

WHITE ROOK TERMS AND CONDITIONS

These are the standard terms and conditions (“Agreement”) that apply when you (“Client”) contract with Australian Client Services Pty Ltd trading as WHITE ROOK Cyber (ABN 59 160 395 479) (“WHITE ROOK”) to provide products and services to you.

1 OVERVIEW

1.1 Summary

- (a) WHITE ROOK agrees to provide the Products and Services to the Client in accordance with this Agreement.
- (b) This Agreement allows for the Client’s purchase of Products and Services from WHITE ROOK as set forth in clause 3 below. To do this, the parties need to agree to one or more Statements of Work (SoW), Proposals, or Quotations, that set out the products to be provided and package of work to be undertaken by WHITE ROOK.

1.2 The Agreement

- (a) This Agreement includes these standard terms and the details set out in the any agreed Statements of Work, Proposal, or Quotation that references these standard terms.
- (b) Where WHITE ROOK is providing the Products or Services as a reseller or subcontractor of the product vendor, the product vendor’s end user terms (“EULA”) may also apply. If so, the relevant EULAs will be included or referenced in the relevant Statement of Work/Proposal/Quotation. See clause 3.9 below for further details.

1.3 Precedence

- (a) In the event of any inconsistency between the main body of this Agreement and any Statement of Work/Proposal/Quotation, the main body will prevail unless the Statement of Work/Proposal/Quotation expressly states otherwise and explicitly references the relevant clause in the main body of this Agreement that is overridden.
- (b) Any EULA included or referenced in a Statement of Work/Proposal/Quotation/Proposal/Quotation will prevail over the terms of this Agreement.

2 TERM

- (a) This Agreement commences on the Commencement Date and continues until the expiry of the Initial Term, unless terminated earlier in accordance with clause 2(b) or clause 9.
- (b) At the end of the Initial Term, this Agreement will automatically renew for one year (Renewal Term), unless the Client gives WHITE ROOK ninety days’ notice of cancellation prior to the end of the Initial Term. At the end of each Renewal Term, this Agreement will automatically renew for one year (another Renewal Term), unless the Client gives WHITE ROOK ninety days’ notice of cancellation prior to the end of the then current Renewal Term.
- (c) Each Statement of Work/Proposal/Quotation may have a term. The term for a Statement of Work/Proposal/Quotation may extend beyond the Term of this Agreement. If that occurs, this Agreement continues to apply to that Statement of Work/Proposal/Quotation.

3 PRODUCTS AND SERVICES

3.1 Statement of Work/Proposal/Quotation

- (a) WHITE ROOK will provide the Products and perform the Services in accordance with the descriptions, specifications, fees and delivery schedule set forth in a Statement of Work/Proposal/Quotation, or as otherwise agreed in writing between the parties.
- (b) Each signed Statement of Work/Proposal/Quotation will constitute a separate contract for the provision of those Products and the performance of those Services which is subject to the terms of this Agreement.
- (c) To be valid, a Statement of Work/Proposal/Quotation must be agreed and signed by both parties.

3.2 Services

- (a) WHITE ROOK will provide the Services in a professional manner with due care and skill and in accordance with good industry practice.
- (b) The parties will consult and cooperate to coordinate the Services with the activities of the Client's employees and other representatives.
- (c) WHITE ROOK 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) Upon the Client's reasonable request, WHITE ROOK will replace any person performing the Services that the Client demonstrates to be unsuitable, unqualified or otherwise objectionable, and, in consultation with the Client, WHITE ROOK will replace that person with a suitably qualified replacement.
- (e) In providing the Services, WHITE ROOK will comply with all Laws, including Privacy Laws.

3.3 Key Personnel

- (a) Each Statement of Work/Proposal/Quotation may specify Key Personnel.
- (b) WHITE ROOK will procure that the Key Personnel (if applicable) are actively involved in the provision of the Services in accordance with the relevant Statement of Work/Proposal/Quotation. If any Key Personnel leaves WHITE ROOK or ceases to be involved in the provision of the Services for any reason, WHITE ROOK will promptly consult with the Client and, subject to the Client's prior written approval, appoint a suitable replacement.

3.4 Client Materials and Resources

- (a) The Client must provide access, both physical and to systems, and provide all information reasonably necessary for WHITE ROOK to efficiently deliver the Products or Services, and to perform any other function required under this Agreement.
- (b) Each Statement of Work/Proposal/Quotation may specify Client Materials and Resources that the Client must provide or make available to WHITE ROOK for the purposes of performing the Services.
- (c) The Client must provide or make available the Client Materials and Resources to WHITE ROOK as and when specified in the Statement of Work/Proposal/Quotation.

3.5 The Products

- (a) If required, each Statement of Work/Proposal/Quotation will specify any Products to be provided by WHITE ROOK to the Client as part of the Services.
- (b) WHITE ROOK will ensure that the Products are of high quality, are not second-hand or used, and will operate correctly and in accordance with the specifications and requirements in a Statement of Work/Proposal/Quotation.
- (c) If the Products include equipment, hardware or software, WHITE ROOK will, upon request by the Client, provide the Client with any documentation reasonably required to use and maintain the Products.

3.6 Cooperation

- (a) WHITE ROOK will act in a professional and cooperative manner when dealing with the Client.
- (b) The parties will always act reasonably and in good faith when dealing with each other.
- (c) If WHITE ROOK is required by the Client to work with other suppliers or contractors of the Client, WHITE ROOK will act cooperatively and in a friendly manner when doing so.
- (d) If WHITE ROOK attends the Client's premises or sites, WHITE ROOK must comply with the Client's relevant policies and directions known or made known to WHITE ROOK.

3.7 Timeframes

- (a) Each Statement of Work/Proposal/Quotation may specify timeframes, such as a delivery schedule or milestones, for the performance of the Services.
- (b) WHITE ROOK will supply the Services and deliver the Products to meet any timeframes set out in each Statement of Work/Proposal/Quotation.
- (c) If a Statement of Work/Proposal/Quotation does not set forth a delivery schedule or milestones for the performance of the Services, then WHITE ROOK will perform such Services with reasonable due diligence under the circumstances.
- (d) If WHITE ROOK believes that WHITE ROOK will be late or is late in meeting the timeframes in a Statement of Work/Proposal/Quotation, WHITE ROOK will notify the Client as soon as reasonably practical.
- (e) If WHITE ROOK requires the Client to provide anything to WHITE ROOK or to do anything so that WHITE ROOK can provide the Services, then the Client's obligations to do so are set out in the Statement of Work/Proposal/Quotation and the Client must fulfil these obligations. The Client cannot make any claim against WHITE ROOK, including for failure to meet any timeframes, if the Client does not fulfil its obligations or fails to provide any Client Materials and Resources as required by a Statement of Work/Proposal/Quotation.

3.8 Reports and Review Meetings

- (a) WHITE ROOK will prepare and furnish reports to the Client, upon request or as otherwise required by a Statement of Work/Proposal/Quotation, concerning WHITE ROOK's progress against the timeframes in a Statement of Work/Proposal/Quotation.
- (b) WHITE ROOK will provide the progress reports in the form and with the content reasonably requested by the Client.

- (c) The parties shall meet at regular intervals as set out in the Statement of Work/Proposal/Quotation to review the status and provision of the Services.

3.9 Product Vendors and Third Parties

- (a) WHITE ROOK makes use of third parties to deliver some of Products and Services. The Client will comply with all requirements and policies of such third parties.
- (b) Unless specified in Statement of Work/Proposal/Quotation, the Client must obtain at the Client's expense all necessary licenses, consents and waivers as required by the third party.
- (c) The Client hereby appoints WHITE ROOK as its duly authorised agent and gives WHITE ROOK power and authority to, on the Client's behalf, order, purchase, hire and/or lease third party products and equipment to be used in connection with the provision of the Products and Services from any vendor that WHITE ROOK deems appropriate. The Client hereby adopts, ratifies and is liable for all that WHITE ROOK does or may do pursuant to the agency granted to WHITE ROOK. The Client agrees to execute all such documents, deeds or instruments that may be required by WHITE ROOK to effect or perfect this agency.
- (d) If the Products and Services are provided by or originate from a third party vendor, or if products, services, equipment and software that comprise, are integrated into, or used in connection with the Products and Services originate from or are supplied by a third party (collectively, "Third Party Vendor Products"), then such Products and Services governed by the respective vendor's end user terms ("EULA"). The Client accepts all EULAs and agrees to comply with them.
- (e) To the extent that a Client may have a claim against both WHITE ROOK and any third party vendor or supplier, the Client will firstly seek to recover against that third party.
- (f) To the extent permitted by Law, WHITE ROOK is not liable in any way to the Client, whether under this Agreement or otherwise in contract, at law, in equity, in tort (including negligence or breach of statutory duty) or otherwise for any matter in relation to any of the Products or Services provided by WHITE ROOK, with respect to any Third-Party Vendor Products (including the non-provision thereof). Unless otherwise specified in a Statement of Work/Proposal/Quotation, Third Party Vendor Products and the use thereof are governed by the relevant EULA, which shall constitute the Client's sole and exclusive remedy in respect of the use of such Third-Party Vendor Products. The Client and relevant vendor have direct recourse to each other for all matters governed by such EULA.
- (g) The following clauses apply where WHITE ROOK as a reseller of the Products or Services:
 - (i) WHITE ROOK will procure the Vendor to provide the Products or Services directly to the Client;
 - (ii) The Client acknowledges that WHITE ROOK itself is not actually providing the Products or Services but is procuring the Vendor to provide the Products or Services directly to the Client;
 - (iii) WHITE ROOK will manage the relationship between the Vendor and the Client;
 - (iv) The contractual terms on which the Products and Services are provided to the Client are the Vendor's contractual terms ("**Vendor's Terms**");
 - (v) WHITE ROOK has included or incorporated the Vendor's Terms in the Statement of Work/Proposal/Quotation, and if not, will provide the Vendor's Terms to the Client upon request;

- (vi) WHITE ROOK has no authority to amend the Vendor's Terms and is not a party to the Vendor's Terms;
- (vii) WHITE ROOK does not guarantee or warrant the performance of the Vendor;
- (viii) To the extent of any inconsistency, the Vendor's Terms prevail over these standard terms;
- (ix) WHITE ROOK will invoice the Client and the Client will pay WHITE ROOK.
- (x) The Client must send any additional orders to WHITE ROOK and not to the Vendor.

3.10 Changes to Services

- (a) The Client may from time-to-time request changes to the Services by issuing a Change Order Request. WHITE ROOK will promptly respond in writing to any Change Order Request, stating how the proposed modifications to the Services will affect the time or materials required for WHITE ROOK to perform the Services, as well as any change of price.
- (b) If the Client agrees in writing to such response from WHITE ROOK, the parties will prepare and execute a Change Order (Service Request) which incorporates the agreed-upon revisions to the Services and Fees.

3.11 Acceptance

- (a) Acceptance of a Product will be determined in accordance with the procedure set forth in the applicable Statement of Work/Proposal/Quotation.
- (b) If no acceptance procedure is specified in the Statement of Work/Proposal/Quotation, then acceptance will occur upon the first of following to occur: (I) the Client's written notice of acceptance (which notice may be an e-mail notice to WHITE ROOK); (II) use of the Product in a production or real-world environment; (III) within 14 days after delivery of the Product, provided that the Client has not issued a notice of non-acceptance of the Product in that time frame.
- (c) The Client may issue a notice of non-acceptance of a Product by sending an email to WHITE ROOK setting out, in detail, why the Product is rejected.
- (d) Within 30 days (or such other mutually agreed timeframe) after receiving notice of non-acceptance, WHITE ROOK will, at its own expense, use reasonable commercial endeavours to repair or replace, any Product not accepted by the Client.

4 INTELLECTUAL PROPERTY

- (a) Unless explicitly stated to the contrary in a Statement of Work/Proposal/Quotation, no Intellectual Property Rights are assigned, sold or transferred from WHITE ROOK to the Client pursuant to this Agreement.
- (b) WHITE ROOK hereby grants a limited, non-transferrable, personal, non-sublicensable, non-exclusive license to Client to use the Products and Services in Australia for the Term for the Client's internal business operations. All costs and license fees for this license are set out in the relevant Statement of Work/Proposal/Quotation.
- (c) All right, title and interest in and to any specifications, designs or other information supplied by the Client to WHITE ROOK, including but not limited to the Client Materials, and any modifications thereto, whether made by WHITE ROOK or by the Client, remain the property of the Client.
- (d) WHITE ROOK acknowledges and agrees that the Client owns all rights, title and interests (including Intellectual Property Rights) in the materials provided by the Client to WHITE ROOK as set out in (c). The Client represents that the Client has the right to supply such materials to WHITE ROOK.

- (e) The Client hereby grants a worldwide, non-transferrable, personal, non-sublicensable, royalty-free license to WHITE ROOK to use and copy the materials set out in (c) solely for the purposes of providing the Services and Deliverables.
- (f) WHITE ROOK will not infringe any Intellectual Property Rights when performing the Services.
- (g) WHITE ROOK warrants that the Client's use of the Products will not infringe any Intellectual Property Rights in Australia. This does not apply to Third-Party Vendor Products.
- (h) WHITE ROOK indemnifies the Client against any liability (including liability for reasonable legal costs) based on a claim that use of the Products (other than Third-Party Vendor Products) in Australia is an infringement of the Intellectual Property Rights of any third person.
- (i) As a condition of reimbursement under the indemnity in paragraph (h) above, the Client must notify WHITE ROOK of a claim as soon as practical, keep WHITE ROOK informed of all material aspects of the claim of which the Client is aware, and follow all reasonable directions of WHITE ROOK relating to the claim. The Client must not settle or compromise the claim, or take any steps in relation to the claim that may prejudice WHITE ROOK in any way without WHITE ROOK's prior consent. The Client must, at WHITE ROOK's cost, provide all cooperation and assistance reasonably requested by WHITE ROOK in defending or otherwise addressing any claim. If WHITE ROOK requests, WHITE ROOK will conduct the defence of the claim at WHITE ROOK's expense.
- (j) If a party becomes aware that any Products are, or are threatened to become subject to any injunction, or are determined to be infringing of any rights, that party must notify the other party. If so, WHITE ROOK has the option to (I) procure for the Client the right to continue use of the Products (or any portion thereof) as contemplated under this Agreement or (II) replace or modify the Products (or any portion thereof) such that they are non-infringing, provided that the replacement or modification is equivalent in function and meets the requirements and specifications of this Agreement to the Client's satisfaction. If (I) or (II) are not available to WHITE ROOK, WHITE ROOK has the right to terminate the relevant Statement of Work/Proposal/Quotation, or require the Client to cease use of and return the relevant Product. When Client so complies, WHITE ROOK will then refund to the Client all amounts paid for such Product.

5 FEES, PAYMENT AND GST

5.1 Fees and Payment

- (a) The Client must pay the Fees set out in each invoice within 7 days of receipt, in accordance with this clause 5.
- (b) WHITE ROOK may only issue invoices to the Client in accordance with the terms of this Agreement and in accordance with any timeframes for invoicing or payment set out in a Statement of Work/Proposal/Quotation.
- (c) The Client may dispute an invoice. If so, the Client may withhold payment of the amount in dispute until the dispute is resolved but must pay the undisputed portion of the invoice on time.
- (d) If an invoice is disputed, the parties will work together to resolve such dispute in good faith and where applicable, WHITE ROOK will submit a revised invoice to the Client.
- (e) The parties have no right of set-off against each other.
- (f) The Client will only reimburse expenses that are set out in the Statement of Work/Proposal/Quotation as reimbursable expenses.
- (g) WHITE ROOK may charge interest of 1% per month in the event of late payment by the Client.

- (h) WHITE ROOK may require the Client to pay a deposit. If required, this will be specified in the Statement of Work/Proposal/Quotation.
- (i) WHITE ROOK may require a direct debit facility for payment. If required, this will be specified in the Statement of Work/Proposal/Quotation.

5.2 GST

- (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 its obligations or receive the benefits 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 contractors 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) The Client must not disclose the terms of this Agreement to anyone other than to the Client's legal advisors, accountants and auditors on a confidential basis.

7 PRIVACY AND SECURITY

- (a) Each party must comply with all 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) WHITE ROOK must comply with all reasonable directions of the Client regarding privacy. If there are extra costs to WHITE ROOK in doing so, WHITE ROOK will notify the Client and the Client must pay the extra costs.

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 or any individual Statement of Work/Proposal/Quotation 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) The Client may not suspend work on the Services without WHITE ROOK's written consent. WHITE ROOK may suspend provisions of the Services if the Client is overdue on payment of Fees by more than 14 days.
- (c) If at the expiration or termination of this Agreement there is an outstanding Statement of Work/Proposal/Quotation that has not been completed, this Agreement will remain in effect until such Statement of Work/Proposal/Quotation has expired or been terminated as provided for in this Agreement or all Deliverables have been accepted.
- (d) Following any termination or expiration of this Agreement or individual Statement(s) of Work, WHITE ROOK will not be obligated to continue performing any terminated Services, and the Client must pay to WHITE ROOK all undisputed Fees for terminated Services completed prior to termination. Upon request, each party shall return any Confidential Information or property of the other party.
- (e) Following any termination or expiration of this Agreement, at the Client's request, WHITE ROOK will make its staff reasonably available to assist with any transition of the Services on mutually agreeable hourly rates.
- (f) Where the Client is under an obligation to subscribe or use any of the Products or Services for any stipulated or minimum period, and the provision of such Products or Services or this Agreement is terminated (whether by WHITE ROOK or the Client) before the expiry of that period, the Client must pay the amount prescribed by WHITE ROOK for termination or cancellation of the Products or Services before the end of that period, and pay any further unrefundable charges incurred.
- (g) Upon expiry or earlier termination of the provision of any of the Products or Services, or this Agreement, the Client must return any equipment which has not been purchased, and for subscription software immediately delete all software supplied, unless otherwise permitted in a Statement of Work/Proposal/Quotation.

10 WARRANTIES

Each party warrants that it:

- (a) 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;
- (b) will comply at all times with applicable Laws; and
- (c) will not do anything or make any statement that could be reasonably expected to harm the reputation of the other party.

11 WHITE ROOK WARRANTIES

- (a) WHITE ROOK warrants that:
 - (i) WHITE ROOK has all applicable licenses, permits and authorisations required to perform its obligations in accordance with this Agreement; and
 - (ii) the use by the Client of any Product will not infringe the rights (including Intellectual Property Rights) of any other person in Australia; and
 - (iii) the Products will materially conform to the descriptions and specifications set forth in the applicable Statement of Work/Proposal/Quotation and to any relevant published descriptions and specifications in effect on the date the Products are purchased; and
 - (iv) the media containing the Products will be free from physical defects.
- (b) WHITE ROOK acknowledges that the Client has entered into this Agreement in reliance on the warranties in detailed in this clause.

12 LIMITATIONS ON LIABILITY

- (a) The Products and Services are provided on an “as is” and “as available” basis. WHITE ROOK does not guarantee that the Products and Services will be free from errors or defects. WHITE ROOK does not guarantee any results. WHITE ROOK does not guarantee service availability or uptime. WHITE ROOK does not guarantee that the Client’s information or other systems will be secure, resilient or safe. WHITE ROOK does not provide legal advice. WHITE ROOK does not guarantee that use of the Services will result in the Client being compliant with Laws.
- (b) Subject to clause 12(e), to the extent permitted 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.
- (c) Subject to clause 12(e), to the extent permitted by Law, the maximum liability of WHITE ROOK to the Client, whether in contract, tort (including negligence) or otherwise in connection with the Agreement (including under an indemnity), is limited to amount specified in the relevant Statement of Work/Proposal/Quotation pertaining to the work done or the claim made, and if no amount is specified in the Statement of Work/Proposal/Quotation, then is limited to twice the Fees paid in by the Client to WHITE ROOK in the previous 6 month period prior to the claim being made.
- (d) Subject to clause 12(e), to the extent permitted by Law, the maximum liability of the Client to WHITE ROOK, whether in contract, tort (including negligence) or otherwise in connection with the Agreement, is limited to twice the Fees.
- (e) The exclusions and limitations of liability in clauses 12(b), 12(c) and 12(d) do not apply to liability in relation to:
 - (i) personal injury, including sickness and death;

- (ii) loss of, or damage to, tangible property;
 - (iii) an infringement of Intellectual Property Rights;
 - (iv) fraudulent act or omission; or
 - (v) any breach of any obligation under clause 6.
- (f) 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.
- (g) WHITE ROOK'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 other wrongful act or omission of the Client or its employees or agents.

13 RECORDS AND AUDIT

- (a) During the Term and for a period of one year thereafter, WHITE ROOK will keep all usual and proper records related to the Services and this Agreement including but not limited to details of all time spent by WHITE ROOK personnel in providing the Services, payments to third parties and all supporting receipts and other documentation.
- (b) The Client may, upon seven days' notice, audit WHITE ROOK's records and consult with WHITE ROOK's accountants for the purpose of verifying WHITE ROOK's compliance with the terms of this Agreement, provided that any such audits must be conducted during normal business hours in such a manner as to not unreasonably interfere with the normal business operations of WHITE ROOK.
- (c) WHITE ROOK agrees to promptly correct any deficiencies detected in the audit and will promptly refund any overpayments disclosed by such an audit.

14 INSURANCE COVERAGE

- (a) WHITE ROOK warrants that it will maintain sufficient insurance coverage to enable it to meet its obligations created by this Agreement and by law.
- (b) Without limiting the foregoing, to the extent this Agreement creates exposure generally covered by the following insurance policies, WHITE ROOK will maintain at its sole cost and expense at least the following insurance covering its obligations under this Agreement:
- (i) Public & Products Liability at limits no less than \$10 million in aggregate;
 - (ii) Workers' Compensation, as required by law; and
 - (iii) Technical Professional Indemnity insurance at limits no less than \$2 million in aggregate

15 ANTI-BRIBERY AND CORRUPTION

Each party represents to the other that neither it, nor any of its representatives have been induced to enter into this Agreement or a Statement of Work/Proposal/Quotation, or to cause this Agreement or a Statement of Work/Proposal/Quotation to be entered into, as a result of any illegitimate gift, consideration or other benefit paid by a person to any other person.

16 CONFLICTS OF INTEREST

Each party must take appropriate steps to ensure that WHITE ROOK is not placed in a position where there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of WHITE ROOK and the duties owed to the Client under the provisions of the Agreement. WHITE ROOK will disclose to the Client full particulars of any such conflict of interest which may arise.

17 ACCESS TO CLIENT IT SYSTEMS

- (a) The Client may provide WHITE ROOK with access to and use of its information technology systems, including development, test and production environments ("IT Systems") to enable WHITE ROOK to provide the Services.
- (b) If WHITE ROOK is granted such access and use, WHITE ROOK must:
 - (i) access and use only the part of the IT Systems for which it is specifically authorised and no other part of the Client's computer systems;
 - (ii) access and use the IT Systems only to perform its obligations under this Agreement and not for any other purpose; and
 - (iii) comply with any policies notified to it by the Client from time to time.
- (c) If WHITE ROOK is granted such access and use, WHITE ROOK must not (unless required to do so in a Statement of Work/Proposal/Quotation):
 - (i) use the IT Systems directly or indirectly for any activity or transmit any information or material unlawfully or which is obscene, indecent, uses offensive language, defames or offends any person;
 - (ii) tamper with, hinder the operation of or make unauthorised modifications to the IT Systems;
 - (iii) copy or collect in any way any data from the IT Systems, other than as necessary to perform its obligations under this Agreement;
 - (iv) damage any of the Client's hardware; or
 - (v) upload anything onto the IT Systems without the Client's prior approval.
- (d) WHITE ROOK agrees that the Client may monitor WHITE ROOK's activities in performing its obligations under this clause, including by computer surveillance.

18 ASSIGNMENT AND SUBCONTRACTING

- (a) WHITE ROOK must not assign or novate, directly or indirectly, any of its rights or obligations under this Agreement without the prior written consent of the Client, except that WHITE ROOK may assign this Agreement in connection with the sale or reorganisation of all or part of WHITE ROOK's business, or due to a machinery of government change.
- (b) WHITE ROOK may subcontract or delegate any of its obligations under this Agreement including as allowed in a Statement of Work/Proposal/Quotation.
- (c) WHITE ROOK is an independent contractor for the Client, and nothing in this Agreement is intended to create or shall be construed as creating an employer-employee relationship or a partnership, agency, joint venture, or franchise. There is no fiduciary relationship between the Client and WHITE ROOK.

19 SURVIVAL

Without limiting any other provision of this agreement, clauses 4, 6, 7 and 12 survive termination or expiry of this Agreement for any reason.

20 REPRESENTATIVES

Each Statement of Work/Proposal/Quotation must set out the representatives of each party for the purposes of the Statement of Work/Proposal/Quotation. These representatives will be the first point of contact

between the parties in relation to any matter relevant thereto. The contact details of each representative may be updated from time to time by the party that appointed the relevant representative by notice in writing to the other party.

21 NOTICES

Any notice, demand, consent or other communication (a **Notice**) given or made under this Agreement:

- (a) must be in writing and signed by the representative or a person duly authorised by the representative;
- (b) 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, or as last notified by the intended recipient to the representative; and
- (c) will be conclusively taken to be duly given or made when delivered, received or left at the above address, or received at the above email 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.

22 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 the 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 22, shall prevent a party from seeking urgent injunctive relief before an appropriate court.

23 GENERAL

- (a) This Agreement contains the entire agreement between the parties with respect to its subject matter.
- (b) Unless otherwise specifically provided in the applicable Statement of Work/Proposal/Quotation nothing herein shall be construed as creating a minimum commitment for business on the part of the Client to WHITE ROOK.
- (c) This Agreement may only be amended by written agreement executed by all the parties.
- (d) 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.
- (e) 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.
- (f) Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the

remaining provisions of this Agreement nor affect the validity or enforceability of that provision in any other jurisdiction.

- (g) Each party must bear its own costs arising out of the negotiation, preparation and execution of this Agreement.
- (h) 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 grounds.
- (i) This Agreement may be executed in any number of counterparts. All counterparts will be taken to constitute one agreement.

24 DEFINITIONS AND INTERPRETATION

24.1 DEFINITIONS

The following definitions apply unless the context requires otherwise.

Change Order Request (Service Request) is a request in writing by the Client for a change to the Services provided under a Statement of Work/Proposal/Quotation, which may include additional services.

Commencement Date is the date that the Client accepts the Statement of Work/Proposal/Quotation.

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.

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.

Fees means the fees and expenses set out in a Statement of Work/Proposal/Quotation.

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, pandemic, or power, water and other utility shortage.

Initial Term means the service term set out in a Statement of Work/Proposal/Quotation from the Commencement Date.

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), trade marks, 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 1988* (Cth).

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), the *Queensland Information Privacy Act 2009* and the *Spam Act 2003* (Cth).

Products are the items that WHITE ROOK is required by this Agreement to provide to the Client as specified in a Statement of Work/Proposal/Quotation.

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

Renewal Term means the periods for which the Term shall successively renew, as set out in clause 2(b).

Services are specified in each Statement of Work/Proposal/Quotation.

Term means the period from the Commencement Date until the end of the Initial Term or any applicable Renewal Term.

Vendor means the original equipment manufacturer, software publisher or distributor of the foregoing, as identified in a Statement of Work/Proposal/Quotation.

24.2 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.