to do so.
- (b) Client may not suspend work on the Services without Integral's written consent. Integral may suspend provisions of the Services if Client is overdue on payment of Fees by more than 14 days.
- (c) Upon termination of this Agreement, Integral must promptly return to Client, at Integral's expense, all documentation containing Confidential Information of or belonging to Client.

10 WARRANTIES

- (a) Each party warrants that it:
 - (i) has the authority to enter into and perform its obligations under this Agreement and that this Agreement has been duly executed and is a legal, valid and binding Agreement;
 - (ii) will comply at all times with applicable Laws; and
 - (iii) will not do anything or make any statement that could be reasonably expected to harm the reputation of the other party.

11 INTEGRAL WARRANTIES

- (a) Integral warrants that:
 - (i) Integral has all applicable licenses, permits and government authorisations required to perform Integral's obligations in accordance with this Agreement;
 - (ii) Integral will perform the Services in a professional manner conforming to generally accepted industry standards;
 - (iii) Integral has the skill, facilities, capacity and Personnel necessary to perform its obligations under this Agreement; and

- (iv) no conflict of interest exists or is likely to arise in the performance of its obligations under the Agreement, and Integral will use its best endeavours to ensure that no conflict of interest arises during the Term.

- (b) Client must report any deficiencies in the Services to Integral in writing within 90 days of performance of the Services.

12 DISCLAIMERS AND LIMITATIONS ON LIABILITY

- (a) The service is provided "as is." Except to the extent prohibited by law, or to the extent any statutory rights apply that cannot be excluded, limited or waived, or to the extent expressly set out in this agreement or a relevant statement of work, integral (a) makes no representations or warranties of any kind, whether express, implied, statutory or otherwise regarding the services, and (b) disclaims all warranties, including any implied or express warranties (i) of merchantability, satisfactory quality, fitness for a particular purpose, or quiet enjoyment, (ii) arising out of any course of dealing or usage of trade, (iii) that the services will be uninterrupted or error free, and (iv) that any content will be secure or not otherwise lost or altered.
- (b) Except to the extent prohibited by Law, neither party will be liable to the other party for any Consequential Loss suffered or incurred by the other party whether in contract, tort (including negligence) or otherwise in connection with the Agreement, even if a party has been advised of or is aware of the possibility of such damage.
- (c) Subject to clause 12(d), except to the extent prohibited by Law, the maximum liability of either party, whether in contract, tort (including negligence) or otherwise in connection with the Agreement (including under an indemnity), is limited to the limitation amount specified in the Statement of Work, and if no limitation amount is specified in the Statement of Work, then is limited to the amount of the Fees paid to Integral pursuant to the Statement of Work under which the liability arises.
- (d) The limitation of liability in clause 12(c) does not apply to liability in relation to:
 - (i) personal injury, including sickness and death;
 - (ii) an infringement of Intellectual Property Rights;
 - (iii) any fraudulent act or omission; or
 - (iv) any obligation to pay Fees to Integral.
- (e) Without limiting any other provision of this Agreement, Integral is not liable to Client or any other person to the extent that the Services (i) cause damage to Client's systems or assets or (ii) fail to identify a relevant security issue.
- (f) To the extent that the Law implies a warranty or guarantee that cannot be excluded, then Integral's liability in respect of that warranty or term is limited (at Integral's option) to resupply of the relevant Deliverable or Service or paying someone to resupply the relevant Deliverable or Service.
- (g) The parties agree that the waivers and limitations specified in this clause 12 apply regardless of the form of action, whether in contract, tort (including negligence), strict liability or otherwise and will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose.
- (h) A party who suffers loss or damage must use reasonable steps to mitigate its loss. The other party will not be responsible for any loss, damage or expenses to the extent that the injured party could have avoided or reduced the amount of the loss, damage or expense, by taking reasonable steps to mitigate its loss.
- (i) Each party's liability under this Agreement will be reduced proportionally to the extent to which any Loss was caused or contributed to by any negligence or wilful misconduct of the other party or their Personnel.

13 ASSIGNMENT

- (a) A party must not assign or novate, directly or indirectly, any of its rights or obligations under this Agreement without the prior written consent of the other party which must not be unreasonably withheld or delayed.
- (b) However, Integral may assign this Agreement in connection with the sale or reorganisation of all or part of Integral's business.

14 SUBCONTRACTING

- (a) Integral may subcontract some or all of its obligations under this Agreement.
- (b) If Integral does so, Integral is responsible for the conduct of the subcontractor.

15 SURVIVAL

- (a) Without limiting any other provision of this agreement, clauses 3.5(e), 3.6(j), 4, 6 and 12, and any other clauses which should by their nature survive termination of this Agreement, survive termination or expiry of this Agreement for any reason.

16 NOTICES

- (a) Any notice, demand, consent or other communication (a **Notice**) given or made under this Agreement:
 - (i) must be in writing and signed by the sender or a person duly authorised by the sender;
 - (ii) must be addressed and delivered to the intended recipient by prepaid post or by hand or email to the address or email address of the representative of the party as specified in the Statement of Work, or as last notified by the intended recipient to the sender; and
 - (iii) will be conclusively taken to be duly given or made when delivered, received or left at the above email address, or address. If delivery or receipt occurs on a day that is not a business day in the place to which the Notice is sent or is later than 4pm (local time) at that place, it will be conclusively taken to have been duly given or made at the commencement of business on the next business day in that place.

17 DISPUTE RESOLUTION

- (a) If a dispute arises out of or in relation to this Agreement, either party may notify the other in writing in which case a nominated representative of each affected party must promptly attempt in good faith to resolve the dispute. If the parties are unable to resolve the dispute within seven days of the written notification referred to in this clause, each party must promptly refer the dispute for resolution to one of the Managing Director, Chief Executive or Chief Operating Officer (**Senior Executive**) of that party.
- (b) If the parties are unable to resolve the dispute within 21 days following referral to the Senior Executive of the relevant parties, then either party may use such lawful dispute resolution procedures or seek such legal and equitable remedies as it considers necessary or appropriate in its sole discretion.
- (c) Nothing in this clause 17, shall prevent a party from seeking urgent injunctive relief before an appropriate court.

18 INSURANCE

- (a) Integral will maintain sufficient insurance coverage relevant to the Services.
- (b) Without limiting the foregoing, to the extent this Agreement creates exposure generally covered by the following insurance policies, Integral will maintain at least the following insurance for the Term:
 - (i) Public & Products Liability at no less than \$10 million for any one occurrence in respect of product liability and \$10 million for any one occurrence in connection with the insured's business;
 - (ii) Worker's Compensation, as required by law; and

- (iii) Professional Indemnity insurance at limit of no less than \$5 million for any one claim and \$10 million in aggregate.

19 MODERN SLAVERY

- (a) In performing its obligations under this Agreement, Integral must:
 - (i) take all reasonable steps to ensure there is no Modern Slavery in the Integral's operations or supply chains; and
 - (ii) keep records evidencing the reasonable steps taken to ensure compliance with this clause 19 and provide these records to Client upon request.
- (b) Integral represents and warrants that, to the best of its knowledge:
 - (i) it is not aware of any Modern Slavery in its operations or supply chains; and
 - (ii) neither it, nor any of its Personnel, have been or is the subject of any investigation, inquiry or enforcement proceeding by any governmental, administrative or regulatory body regarding an offence or alleged offence in connection with Modern Slavery.
- (c) Integral must immediately notify Client if Integral becomes aware of any information which Integral knows results in the representations and warranties in clause 19(b) no longer being correct.

20 GENERAL

- (a) Each party agrees to do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this Agreement.
- (b) This Agreement contains the entire agreement between the parties with respect to the subject matter.
- (c) This Agreement may only be amended only by another written agreement executed by all the parties.
- (d) Integral is a contractor of Client. Integral is not an agent or employee of Client. Nothing in this Agreement will be construed to create a partnership, joint venture, or agency relationship between the parties.
- (e) During the period commencing on the Commencement Date and ending one year following the end of the Term, a party must not, without the other party's prior written consent, directly or indirectly:
 - (i) solicit or encourage any person to leave the employment or other service of the other party; or
 - (ii) hire any person who has left the employment within the one year period following the termination of that person's employment with the other party.
- (f) No failure to exercise or delay in exercising any right, power or remedy under this Agreement operates as a waiver. A single or partial exercise 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. A waiver is not valid or binding on the party granting that waiver unless made in writing.
- (g) The rights, powers and remedies provided to a party in this Agreement are in addition to, and do not exclude or limit, any right, power or remedy provided by law or equity or any agreement.
- (h) 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 or enforceability of the remainder of this Agreement is not affected.
- (i) Each party must bear its own costs arising out of the negotiation, preparation and execution of this Agreement.
- (j) This Agreement and, to the extent permitted by law, all related matters including non-contractual matters, is governed by the laws of Queensland. In relation to such matters each party irrevocably accepts the non-exclusive jurisdiction of courts with jurisdiction in Queensland and waives any right to object to the venue on any ground.

21 DEFINITIONS AND INTERPRETATION

21.1 DEFINITIONS

The following definitions apply unless the context requires otherwise.

Consequential Loss means any indirect or consequential Loss, including any loss of profits, loss of revenue, loss of or damage to data, loss of contract value, loss of anticipated savings, loss of opportunity, and loss of reputation or goodwill.

Confidential Information means all non-public business or technical information, in any form whether tangible or not, disclosed or communicated by a party to the other, or learnt or accessed by, or to which the other party is exposed as a result of entering into this Agreement.

Confidential Information does not include information which party can demonstrate by written records was:

- (a) already known to that party;
- (b) received by that party from a third party not under a duty of confidence; or
- (c) independently developed by that party by people who did not have access to the Confidential Information of the other party.

Deliverables are any works, reports, materials, items or products that Integral is required by this Agreement to provide to Client, including those deliverables specified in the Statement of Work.

Fees means the fees and expenses set out in the Statement of Work.

Force Majeure Event affecting a party means a circumstance beyond the reasonable control of that party causing that party to be unable to observe or perform on time an obligation under this Agreement, including acts of God, lightning strikes, earthquakes, floods, storms, explosions, fires and any natural disaster, acts of public enemies, terrorism, riots, civil commotion, malicious damage, sabotage, revolution and acts of war and war, general strikes (other than of its own staff), embargo, or power, water and other utility shortage.

An **Insolvency Event** occurs in respect of a person where:

- (a) a party ceases, suspends or threatens to cease or suspend the conduct of all or a substantial part of its business or disposes of or threatens to dispose of a substantial part of its assets;
- (b) a party becomes unable to pay its debts when they fall due, or stops or suspends or threatens to stop or suspend payment of all or a class of its debts;
- (c) a party becomes or is (including under legislation) deemed or presumed to be insolvent;
- (d) a party has a receiver, manager, administrator, administrative receiver or similar officer appointed in respect of it or the whole or any part of its assets or business;
- (e) any composition or arrangement is made with any one or more classes of its creditors;
- (f) except for the purpose of solvent amalgamation or reconstruction, an order, application or resolution is made, proposed or passed for its winding up, dissolution, administration or liquidation;
- (g) a party enters into liquidation whether compulsorily or voluntarily; or
- (h) any analogous or comparable event takes place in any jurisdiction.

Intellectual Property Rights means all industrial and intellectual property rights of any kind including but not limited to copyrights (including rights in computer software), trademarks, service marks, designs, patents, trade secrets, semi-conductor or circuit layout rights, trade, business, domain or company names, rights in Confidential Information, know-how and other proprietary rights (whether or not any of these are registered and including any application, or right to apply, for registration) and all rights or forms of protection of a similar nature

or having equivalent or similar effect to any of these, which may subsist anywhere in the world, but excludes moral rights, and similar personal rights, which by law are non-assignable.

Law means all applicable laws including rules of common law, principles of equity, statutes, regulations, proclamations, ordinances, by laws, rules, regulatory principles, requirements and determinations, mandatory codes of conduct and standards, writs, orders, injunctions and judgments, and includes any Privacy Laws.

Loss means any claim, loss, damage, liability, cost, charge or expense (including legal expenses on a full indemnity basis), however arising, and whether present or future, fixed or unascertained, actual or contingent.

Personal Information has the meaning given to that term in the Privacy Act.

Personnel means, in respect of a person, any officer, employee, contractor, servant, agent, or other person under the person's direct or indirect control and includes any subcontractors.

Privacy Laws means all legislation, principles, industry codes and policies, as amended or replaced from time to time, which relate to the collection, use, disclosure, storage or granting of access rights to Personal Information, and includes the *Privacy Act 1988* (Cth) and the *Spam Act 2003* (Cth).

Related Body Corporate has the meaning given to that term in section 9 of the Corporations Act.

Services is defined in the Statement of Work.

Statement of Work means the document produced by Integral titled "Statement of Work" that refers to these Terms and Conditions and that is signed by Client.

Term means the period from the Commencement Date for the period of time set out in the Statement of Work, and if no period of time is set out, then until the Services are completed.

21.2 INTERPRETATION

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) the singular includes the plural and conversely;
- (b) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (c) a reference to a person includes any body corporate, unincorporated body or other entity and conversely;
- (d) a reference to any party to this Agreement or any other agreement or document includes the party's successors and permitted assigns;
- (e) a reference to any agreement or document (including a reference to this Agreement) is to that agreement or document as amended, notated, supplemented, varied or replaced from time to time, where applicable, in accordance with this Agreement or that other agreement or document;
- (f) a reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it;
- (g) a reference to conduct includes any omissions, statement or undertaking, whether or not in writing;
- (h) a reference to includes, means includes without limitation; and
- (i) all references to \$ are to Australian dollars, unless otherwise specified.

Schedule 1

Data Security Schedule

1 Data Security Schedule

- (a) This Data Security Schedule forms part of the Agreement.
- (b) To the extent of any express inconsistency, the provisions of this Data Security Schedule prevail over the terms and conditions of the Agreement.

2 Security of Client Data

- (a) This Data Security Schedule applies to Client Data.
- (b) In this Schedule, "Client Data" means all data and information relating to Client, and its operations, facilities, customers, clients, personnel and assets, in whatever form that information may exist that is stored, collected, generated by or processed as part of the Services or otherwise made available by Client to Integral.
- (c) Integral acknowledges that Integral obtains no right, title or interest with respect to any Client Data, other than a right to use Client Data for the purpose of, and to the extent required for, the carrying out of the Services in accordance with this Agreement.
- (d) Integral will not, unless required by a Statement of Work:
 - (i) use any Client Data for any purpose other than for the purpose of, and only to the extent required for, carrying out the Services in accordance with this Agreement;
 - (ii) sell, assign, lease or commercially transfer any Client Data; or
 - (iii) perform any data analytics on Client Data.
- (e) Integral will take reasonable steps to protect any Client Data collected, processed or held by Integral from misuse, interference and loss, as well as unauthorised access, modification or disclosure. Integral will not store such Client Data outside of Australia unless required or permitted to do so in a Statement of Work, including where Client requires online access to Client Data from outside of Australia.
- (f) Where Integral has access to Client Data that is not collected, processed or held by Integral, Integral will not (unless permitted by the Client) misuse, interference with, modify, disclose or delete such Client Data and will take reasonable steps to prevent unauthorised access to such Client Data due to a fault of Integral.
- (g) Integral will comply with the Australian Privacy Principles, including APP 11 relating to security of Personal Information in respect of Client Data.
- (h) Integral will promptly notify Client where Integral is required by Law to disclose any Client Data to any third-party contrary to the terms of this Agreement.

3 Data Security Incident

3.1 Definition

- (a) In this Schedule, "Data Security Incident" means an incident involving the compromise of the confidentiality, integrity or availability of Client Data collected, processed or held by Integral.

3.2 Information security controls

- (a) Integral must establish, maintain and enforce information security controls to guard against a Data Security Incident concerning Client Data collected, processed or held by Integral.

3.3 Information security procedures

- (a) In respect of the Client Data covered by clause 3.2(a), Integral must implement and maintain a program of technical and organisational information security procedures that relate to ICT security and cyber security.
- (b) If requested by Client, Integral must provide Client and Client's auditors with details of such controls, but in doing so will not provide information that may compromise Integral's security.
- (c) Without limiting this clause 3, Integral must comply with any additional security obligations or standards specified in a Statement of Work.

3.4 Testing and audit

- (a) Integral must regularly (and at least once per calendar year) audit and test the procedures referred to in clause 3.3, to ensure the design effectiveness and operating effectiveness of those procedures, and promptly take steps to reasonably required to implement any recommendations arising out of such audits and testing.
- (b) If requested by Client, Integral must provide Client and Client's auditors with details of such testing, but in doing so will not provide information that may compromise Integral's security.

3.5 Response to Data Security Incident

- (a) Integral will promptly, and in any event within 48 hours, inform Client of a Data Security Incident.
- (b) In respect of a Data Security Incident, Integral will:
 - (i) regularly update Client on all known details about the Data Security Incident and the progress of any remedial actions;
 - (ii) take immediate action with the aim to stop or minimise the Data Security Incident (including where relevant by preventing access) and minimise and mitigate its effects;
 - (iii) retain and preserve all data critical to identifying the nature, extent and cause of the Data Security Incident; and
 - (iv) cooperate with Client in any investigation or audit in respect of the Data Security Incident.

3.6 Other Obligations

- (a) For clarity, nothing in this Schedule:

- (i) requires Integral to provide Client with specific details that relate to Integral's other clients or would breach any applicable Laws; and
- (ii) limits Integral's obligations at Law with respect to the notification and resolution of Data Security Incidents.