

## Fulfilment Services Agreement

This fulfilment services agreement ("Agreement") is between Deloitte Consulting Pty Ltd ACN 611 750 648 ("Deloitte") and the client ("Customer") named in an order form ("Order") for the purpose of purchasing the products (including any software, parts, components, accessories and any managed/professional services hereinafter referenced as "Products") specified in the appropriate Order. Customer acknowledges and agrees that the Products are the products of third party providers ("Provider") and are not proprietary to Deloitte.

WHEREAS, Deloitte will provide Products of the Provider to the Customer as mutually agreed in an Order. Each Order will form a separate agreement between Deloitte and the Customer and will incorporate the terms of this Agreement.

### 1. Price and Payment Terms

Prices for the Products will be as set out in the Order ("Fees") and payment in full is due within 30 days of receipt of an invoice. Interest will accrue on any amounts not paid by the due date at a rate of 2% over the Bank Bill Swap Rate published in the Australian Financial Review on the date payment is due.

### 2. Taxes

In addition to the Fees, Customer must pay any applicable taxes, duties or assessments however designed (except taxes levied against Deloitte income), including Goods and Services Tax and similar taxes in the manner and in the amount prescribed by law.

### 3. Shipment and delivery

Shipment and delivery will be in accordance with the Provider's standard delivery obligations. Risk of loss will pass to Customer at the time Provider transfers risk of loss in accordance with the Provider's terms and conditions.

Deloitte will not be liable for any failure of Provider to meet Customer's delivery dates. On delivery the Customer must within 3

working days inspect the Products and notify Deloitte of any damage to, or incorrect delivery of, the Products. Deloitte will liaise with the Provider and other relevant parties and use reasonable endeavours to resolve the damage or incorrect delivery.

### 4. Cancellations

The Customer may request to change or cancel an Order. However, the Customer acknowledges and agrees that Deloitte is not obligated to change or cancel an Order if the Order has been confirmed with the Provider. Any charges incurred by Deloitte as a result of changes or cancellations by the Customer (including any restocking fee levied by the Provider) will be borne by the Customer.

### 5. Title

Title to the purchased Products (or in respect of Products that are software, title to the media on which the software is delivered) shall pass to the Customer at the later of: (a) when the title passes to Deloitte from the Provider; or (b) when the Customer has made full payment of the Fees.

### 6. Use of Products

Customer warrants that the Products purchased hereunder are for its own internal use, and will not be resold or used on behalf of a third party in a managed services capacity.

### 7. End User Licence(s)

Deloitte does not purport to grant any licence to any Products under this Agreement. Customer agrees to be bound by and/or execute the Provider's end user licence agreement ("EULA") as required. Customer further acknowledges that under Deloitte's arrangements with its Providers Deloitte's supply of the Products may be contingent upon the Customer agreeing to the Provider's EULA. In such circumstances Deloitte will not be under any obligation to provide the Products to the Customer if the Customer does not, or refuses to, execute the EULA.

## 8. Warranties

- a) Deloitte is not the manufacturer or provider of the Products and makes no warranties of any kind with respect to the Products, which are provided by Deloitte "as is". Deloitte will not perform any related services and therefore makes no warranties of any kind with respect to such services. All products are covered by the Provider's warranty and to the extent possible Deloitte assigns to the Customer all warranties in the Product(s) provided by the Provider.
- b) Any representation, warranty, condition, or undertaking that would be implied into this Agreement by legislation, common law, equity, trade, custom, or usage is excluded to the maximum extent permitted by law. Notwithstanding the preceding sentence, in the event that the Products are subject to a Consumer Guarantee as defined in the Competition and Consumer Act 2010 (Cth) ("Australian Consumer Law"), nothing in this Agreement excludes, restricts, or attempts to modify any condition, warranty or other obligation in relation to the Products supplied. The following statement shall apply where the Products are deemed to be a consumer sale to Customer by Deloitte under the Australian Consumer Law: "Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure."

## 9. Termination

Either party may terminate this Agreement, without cause or for breach by the other party, upon thirty (30) days prior written notification to the other party. Upon such termination, any and all outstanding payments shall become due and payable. Termination will not affect the obligations of the parties in respect of any Order not yet completed, provided that if such termination is by Deloitte for Customer's breach then:

- (a) Deloitte may at its option cancel any outstanding Orders for Products; and (b) Customer shall be liable for any cancellation charges levied by the Provider in respect of such cancellations.

## 10. Indemnification

The Customer will indemnify and hold Deloitte harmless from and against any and all liability, loss and damages (including all legal expenses) arising out of the Customer's purchase, use or possession of the Products.

## 11. Limitation of Liability

- a) Nothing in Clause 11(b) will exclude or limit any liability which cannot by law be excluded or limited.
- b) Deloitte's liability for any claim arising out of or in connection with this Agreement, whether in contract (including any indemnity), tort (including negligence), or pursuant to statute, or strict liability, will not exceed the Fees for the Order under which the claim arises, and in no event will Deloitte be liable for: (i) any indirect, special, or consequential losses, or (ii) any lost profits, revenue or savings, even if the Customer has advised Deloitte of the possibility thereof.

## 12. Force Majeure

Except for the payment of the Fees, neither party shall be liable for any delays or failures in performance due to circumstances beyond its control.

## 13. General

- a) The Customer may not assign its rights or obligations under this Agreement without Deloitte's prior written consent.
- b) Deloitte's failure to exercise any of its rights hereunder shall not constitute or be deemed a waiver or forfeiture of such rights. If any provision of this Agreement shall be deemed or found invalid or unenforceable, the parties agree that all other provisions shall remain unimpaired and unaffected thereby.

- c) This Agreement and any attachment shall be construed in accordance with the laws of New South Wales, Australia and the parties hereby submit to the exclusive jurisdiction of the courts of New South Wales.
- d) This Agreement and any schedules constitute the entire understanding between the parties in respect of the subject matter hereof and supersede any previous communications, representations, or agreements by either party, whether oral or written, including any terms issued by the Customer in a purchase order. No change or modification of any of the terms or conditions herein shall be valid or binding on either party unless in writing and signed by an authorised representative of each party.
- e) Each Order constitutes the entire understanding between the parties in respect of the subject matter therein and supersedes any previous communications, representations, or agreements by either party, whether oral or written. No change or modification of any Order shall be valid or binding on either party unless in writing and signed by an authorised representative of each party.