

GENERAL TERMS

We agree to supply to you (the **Customer**) Goods and/or Services. Whether or not you formally accept our quote or sign the Supply Order, any Goods and Services we agree to supply to you will be supplied on these Terms and on Supply Terms:

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1. **EXCLUSION OF IMPLIED WARRANTIES - IMPORTANT, PLEASE READ CAREFULLY**
 - 1.1 **THE ONLY CONDITIONS AND WARRANTIES BINDING ON US IN RESPECT OF THE STATE, QUALITY OR CONDITION OF THE GOODS AND/OR SERVICES SUPPLIED BY US TO YOU, OR IN RESPECT OF ANY ADVICE, RECOMMENDATIONS OR INFORMATION SUPPLIED BY US (OR OUR EMPLOYEES, SERVANTS OR AGENTS) TO YOU, ARE THOSE IMPOSED AND REQUIRED BY LAW TO BE BINDING ON US (INCLUDING THE AUSTRALIAN CONSUMER LAW, TRADE PRACTICES ACT 1974 (CTH) AND APPLICABLE STATE FAIR TRADING LAWS). ALL OTHER CONDITIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED BY LAW, IN RESPECT OF THE GOODS AND SERVICES WHICH MAY APART FROM THIS CLAUSE BE BINDING ON US, ARE HEREBY EXPRESSLY EXCLUDED AND NEGATED.**
 2. **LIMITATION OF LIABILITY - IMPORTANT, PLEASE READ CAREFULLY**
 - 2.1 **TO THE FULLEST EXTENT PERMITTED BY LAW, OUR LIABILITY (IF ANY) ARISING FROM A BREACH OF ANY APPLICABLE CONDITIONS OR WARRANTIES SHALL, AT OUR OPTION, BE LIMITED TO, AND COMPLETELY DISCHARGED BY, IN THE CASE OF GOODS EITHER THE SUPPLY BY US OF EQUIVALENT GOODS OR THE REPLACEMENT BY US OF THE GOODS SUPPLIED TO YOU, AND IN THE CASE OF ADVICE, RECOMMENDATIONS, INFORMATION OR SERVICES, THE SUPPLYING OF THE ADVICE, RECOMMENDATIONS, INFORMATION OR SERVICES AGAIN.**
 - 2.2 **EXCEPT TO THE EXTENT ALREADY SET OUT IN THIS CLAUSE, WE WILL HAVE NO LIABILITY (INCLUDING LIABILITY FOR NEGLIGENCE OR RECKLESSNESS) TO ANY PERSON FOR ANY LOSS OR DAMAGE (CONSEQUENTIAL OR OTHERWISE) SUFFERED OR INCURRED BY ANY PERSON IN RELATION TO ANY GOODS, ADVICE, RECOMMENDATIONS, INFORMATION OR SERVICES SUPPLIED BY US (OR ANY OF OUR EMPLOYEES, OFFICERS OR AGENTS). WITHOUT LIMITING THE GENERALITY OF THIS LIMITATION, WE WILL HAVE NO LIABILITY FOR ANY LOSS OR DAMAGE (INCLUDING FOR THE LOSS OF DATA DUE TO THE FAILURE OR OTHERWISE OF ANY BACK UP OR OUR BACKUP OR SERVICE OR UNAUTHORISED ACCESS TO CONFIDENTIAL INFORMATION PURSUANT TO CLAUSE 28.3 OF THESE TERMS) RESULTING FROM ANY FAILURE, DEFECT OR DEFICIENCY OF ANY KIND IN ANY GOODS, ADVICE, RECOMMENDATIONS, INFORMATION OR SERVICES OR UNAUTHORISED ACCESS TO CONFIDENTIAL INFORMATION.**
 - 2.3 **WE SHALL NOT BE LIABLE FOR ANY LOSS OF PROFIT OR SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND.**
 - 2.4 **ANY VALID CLAIM BY YOU AGAINST US MUST BE PRESENTED IN WRITING TO US WITHIN A REASONABLE TIME, AND IN NO EVENT LONGER THAN 60 DAYS AFTER THE SUPPLY OF THE GOODS OR SERVICE. NO ACTION MAY BE MAINTAINED BY YOU AGAINST US UNLESS A TIMELY WRITTEN CLAIM HAS BEEN GIVEN UNDER THIS CLAUSE, AND UNLESS SUCH ACTION IS COMMENCED WITHIN 6 MONTHS AFTER THE SUPPLY.**
 3. **DATA BACK-UP AND-INSURANCE - IMPORTANT, PLEASE READ CAREFULLY**
 - 3.1 **. UNLESS OTHERWISE AGREED BETWEEN US IN WRITING, YOU ARE RESPONSIBLE FOR:**
 - (a) **ANY LOSS OR DAMAGE TO ALL GOODS SUPPLIED BY US AS FROM THE TIME OF SUPPLY; AND**
 - (b) **ANY LOSS OR DAMAGE TO YOUR PROPERTY DURING THE SUPPLY OF THE GOODS AND SERVICES OR AT ANY OTHER TIME OR LOCATION; AND**
 - (c) **ANY LOSS OR DAMAGE FOR THE LOSS OF DATA, INFORMATION OR PROPERTY DUE TO THE FAILURE OR OTHERWISE OF ANY BACK UP OR OUR BACKUP; AND**
 - 3.2 **YOU WARRANT TO US THAT YOU HAVE INSURANCE TO COVER ANY LOSS OR DAMAGE SUBJECT TO CLAUSE 2 AND CLAUSE 3.1.**
 - 3.3 **YOU WILL MAINTAIN PUBLIC LIABILITY INSURANCE IN RESPECT OF THE SITE FOR TEN MILLION DOLLARS**

4. THIRD PARTY GOODS AND SERVICES – PASS THROUGH TERMS

- 4.1 The terms set out in this Clause 4 have priority over any other provisions of the Agreement.
 - 4.2 From time to time we may provide Goods and Services from third-party manufacturers and/or software publishers (**Third Party Products**).
 - 4.3 We do not warrant the performance or integrity of any Third Party Products. We merely pass through to you whatever end-user warranty the third-party manufacturers and/or software publishers provide with their Third Party Products.
 - 4.4 We are not responsible for any acts or omissions of the third-party manufacturers and/or software publishers, for any obligations undertaken or representations that they may make, or for any other products or services they may supply to you, either directly or through us.
 - 4.5 We have no control over the intellectual property in the Third Party Products, and therefore do not take any responsibility for any liability arising as a result of the Third Party Products. We do not indemnify you for claims by third parties that may arise as a result of such Third Party Products infringing any intellectual property of any third party. We will pass through to you any indemnity or cover provided by the Principal in respect of the Third Party Products.
 - 4.6 **YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF WARRANTY OR OTHER LIABILITY IS AS STATED IN THE THIRD-PARTY MANUFACTURERS' AND/OR SOFTWARE PUBLISHERS' END-USER TERMS AND CONDITIONS.**
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5. BINDING CONTRACT TO SUPPLY

- 5.1 We agree to supply, and you agree to purchase, Goods and Services in the manner and at the times set out in these Terms.
- 5.2 On Acceptance, you will be bound to purchase the Goods and Services. .
- 5.3 Except as provided in clause 19 you may not cancel an order for Goods and Services after Acceptance.
- 5.4 Where you have cancelled an order for Supply you agree to:
 - (a) pay to us any expense, cost or loss incurred or suffered by us as a result of the cancellation of the order; and
 - (b) complete the purchase of any Goods and Services that we have made or purchased as a result of your order, and pay to us our fee for any Services that we have commenced to supply.

6. KEY PERFORMANCE INDICATORS

- 6.1 In providing Goods and Services we will endeavour to meet or exceed the Key Performance Indicators.
- 6.2 Our Representative will meet with Your Representative on a regular basis to co-ordinate the supply of the Goods and Services.

7. DELIVERY & INSTALLATION & TRAVEL COSTS

- 7.1 In the absence of a specific delivery charge, we will charge fees set out in the Payment Terms or where not specified our usual fees for such Supply.
- 7.2 The delivery times made known to you are estimates only. We will use reasonable endeavours to meet the proposed delivery times. However, we will not be liable to you for any loss you suffer as a result of any delay in delivery caused by any reason, including our negligence.

- 7.3 Delivery of Goods shall be ex-our store, and you will pay all freight and insurance costs ex-our store where applicable.
- 7.4 We will be conclusively presumed to have delivered Goods in accordance with these Terms if the Goods are delivered to your carrier ex-our store, or the consignment address, whether or not we obtain a receipt or signed delivery docket for the Goods.
- 7.5 If delivery cannot be achieved, we may store the Goods or redeliver the Goods to you, and you must pay or indemnify us for all costs and expenses incurred in doing so.
- 7.6 You shall not be relieved of your obligation to accept and to pay for any part of an order as a result of any extensions, partial consignments or suspensions of delivery.
- 7.7 We will not be responsible for any loss or damage to Goods in transit. We will render you such reasonable assistance as may be necessary to press claims on any carrier provided you have notified us and the carrier in writing immediately upon the loss or damage being discovered on receipt of the Goods.
- 7.8 In the event we agree you may return the Goods, the Goods will be at your risk until such time as the Goods reach our place of business. The expense of return will be borne by you.
- 7.9 You warrant that you will arrange for appropriate insurance for Goods in transit, the cost of which shall be borne by you.
- 7.10 Neither we, nor any third party supplying any Goods or Services through us, will be obligated to provide warranty services or support for any claims resulting from:
 - (a) Improper site preparation, or site conditions that do not conform to our site specifications;

- (b) Your non-compliance with any specifications or transaction documents;
- (c) Improper or inadequate maintenance or calibration;
- (d) Third-party or your media, software, interfacing, supplies, or other products;
- (e) Modifications not performed or review and authorised by us;
- (f) Virus, infection, worm or similar malicious code;
- (g) Abuse, negligence, accident, loss or damage in transit, fire or water damage, electrical disturbances, or transportation; or
- (h) Any other causes beyond our reasonable control.

7.11 Payment is invoiced to you in accordance with the Payment Terms or as otherwise quoted to you. Installation by us is complete when Supply passes our standard installation and test procedures.

8. EXCLUSIVITY

- 8.1 We are free to provide similar Goods and Services to persons other than you.
- 8.2 You agree to deal with us on an exclusive basis in respect of the acquisition of Goods and Services of the same or a similar nature to the Goods and Services.

9. SUPERVISION AND PERSONNEL

- 9.1 We will maintain control over our Personnel when providing the Goods and Services. You and your Personnel will at all times co-operate with us and our Personnel.
- 9.2 You acknowledge that any of your officers or Personnel who contact us in respect of the provision of any Goods or Services are authorised to do so
- 9.3 You will not approach our Personnel and offer them employment or otherwise engage them for a period of no less than 12 months following the termination of these Terms.
- 9.4 If you breach clause 8.3 then you will pay us liquidated damages in the sum of \$40,000.00 or 40% of the annual salary or fee payable to the person (whilst employed by us), whichever calculation is the higher. The liquidated damages is acknowledged and agreed to be a fair and reasonable estimate of the loss and damage which we suffer in sourcing and training replacement for the Personnel.

10. SUBCONTRACT

- 10.1 We may subcontract the provision of some or all of the supply of Goods and Services to other persons.
- 10.2 We will ensure all subcontractors appointed by us to supply Goods and Services under these Terms are subject to terms similar to these Terms.

- 10.3 If we have disclosed to you that the supply of some or all of the Goods and Services will be supplied by a particular subcontractor, the Supply Charges that we are entitled to are subject to change due to corresponding changes imposed by our subcontractor.

11. USE OF THE SITE

- 11.1 You will give us sufficient possession of the Site to enable us to supply the Goods and Services.
- 11.2 We acknowledge that others may have access to the Site and we agree to co-operate.
- 11.3 You shall provide a safe environment in compliance with the relevant laws of the State and Commonwealth of Australia.

12. EXTENSION OF TIME

- 12.1 If we are delayed in the supply of Goods and Services we will notify you as soon as we are aware of an actual or expected delay.
- 12.2 We will give you details of the circumstances giving rise to the delay, the anticipated duration of the delay, and the steps that we intend to take to minimize the delay.
- 12.3 On receipt of a notice of delay, you will extend the time for the supply of the Goods and Services by a reasonable period if the delay is beyond our reasonable control and we have used (or are using) all reasonable efforts to minimize the delay.
- 12.4 We are not liable or penalized for any such delay.

13. HOW WE WILL CHARGE

- 13.1 We will invoice you for the Goods and Services at the rates and in the manner set out in our quote and/or specified in the Payment Terms.
- 13.2 We may also agree that you will pay us a General Retainer, calculated at the rates and in the manner set out in our quote and/or specified in these Terms.
- 13.3 In consideration of us agreeing to provide the Goods and Services, you agree to promptly pay our Supply Charges within our Payment Terms.
- 13.4 If you have not paid our Supply Charges within our Payment Terms, we will immediately cease to provide further Supply to you until such time as all of our Supply Charges have been fully paid.
- 13.5 Our Supply Charges are, unless otherwise explicitly stated, quoted exclusive of applicable goods and services tax (GST). GST will, where applicable, be added to our Supply Charges.
- 13.6 The making of a payment by you will, in the absence of prior written notice to us, constitute approval of the Goods and Services supplied by us.

13.7 If you wish to dispute any Supply Charge or Services or make any allegation of overcharging or undercharging you must do so within the Payment Terms. Once the period of the Payment Terms expires then you have agreed to accept the Supply Charge or Services as being accurate and in accordance with your order or specification and will pay for and not delay payment for all charges on time in accordance with the terms of this Agreement.

13.8 We will give you advance notice of any changes to our Supply Charges. You must pay for the Goods and Services at our current Supply Charges as notified by us.

14. APPLICATION OF PAYMENTS

14.1 Any payments for any outstanding monies owed by you to us and tendered by you will be applied as follows:

- (a) first as reimbursement for any collection costs incurred by us;
- (b) secondly in payment of any interest charged to you in accordance with these Terms; and
- (c) thirdly in satisfaction of part satisfaction of the oldest portion of our Supply Charges.

15. NO WITHHOLDING OR OFFSET

You may not withhold from any payment or offset against any payment due to us any amount in respect of any amount owed by or claim against us.

16. DISCLOSE ALL RELEVANT INFORMATION

16.1 You must disclose all relevant information to us relating to the terms, conditions and circumstances in which we are to supply the Goods and Services. Without limitation, you will disclose to us:

- (a) accurate, complete and sufficient information concerning the Goods and Services to allow us to comply with all laws and regulations concerning the supply of the Goods and Services; and
- (b) all foreseeable hazards associated with the supply of the Goods and Services by us.

16.2 You confirm that all information provided by you, including the Site Documentation, are true, accurate and complete in all material respects, and may be relied upon by us in the supply of the Goods and Services.

16.3 You indemnify us against all losses, costs, penalties and expenses which we pay or incur as a result of you failing to fully discharge the obligations in this Clause 16.

17. RETENTION OF TITLE TO GOODS-

17.1 All rights, title and interest in all Goods supplied by us shall remain with us, and does not pass to you, until all monies payable by you to us (including any interest, freight or insurance charges) have been paid in full.

17.2 All rights, title and interest in any hardware or software licenced to us or owned by us, and supplied by us to you for the provision of the Services shall remain with us, and does not pass to you at any time.

18. SECURITY INTEREST

18.1 We, Future Logic will have a Security Interest in all present and future Goods and/or Services supplied under this Agreement in the form of a PMSI.

18.2 You, the Customer must do anything for the purpose of:

- (a) ensuring that a Security Interest created under, or provided for by, this Agreement:
 - (i) attaches to the collateral that is intended to be covered by that Security Interest;
 - (ii) is enforceable, perfected, maintained and otherwise effective; and
 - (iii) has the priority contemplated by this Agreement;
- (b) enabling Future Logic to prepare and register a financing statement or financing change statement if it deems necessary;
- (c) enabling Future Logic to exercise any of its powers in connection with any Security Interest created under or provided by this Agreement.

18.3 The Security Interest arising under this clause attaches to the Goods and/or Services when they are dispatched from Future Logic's premises and not at any later time.

18.4 The Customer must not change its name (including but not limited to any entity name or trading name), its address or place of incorporation or any other details required to be contained in a financing statement under the PPSA without the prior written consent of Future Logic such consent which shall not be unreasonably withheld

178.5 Except if section 275(7) of the PPSA applies, the parties agree not to disclose any information of the kind referred to in section 275(1) of the PPSA that is not publicly available and the Customer agrees not to provide any authorisation for the disclosure of such information.

18.6 The Customer agrees that:

- (a) Future Logic is under no obligation to dispose of or retain any PPSA personal property that it seizes within a reasonable time under section 125 of the PPSA;
- (b) It shall not complain of any damage, cost or inconvenience caused by the Supplier in taking apparent possession of any PPSA personal property under section 126 of the PPSA;
- (c) Following a default, it has no rights to redeem the PPSA personal property under section 142 of the PPSA; and
- (d) It has no rights to reinstate this Agreement following a default under section 143 of the PPSA.

18.7 The Customer waives its rights to receive:

- (a) A notice of Future Logic's proposal to remove PPSA personal property which has become an accession under section 95 of the PPSA;
- (b) A notice of Future Logic's proposal to exercise its rights in accordance with land law under section 118(1)(b) of the PPSA;
- (c) A notice of Future Logic's action (such action arising under section 120(2) of the PPSA) in relation to an interest in collateral under section 121(4) of the PPSA;
- (d) A notice of Future Logic's seizure of certain PPSA personal property under section 123(2) of the PPSA;
- (e) A notice of Future Logic's proposal to dispose of any PPSA personal property under section 130 of the PPSA;
- (f) Details of the amounts paid to other secured parties in a statement of account provided by Future Logic under section 132(3)(d) of the PPSA;
- (g) A statement of account under section 132(4) of the PPSA;
- (h) A notice of Future Logic's proposal to retain PPSA personal property under section 135 of the PPSA; and
- (i) A copy of, or notice of, any verification statement confirming registration of a financing statement or a financing change statement relating to any Security Interest under, or provided for by these Terms.

18.8 The Customer waives any rights it may have to:

- (a) Object to Future Logic's proposal to purchase PPSA personal property under section 129(2)(b) of the PPSA; and
- (b) Object to Future Logic's proposal to retain PPSA personal property under section 134(2)(b) of the PPSA.

18.9 Anything that is required by Future Logic to be done under this clause must be done by the Customer at the Customer's expense. The Customer agrees to reimburse Future Logic's costs in connection with any action taken by Future Logic under or in connection with this clause.

18.10 The terms *attaches*, *collateral*, *financing change statement*, *financing statement*, *perfected* and *personal property* as used in this clause have the meaning given to them in the PPSA.

19. OWNERSHIP OF WORK PRODUCT

19.1 Subject to Clause 19.2, and unless otherwise agreed in writing by us, all Work Product designed, developed or produced by us in connection with the Supply shall be and remain our exclusive property.

19.2 Where you have fully paid for our Supply Charges, you are entitled to retain one soft copy of the Work Product (data only) for your own use and records, as well as such

additional copies as may be required by laws or regulations relating to the Services.

19.3 In the event that you do not pay our Supply Charges in full, you are not entitled to continue to use any Work Product and you agree to return all original and copies of such Work Product to us within 7 days of being requested to do so and provide us with a license to enter your premises and remove the Work Product and any of our material or Services as provided to you.

19.4 All file notes and work papers created by us in the course of Supply remain our property.

20. CONSUMABLES

20.1 We agree to procure and provide to you such Consumables as may reasonably be required by you or us in connection with the supply of the Goods and Services.

20.2 You agree to reimburse us at our cost, or on the other basis agreed between us, for all Consumables procured by us in the supply of the Goods and Services.

20.3 Unless specifically incorporated into our Supply Charges, you will reimburse us for any other out-of-pocket costs and expenses reasonably incurred by us in connection with the provision of the Goods and Services

21. MATERIALS MANAGEMENT

21.1 You are entitled to your Site Documentation within the period of 21 (twenty one) days following Termination and PROVIDED THAT you have made full payment of any monies payable by you. You must provide at your cost any relevant storage devices for the provision of the Site Documentation you.

21.2 We may destroy or discard any of your Site Documentation you do not collect from us in the period provided in Clause 21.1.

21.3 If we are required to store any of your Site Documentation you will be charged the costs of storage. You will also be charged any costs of retrieving your Site Documentation.

21.4 All Site Documentation in our possession, both during and following the term of these Terms, are held by us at your risk. You are strongly encouraged to make your own insurance arrangements to cover the value of your Site Documentation.

21.5 The terms relating to Backup are provided in clause 23 of the Support Terms.

22. DATA BACKUP, YOUR RESPONSIBILITY FOR INSURANCE, NO LIABILITY, RETRIEVAL COSTS

23.1 Unless we have specifically agreed to provide Our Backup for files, data, or programs, we will not provide Backup and you must maintain a separate Backup system or procedure on

server on Site or otherwise at your risk and your expense.

23.2 Where we agree to provide **Our** Backup of files, data, or programs, we may do so on Site on your Equipment OR on a server located on our premises OR at our premises OR on external premises contracted by an external server provider OR on 'Cloud' based software, AND You agree and acknowledge that:

(a) except where Our Backup is provided on Site, such backup is multi- tenanted storage with other third party customers data back-up and stored in such a way that we may obtain direct access to your backup;

(b) whilst we will use our best endeavours to secure your data for confidentiality and integrity, electronic storage of data is not secure and may be read, copied or interfered with in transit or otherwise impaired.

(c) the Backup may be damaged or destroyed by computer viruses and similar damaging items transmitted through internal and external sources or by introducing computer disks into your system or by any other source.

(d) all Backup provided to you is at your risk and you are to make your own insurance arrangements to cover the value of the Backup and in accordance with clause 24.

23.3 We incur no liability for loss or damage or access by a third party to data from Backup or Our Back Up and, Clause 2 and Clause 3 specifically of the General Terms apply.

23.4 We will charge you for retrieving or reconstructing from Backup or Our Backup of any of your files, data or programs at the rates specified in the Supply Order or any other specific rates quoted to you in writing.

23. E-MAIL TRANSMISSIONS

23.1 The parties agree to communicate electronically with each other and with other parties using electronic mail, both direct and via the Internet, and using computer disks. If we communicate electronically with or for you, you acknowledge and agree as follows:

(a) E-mail is not secure and may be read, copied or interfered with in transit or impaired;

(b) There are some delivery risks in using electronic mail and you accept the risk of interception of the email by third parties or of non-receipt or delayed receipt of the message; and

(c) Computer viruses and similar damaging items can be transmitted through emails and by introducing computer disks into your system. We use virus-scanning software to reduce these risks and ask that you do the same. However, it is not possible to completely eliminate the risk of introducing viruses.

23.2 If we communicate electronically with or for you, you release us from all claims, losses,

expenses and liabilities caused by any of the risks referred to above and arising directly or indirectly out of that communication.

24. DISCLOSURE FOR PROMOTIONAL PURPOSES

Except as you may otherwise direct us, and subject to any confidentiality undertakings of which we are made aware between you and any other party with respect to particular Goods or Services, you agree that we may include, in a list of Goods and Services we have provided which we uses for promotional purposes, a summary description of all completed supplies of Goods and Services and any pending Goods and Services which we provide to you.

25. NATURE OF RELATIONSHIP

We shall supply the Goods and Services as an independent contractor and neither us nor any of our Personnel shall (unless otherwise agreed by us) be, or be deemed to be in partnership or in a joint venture relationship with you, or your employee, servant or agent.

26. FORCE MAJEURE

26.1 Neither of us shall be liable for any delay or failure to perform its obligations pursuant to the Agreement if such delay is due to Force Majeure.

26.2 If a delay or failure of a party to perform its obligations is caused or anticipated due to Force Majeure, the performance of that party's obligations will be suspended.

26.3 If a delay or failure by a party to perform its obligations due to Force Majeure exceeds 90 (ninety) days, either party may immediately terminate the Agreement with notice in writing to the other party.

27. DISPUTE RESOLUTION

27.1 Subject to clause 26.2 all disputes or differences that may arise between us in respect of the construction or effect of these Terms, or our respective rights, duties and liabilities, or any matter or event connected with or arising out of this Agreement shall initially be referred on notice to each other party.

27.2 You agree to make payment in accordance with the Payment Terms notwithstanding any dispute or differences you may have with us;

27.3 Either of us may give notice to the other that the provisions of this Clause 27 apply to any dispute arising between us.

27.4 The notice referred to in Clause 27.3 shall include a summary of the issues in dispute and notification of a time within 14 days beginning 4 days after the service of the notice, and a place in the Capital of the State at which our representatives are to meet to try to resolve the dispute.

27.5 Our representatives shall meet at the time and place specified in the notice to try to resolve the dispute and shall, if necessary, continue to negotiate for 2 consecutive

business days unless they otherwise agree to reconvene.

27.6 If the dispute has not been resolved by our representatives by the end of the meeting then either party may within 14 days thereafter apply to the President of the Law Society or professional governing body of the legal profession of the State to appoint a neutral adviser to assist in a further attempt by us in good faith to resolve the dispute by structured negotiations. Such person shall act as an expert not as an arbitrator and will be entitled to appoint such technical expert or experts as he or she considers necessary to assist in seeking to resolve the matter referred to them.

27.7 If we fail to appoint a neutral adviser within the 14 day period referred to in Clause 27.6 or we fail to reach agreement in the structured negotiations within 20 days of the neutral adviser being appointed, then any dispute may be referred to a court of competent jurisdiction. Neither party shall be deemed to be precluded from taking such interim formal steps as may be considered necessary to protect the party's position while the mediation or other procedure is pending or continuing.

27.8 The costs of the neutral adviser shall be borne equally between us.

28. PRIVACY AUTHORITY

Where Goods or Services are supplied to you on credit you irrevocably authorises us, our employees and agents to make such enquiries as we deem necessary to investigate your credit worthiness from time to time, including the making of enquiries of persons nominated as trade referees, your bankers or any other credit providers (the Information Sources). You hereby authorises the Information Sources to disclose to us such information concerning you which is within their possession and which is requested by us.

29. CONFIDENTIAL INFORMATION

29.1 Neither party shall, without the prior written approval of the other party, disclose the other party's Confidential Information to any third party.

29.2 Subject to clause 28.3 each party shall take all reasonable steps to ensure that its employees, contractors or agents and any sub-contractors engaged for the purposes of this Agreement do not make public or disclose the other party's Confidential Information.

29.3 You acknowledge and agree the limitations and risks of the Backup of files, data or programs as set out in clause 23.2 of the Supply Terms and you acknowledge and agree to the waiver of liability in respect for any breach of confidentiality as provided in clause 23.3 of the Support Terms.

30. INTEREST

All sums due from you to us which are not paid on the due date (without prejudice to our rights under these Terms) shall bear interest from day to day at the Default Rate.

31. SUCCESSORS AND ASSIGNS

These Terms shall apply to and bind the successors and assigns of the parties. Notwithstanding Clause 0, neither these Terms nor any right or obligation under these Terms are assignable in whole or in part by you, whether by operation of law or otherwise, without our prior written consent.

32. WAIVER

32.1 Any waiver or forbearance by us in regard to the performance of these Terms shall operate only if in writing and shall apply only to the specified instance, and shall not affect the existence and continued applicability of this Agreement

32.2 No failure or delay on our part in exercising any right, power or privilege under this Agreement (and no course of dealing between or among any of the parties) shall operate as a waiver of any such right, power or privilege.

32.3 No waiver of any default on our part on any one occasion shall constitute a waiver of any subsequent or other default. No single or partial exercise or any such right, power or privilege shall preclude the further or full exercise of such right, power or privilege.

33. DURATION OF THIS AGREEMENT

33.1 We will supply the Goods and Services to you from the Commencement Date and until Termination. However, we may accept or reject any particular supply order from you (at our discretion).

33.2 If these Terms are stated to be for a fixed period, or in respect of the supply of certain discrete Goods or Services, then this Agreement will terminate on the expiry of that period or completion of the Supply.

33.3 Subject to Clause 19.8, either of us may terminate the Agreement by giving the other party written notice of termination of no less than the Termination Notice Period.

33.4 Where you have terminated the Agreement you will pay us our expenses and other costs as set out in clause 4.3.

33.5 The parties may agree to waive any part of Termination Notice Period provided that you pay us the Supply Charges for that period.

33.6 On expiry of the Termination Notice Period this Agreement terminates without prejudice to our respective rights accruing or accrued to the date of Termination.

33.7 If you ask us to supply further Goods and Services after the Termination , and we commence to supply the Goods and Services without first agreeing with you different terms to these Terms, then the

terms of these Terms will apply to the supply of those further Goods and Services.

33.8 Either of us may terminate these Terms immediately by written notice to the other party, if that other party:

- (a) commits a breach of any of the material provisions of these Terms, or is in default of any warranty or obligation under these Terms, and the defaulting party fails to remedy such breach or default within 21 (twenty one) days of receiving written notice specifying such breach or default;
- (b) commits any act constituting an act of bankruptcy; or
- (c) suffers a receiver, administrator or liquidator to be appointed to any of its assets or property or any part thereof;

UNLESS that default is waived in writing by the other party, but without prejudice to any other rights or remedies available to the other party.

33.9 The expiry or termination of the Agreement shall be without prejudice to any rights that have already accrued to either of us under these Terms.

34. INVALID PROVISIONS

If any provision of these Terms are deemed or held to be illegal, invalid or unenforceable, these Terms shall be considered divisible and inoperative as to such provision to the extent it is deemed to be illegal, invalid or unenforceable. In all other respects these Terms shall remain in full force and effect.

35. COSTS

You will bear your own costs in reviewing and executing these Terms.

36. NOTICES

36.1 All notices must be in writing and must be given by any one of the following means:

- (a) by delivering it to the address of the party specified in these Terms on a business day during normal business hours;
- (b) by sending it to the address of the party by pre-paid post;
- (c) by sending it by facsimile transmission to the facsimile number of the party; or
- (d) by sending it by email transmission to the nominated email address of the party.

36.2 A notice shall be deemed to be given and received:

- (a) if given in accordance with clause 36.1(a) – on the next business day after the delivery in the place of delivery;
- (b) if given in accordance with clause 36.1(b) – 5 business days after the day of posting in the place of delivery;
- (c) if given in accordance with clauses 36.1(c) or 36.1(d) – upon receipt of electronic confirmation of delivery of the message.

37. ENTIRE AGREEMENT

These Terms and the Schedules and Annexures to these Terms comprise the entire Agreement between us, and supersedes all prior negotiations, understandings, agreements, representations, warranties and correspondence (which cease to have any force or effect).

38. LEGAL EFFECT

The parties intend the provisions of these Terms to be legally binding and enforceable against us.

39. EXECUTION IN COUNTERPARTS

The Agreement may be executed in two or more counterparts and execution by each of the parties of any one of such counterparts will constitute due execution of these Terms.

40. APPLICABLE LAW AND JURISDICTION

40.1 The Agreement shall be governed by and construed in accordance with the laws of the State.

40.2 The parties irrevocably submit to the non-exclusive jurisdiction of the Courts of the State in respect of any claim, dispute or difference arising out of or in connection with these Terms.

41. INTERPRETATION

41.1 In these Terms unless the context indicates a contrary intention:

- (a) the singular includes the plural and conversely;
- (b) a gender includes all genders;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them;
- (e) a reference to a clause, schedule or annexure is a reference to a clause of, or a schedule or annexure to, these Terms;
- (f) a reference to an agreement or document (including these Terms) is to the agreement or document as amended, varied, supplemented, novated or replaced, except to the extent prohibited by these Terms or that other agreement or document;
- (g) a reference to a party to these Terms or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives);
- (h) a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
- (i) a reference to conduct includes, an omission, statement or undertaking, whether or not in writing;

- (j) a reference to an agreement includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing;
- (k) a reference to dollars and \$ is to Australian currency;
- (l) a reference to a right or obligation of any two or more persons confers that right, or imposes that obligation, as the case may be, jointly and severally;
- (m) the meaning of general words is not limited by specific examples introduced by including, or for example, or similar expressions;
- (n) references to agree, approve or consent are references to agreement, approval or consent (as the case may be) in writing; and
- (o) nothing in this agreement is to be interpreted against a party solely on the ground that the party put forward this agreement or any part of it.

42. DICTIONARY

In these Terms the following expressions have the meanings assigned to them respectively unless those meanings are repugnant to the context or subject matter:

Acceptance means the written acceptance by you of a Supply Order, or acceptance by you by conduct in accepting the supply of Goods or Services from us, or acceptance by us of an order from you to acquire Goods or Services;

Agreement means the contract between you and us pursuant to the Supply Order and the Terms.

Backup means any back up storage of Your data files or programs or data whether on servers located on Site or via a 'Cloud' based back up;

Our Backup means any back up storage of Your data files or programs or data agreed to be provided by us as provided in clause 24.

Commencement Date means the date as set out in Supply Order or the other date (if any) agreed between us to be the date of commencement of the terms and conditions of these Terms or the date of acceptance by you of the provision of any Goods and Services from us;

Confidential Information means any information coming to a party by virtue of being a party to this Agreement except so far as that information is then in the public domain other than as a result of a breach by the party of these Terms; and the Agreement;

Default Rate means the annual rate of 4 per cent over the Reserve Bank of Australia indicated target cash rate with a minimum

of 7% per annum, calculated and accrued on a daily basis;

Force Majeure means a circumstance beyond the reasonable control of the parties that result in a party being unable to observe or perform on time an obligation under these Terms. Such circumstances shall include but shall not be limited to:

(a) acts of God, lightning strikes, earthquakes, floods, storms, explosions, fires and any natural disaster;

(b) acts of war, acts of public enemies, terrorism, riots, civil commotion, malicious damage, sabotage and revolution; and

(c) strikes;

General Retainer means the general periodic retainer if any, agreed between You and Us;

General Terms means the terms of this document and Schedules;

Goods means any hardware or software or any other goods supplied under a Service Level 'A', 'B', 'C', 'D' or 'E' or Managed Service as set out in the Supply Order;

Intellectual Property means all industrial and intellectual property rights including, without limitation, any copyright, patents, trademarks, service marks, design rights or eligible layout rights (whether registered or not), rights to apply for registration of any of these rights, innovations, drawings, discoveries, inventions, improvements, trade secrets, technical data, formulae, computer programs, data bases, logos, domain names, business and trade names, Confidential Information, know-how and advertising material;

Key Performance Indicators means the key performance indicators (KPIs) agreed between us, if any;

Our Representative means the person nominated by us to represent us under these Terms;

Payment Terms the basis on which you are required to pay our fees and charges for Supply as set out in the Supply Order and as notified by us from time to time, together with our General Retainer (if any);

PMSI means a purchase money security interest as that term is defined in the PPISA;

PPSA means the *Personal Property Securities Act 2009* (Australia);

Schedule means the schedule/s attached to and forming part of these Terms;

Security Interest means

(A) any security in collateral for the payment of money or performance of obligations including a mortgage, charge, lien, pledge, trust or power, or title retention arrangement;

(B) a security interest as defined in the PPSA; or

(C) The Agreement or Supply Order or any document to grant or create anything referred to in either Security Interest part (A) or (C) and any other thing which gives a creditor priority to any other creditor with respect to any asset or an interest in any asset.

Services means the Service Level Support and any additional services agreed to be provided between the parties as set out in the Supply Order;

Site means any place under Your control where Services are to be performed;

Service Level Support means services agreed to be provided as set out in the Supply Order

Site Documentation means the materials provided by you to us for the purposes of us supplying the Goods and Services

State means the state from which we supply the Goods or Services;

Supply means the provision of Goods and/or Services pursuant to the Supply Order;

Supply Charges means our fees and charges for the supply of the Goods and Services as set out in the Supply Order and as notified by us from time to time, together with our General Retainer (if any);

Supply Order means the order for Goods and Services to which these General Terms apply or any other written agreement between You and Us;

Supply Terms means the terms and specifications applicable to the Supply Order as attached in Schedule.1;

Termination means the termination or expiry of these Terms on its terms;

Termination Notice Period means the period of two months or any other period specified in the Terms;

Terms means these General Terms and the Supply Terms;

We, Us or Future Logic means the party described in the Supply Order;

Work Product means the product or outcome of our supply of the Services; and

You or the Customer means the party described in the Supply Order;

Your Representative means the person nominated in writing by you, if any, to represent you for the Supply Order and may include any employees, servants, contractors, sub-contractors or any other person engaged or employed by other party.

END OF GENERAL TERMS

Notes; added definitions

PMSI means a purchase money security interest as that term is defined in the PPSA;

PPSA means the *Personal Property Securities Act 2009* (Australia);

Security Interest means:

(A) any security in collateral for the payment of money or performance of obligations including a mortgage, charge, lien, pledge, trust or power, or title retention arrangement;

(B) a security interest as defined in the PPSA; or

(C) any document to grant or create anything referred to in either clause Security Interest part (A) or (B) and any other thing which gives a creditor priority to any other creditor with respect to any asset or an interest in any asset.