

1. SERVICES

The Consultant must provide the services purchased by the Principal (**Services**).

2. TERM

This Agreement commences on the date of this Agreement (**Commencement Date**) and terminates on the first to occur of:

- (a) the date that is 12 months after the Commencement Date; and
- (b) the date of completion of the Services, unless terminated earlier under clause 6.

3. CHARGES AND PAYMENT

3.1 The Principal must pay the Consultant for the performance of the Services as purchased. All rates are exclusive of any services, withholding or similar taxes.

3.2 On receipt of order, the Consultant must submit to the Principal an invoice for Services to be provided. The Principal must pay the invoiced amount within 30 days of receipt of the invoice by the Principal. All payments to the Consultant are to be made by electronic transfer to the Consultant's nominated bank account.

3.3 Interest is to be charged on overdue payments at a rate 10% per annum calculated daily.

4. CONSULTANT'S STATUS

The Consultant is an independent contractor without the authority to bind the Principal by contract or otherwise. Neither the Consultant nor the Consultant's personnel are agents or employees of the Principal.

5. PROFESSIONAL RESPONSIBILITY, LIMIT OF LIABILITY AND INDEMNITY

5.1 The Consultant must perform the Services in accordance with relevant Law and Standards, and in a professional and efficient manner, and must exercise due care, skill, diligence and judgment in the performance of the Services.

5.2 Notwithstanding any other provision of this Agreement, neither Party nor its subconsultants or vendors are liable to the other Party, or to its respective subconsultants or vendors, under any cause or causes of action, whether in tort, contract or otherwise (including but not limited to claims and liability under or for breach of contract, negligence, professional errors or omissions, strict liability, indemnity, and breach of express or implied warranty) for:

- (a) loss of actual or anticipated revenue or profits, business interruption, loss of use of property, loss by reason of shutdown or non-operation, loss of business opportunity or productivity, increased capital or operating costs or increased financing costs;
- (b) any type or amount of indirect, special or consequential damages, howsoever claimed, calculated or characterized; and/or
- (c) any punitive or exemplary damages.

5.3 Each Party indemnifies the other Party against any death or injury to persons, damage to property of either Party or a third party, and infringement of any copyright or patent, caused by or arising out of a Party's (the **indemnifying party**) negligent act or omission. The indemnity is to be reduced proportionately to the extent that the losses or damages are as a result of the other Party's negligent act or omission.

5.4 Notwithstanding any other provisions of this Agreement, the total and aggregate liability of the Consultant under this Agreement, in tort including negligence or otherwise is limited to 10% of the value of the Services actually paid for by the Principal.

5.5 Any liability which the Consultant may have in connection with the Services, whether under the law of contract, tort, statute, equity or otherwise, is deemed to have been discharged at the expiration of one year from the completion of the Services and the Principal is thereafter barred from commencing any action or making any claims against the Consultant in connection with the Services, unless legal proceedings are issued and associated formal documentation served upon the Consultant within that period.

5.6 The Consultant maintains public liability insurance of AUD \$5 million, and workers compensation insurance as required by Law.

6. TERMINATION

6.1 This Agreement may be terminated for convenience at any time by either Party on fourteen days' notice in writing to the other Party, or as otherwise agreed in writing by the Parties.

6.2 If this Agreement is terminated, the Principal must pay the Consultant for Services performed up to the date of termination.

7. INTELLECTUAL PROPERTY RIGHTS

7.1 The title to all intellectual property rights in all documents, materials and information provided by the Principal to the Consultant in the performance of the Services remains with the Principal (**Principal Material**).

7.2 The Principal grants to the Consultant a global, irrevocable and royalty-free license to use and develop the Principal Material; and the right to sub-license to third Parties the right to use and develop the Principal Material to the extent necessary to perform the Services.

7.3 The title to all intellectual property rights in all documents, materials and information provided by the Consultant to the Principal in the performance of the Services remains with the Consultant.

7.4 The title to all intellectual property rights in or in relation to any material developed by the Consultant in accordance with this Agreement vests upon its creation in the Consultant.

8. CONFIDENTIALITY

Both Parties must keep confidential all documents, drawings, transactions, intellectual property, business, financial and any other information owned by the other Party and must not disclose such items to any third party except as may be necessary by Law or for the proper execution of the Services, and then only with the prior written authority of the other Party.

9. Consultant Reliance

The Consultant, acting reasonably, may rely on the accuracy or adequacy of any data, information, materials or services provided by the Principal to the Consultant for the provision of the Services.

10. GOVERNING LAW

This Agreement is governed by the Laws in force in the state of Queensland, Australia. Each Party irrevocably submits to the non-exclusive jurisdiction of the courts of Queensland, Australia.

11. GENERAL

11.1 This Agreement represents the entire agreement between the Parties with respect to its subject matter and supersedes any prior agreements or understandings between the Parties in connection with that subject matter.

11.2 The provisions of this Agreement may not be amended or varied, except by agreement in writing signed by the Parties.

11.3 No right under this Agreement is waived except by notice in writing signed by each Party.

11.4 The requirements of clauses 3, 5.2, 5.4, 7, 8, 10 and this clause and any other clause necessary for their operation survive termination of this Agreement.

12. DEFINITIONS AND INTERPRETATION

In this Agreement, unless the context otherwise requires:

Consultant means **Ausenco Services Pty Ltd**.

Law means legislation including regulations, by-laws, orders, awards, and proclamations which a party is legally required to comply, common law and equity (if applicable), and authority requirements, guidelines, consents, certificates, licences and approvals with which a Party is legally required to comply.

Party means each of the Principal and the Consultant and Parties means both.

Principal means the person who has placed the order for Services.

