

TERMS & CONDITIONS (General Terms)

These General Terms are between Baseline JS Pty Ltd (Base, we, us, our) and the Customer (you, your) that has executed a Proposal or Custom Collaboration Form that incorporates these General Terms by reference. You agree that the Schedules (as defined below) that are attached to these General Terms are incorporated into these General Terms.

1. Formation

1.1 We agree to sell and provide Software and Services and you agree to purchase and accept the Software and Services, in accordance with the Agreement.

1.2 Unless otherwise agreed in writing by us, the Agreement comprises of these General Terms, Proposal or Custom Collaboration Form (if any, including any variations thereto), the Schedules and our documents. As of the Effective Date, the following Schedules are incorporated into the Agreement: Schedule E – End User License Agreement and Schedule S – Services.

1.3 If there is any inconsistency between the provisions of these General Terms, the Proposal or Custom Collaboration Form, Schedules and our documents, the inconsistency will be resolved by applying the provisions of the Custom Collaboration Form or Proposal, these General Terms, Schedules, followed by our documents, to the extent of the inconsistency.

1.4 The Agreement constitutes the entire agreement between us in regards to the Software and Services supplied by us to you, and supersedes all prior understandings, arrangements and agreements with respect to the subject matter of the Agreement.

1.5 Unless we agree in writing to the contrary, no Customer Provisions form part of the Agreement. If we agree in writing that some or all of the Customer Provisions are to form part of the Agreement, then in the event there is any inconsistency between the Customer Provisions and the other provisions of the Agreement, the provisions of the Agreement will prevail to the extent of the inconsistency.

1.6 You can accept this Agreement by the earlier of (Effective Date):

- (a) signing and returning the Agreement to us;
- (b) confirming by email that you accept the Agreement;
- (c) confirming that you accept this Agreement via the platforms or applications through which we provide this Agreement to you, including our website;
- (d) instructing us in writing to proceed with the provision of the Services; or
- (e) making part or full payment of the fees set out in the Proposal or Custom Collaboration Form including expenses, if any.

2. Ownership

2.1 Base, Baseline or our licensors retain all ownership and intellectual property rights to the Software, Services, and anything developed or delivered under the Agreement.

3. Warranties, Conditions or Guarantees

3.1 To the maximum extent permitted by law and except for the express warranties in this Agreement, we provide the Software and Services on an "as-is" basis. We disclaim and make no other representation, promise, assurance, undertaking or warranty of any kind, express, implied or statutory, including representations, guarantees, conditions or warranties of merchantability, satisfactory quality, fitness for a particular purpose, title, non-infringement,

or accuracy.

3.2 We warrant that all Services provided by us will be provided with due care and skill. We will resolve faults discovered during the warranty period. A fault is defined as non-compliance to the documented requirements with reference to what has been included in the scope of work. Warranty expires 5 Business Days from date of delivery. To the extent permitted by law, your sole and exclusive remedy for breach of this warranty and our sole liability under or in connection with this warranty will be re-performance of the relevant Services.

3.3 Despite anything to the contrary, we will not be liable for, and you waive and release us from and against, any Liability caused or contributed to by, arising from or connected with:

- (a) your or your personnel's acts or omissions, including any instructions provided by you;
- (b) any use or application of the Services by a person or entity other than you, or other than as reasonably contemplated by this Agreement;
- (c) any works, services, goods, materials or items which do not form part of the Services (as expressed in this Agreement), or which have not been provided by us;
- (d) the loss of, corruption to, or errors in the Data;
- (e) any virus, fault or defect in any item in your System;
- (f) the Services being unavailable, or any delay in us providing the Services to you, for whatever reason; or
- (g) any event outside of our reasonable control.

3.4 If you are an Australian consumer, our goods and services come with guarantees that cannot be excluded under the Relevant Legislation. 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 or services repaired or replaced if the goods or services fail to be of acceptable quality and the failure does not amount to a major failure.

4. Limitation of Liability

4.1 To the maximum extent permitted by law:

- (a) neither Party will be liable for Consequential Loss;
- (b) a Party's liability for any Liability under this Agreement will be reduced proportionately to the extent the relevant Liability was caused or contributed to by the acts or omissions of the other Party (or any of its Personnel); and
- (c) our aggregate liability for any Liability arising from or in connection with this Agreement will be limited to us resupplying the Services to you or, in our sole discretion, repaying you the amount of the fees paid by you in respect of the supply of the relevant Software or Services to which the Liability relates.

5. Term and Termination

5.1 The Agreement term shall be defined in the Proposal or Custom Collaboration Form. For recurring Services or Software on a subscription basis, the term will automatically renew for successive one-year periods, or as otherwise set out in the Proposal or Custom Collaboration Form.

5.2 This Agreement will terminate immediately upon written notice by:

- (a) us, if:
 - (i) you (or any of your Personnel) breach any provision of this Agreement and that breach has not been remedied within 20 Business Days of being notified by us;

(ii) you fail to provide us with clear or timely instructions or information to enable us to provide the Services; or

(iii) for any other reason outside our control which has the effect of compromising our ability to provide the Services; and

(b) you, if we:

(i) are in breach of a material term of this Agreement, and that breach has not been remedied within 20 Business Days of being notified by you.

5.3 Upon expiry or termination of this Agreement:

(a) we are discharged from any further obligations under the Agreement;

(b) you agree that any payments made by you to us are not refundable to you, and you are to pay for all Software and Services provided prior to termination, including Services which have been provided and have not yet been invoiced to you, and all other amounts due and payable under this Agreement;

(c) in the case of Software licensed on a subscription basis, you are required to immediately cease using the Software and delete all copies of it;

(d) each Party agrees not to disparage or otherwise make any unfavourable statements or comments regarding the other Party, their Personnel, their clients, either directly or by implication, verbally or in writing; and

(e) each Party agrees to promptly return to (where possible), or delete or destroy (where not possible to return), any of the other Party's property (including any Confidential Information, and any Intellectual Property).

5.4 We will retain your documents (including copies) as required by law or regulatory requirements. Your express or implied agreement to this Agreement constitutes your authority for us to retain or destroy documents in accordance with the statutory periods, or on expiry or termination of this Agreement.

5.5 Termination of this Agreement will not affect any rights or liabilities that a Party has accrued under it.

6. Suspension of Services

6.1 We may, by written notice, suspend the provision of any or all Services, if any undisputed charges due to us under this Agreement become overdue by more than 30 days.

6.2 Once all outstanding charges are paid by you, we will end the suspension.

6.3 The right to suspend under this clause 6.1 is in addition to, and not instead of, our rights to terminate this Agreement under clause 5.2. We are not obliged to exercise our rights to suspend under this clause 6.1 as a precondition to exercising any right of termination under clause 5.2, and exercising of our rights to suspend under this clause is without prejudice to any right of termination under clause 5.2.

7. Delivery

7.1 Software Delivery. Except as otherwise provided in a Proposal or Custom Collaboration Form, Software will be made available to you for electronic access within thirty (30) days from the execution date of the Agreement. Upon making the Software available via electronic access, our delivery obligations shall be considered discharged.

7.2 Services Delivery. When providing Services as outlined in a Proposal or Custom Collaboration Form, we may utilise a combination of remote and onsite services.

8. Charges & Payment

8.1 You agree to pay us the fees set out in the Proposal or Custom Collaboration Form.

8.2 Recurring Services and subscription Software fees are subject to an annual increase based on the Consumer Price Index (CPI) on each anniversary from the Effective Date of the Agreement.

8.3 All charges are due and payable within 14 days of the date of invoice and are not refundable.

8.4 Overdue payments will attract interest at the annual rate of 3% above the prevailing base lending rate provided by our principal banker.

8.5 Unless otherwise agreed in writing by us, payment for Services are due prior to the performance of the Services.

8.6 Recurring Services charges including maintenance and support services are invoiced fortnightly or as otherwise specified in the Proposal or Custom Collaboration Form.

8.7 If you fail to make a payment in accordance with this Agreement, we may, in our sole discretion refuse further supply under the Agreement and/or terminate the Agreement without notice.

8.8 If you believe in good faith that we have incorrectly invoiced you, you must contact us in writing within 14 days of the invoice date specifying the error or request for clarification of the invoice, failing which the invoice shall be deemed to be correct and shall be due for payment in full forthwith.

8.9 All charges are exclusive of taxes, duties, fees or other government levies or charges, including without limitation any GST, stamp duty or otherwise, which may be imposed on or in respect of Software or Services provided under this Agreement. Such taxes, duties, fees or other government charges shall to the extent permissible by law be paid by you to us.

9. Confidentiality

9.1 The receiving Party will treat Confidential Information with reasonable care and disclose only on a need to know basis or as permitted under this Agreement. The receiving Party will only use Confidential Information for the purposes of performing its obligations or as permitted under this Agreement. However, a receiving Party may disclose Confidential Information of the disclosing Party:

(a) if approved in writing by the disclosing Party;

(b) if required by law or regulation;

(c) in the event of dispute between the Parties, as necessary to establish the rights of either Party; or

(d) as necessary to provide the Deliverables to the Customer.

In the case of subclause (b) and (c), the receiving Party will provide reasonable advance notice to the other party and provide reasonable assistance to limit the scope of the disclosure unless prohibited by law or regulation.

10. Your responsibilities

10.1 You agree to:

(a) comply with this Agreement, our reasonable requests or requirements, and all applicable laws;

(b) provide all assistance, information, documentation, access, facilities, authorities, consents, licenses and permissions reasonably necessary to enable us to comply with our obligations under this Agreement or at law, including access to your premises if necessary;

(c) provide and maintain any items to be supplied by you at the times and in accordance with the requirements stated in the Proposal or Custom Collaboration Form, including enforcement of any agreement with a third party under which products or services (including but not limited to license, support and maintenance agreements) of that third party are being provided to us; and

(d) be responsible for complying with any applicable industry codes or standards.

10.2 If the provision of the Services depends on you carrying out your obligation under clause 10.1(b) and you breach your obligation under clause 10.1(b), we will be entitled to an extension of time in respect of any deadline or milestone to the extent of the delay caused by the you.

11. Non-Solicitation

11.1 During the period commencing on Effective Date and expiring twelve (12) months after the termination of this Agreement (Restraint Period), you shall not solicit for employment, whether directly or indirectly through an associated or subsidiary company or otherwise, any person who is or was employed or contracted by us during the term of this Agreement.

11.2 You shall promptly advise us if a person who is or was employed or contracted by us seeks to be employed or contracted by you prior to the expiration of Restraint Period.

11.3 During Restraint Period, we shall not solicit for employment, whether directly or indirectly through an associated or subsidiary company or otherwise, any person who is or was employed or contracted by you during the term of this Agreement.

11.4 We shall promptly advise you if a person who is or was employed or contracted by you seeks to be employed or contracted by us prior to the expiration of Restraint Period.

11.5 The parties agree that the amount paid to the personnel in the twelve (12) months preceding a breach of clause 11.1 or 11.3 (the "Fixed Damages"), is a reasonable estimation of damage caused by a breach of clause 11.1 or 11.3 by either party. Therefore, the parties agree to pay the affected party the Fixed Damages as liquidated damages for any breach of clause 11.1 or 11.3.

12. General

12.1 Amendment. This Agreement may only be amended by written instrument executed by the Parties.

12.2 Assignment, Novation and Sub-Agreements. A Party may only assign, novate, sub-license or sub-contract its rights and obligations under this Agreement with the prior written consent of the other party, which will not be unreasonably withheld.

12.3 Counterpart. This Agreement may be executed in one or more counterparts taken together constitutes the same agreement. The Parties may sign this Agreement using an electronic or handwritten signature, which are of equal effect, whether on original or electronic copies. This Agreement may be executed by means of such third-party online document execution service as we nominate.

12.4 Disputes. If a dispute arises, the parties must attempt to resolve it by discussion and negotiation, and through mediation before commencing legal proceedings. If the Parties cannot agree on a mediator, the dispute will be referred to the President, Australian Commercial Disputes Centre, Sydney to nominate a suitably qualified mediator. Nothing in this clause will operate to prevent a Party from seeking urgent injunctive or equitable relief from a court of appropriate jurisdiction.

12.5 Entire Agreement. This Agreement constitutes the entire agreement between the

parties for the subject matter referred to in this Agreement. Any prior arrangements, agreements, representations or undertakings are superseded. This Agreement is not to be construed as creating a joint venture, partnership or agency situation between the Parties and neither Party may represent such. Under no circumstances may any Party obligate or bind the other Party to any agreements, arrangements, contracts or understanding or represent that they have such authority.

12.6 Force Majeure. We will not be liable for any delay or failure to perform our obligations under this Agreement if such delay is due to any circumstance beyond our reasonable control.

12.7 Governing Law. This Agreement shall be governed by and construed according to the law of the State of NSW, Australia. The Parties irrevocably submits to the exclusive jurisdiction of the Courts of that state.

12.8 Notices. Any notice given under this Agreement must be in writing addressed to the relevant address last notified by the recipient to the Parties. Any notice may be sent by standard post or email, and will be deemed to have been served on the expiry of 48 hours in the case of post, or at the time of transmission in the case of transmission by email.

12.9 Privacy. The Parties agree to comply with the legal requirements of the Australian Privacy Principles as set out in the Privacy Act 1988 (Cth) and any other applicable legislation or privacy guidelines (Privacy Laws). You consent to our use of your personal information in accordance with our Privacy Policy and agree that you are responsible for obtaining the consent of any third parties, whose personal information you provide to us, to use their personal information in accordance with our Privacy Policy.

12.10 Publicity. You agree that we may advertise or publicize the broad nature of our provision of the Services to you, including on our website or in our promotional material.

12.11 Referrals. On request by you, we may provide you with contact details of third-party specialists. This is not a recommendation by us for you to seek their advice or to use their services. We make no representation or warranty about the third-party advice or provision of services, and we disclaim all responsibility and Liability for the third-party advice or provision of services, or failure to advise or provide services.

12.12 Severability. If any term of this Agreement is held invalid or unenforceable for any reason, the remainder of the term and this Agreement will continue in full force and effect.

12.13 Survival. The provisions of this Agreement which are capable of having effect after the expiration of this Agreement shall remain in full force and effect following the expiration of this Agreement.

12.14 Updates. We may update these General Terms from time to time. The updated version will be indicated by an updated "Revised" date and the updated version will be effective as soon as it is accessible. If we make material changes to these General Terms, we may notify you either by prominently posting a notice of such changes or by directly sending you a notification.

12.15 Waiver, Modification. Neither Party's waiver of the breach of any provision constitutes a waiver of that provision in any other instance. This Agreement may not be modified nor any rights under it waived, in whole or in part, except in writing signed by the Parties.

13. Definitions

Business Day means a day on which banks are open for general banking business in New South Wales, excluding Saturdays, Sundays and public holidays.

Confidential Information means information in any format (including oral information), which is not publicly known, that by its nature is confidential or in respect of which the party knows or ought to know is confidential; or information that is designated by the relevant party as confidential.

Consequential Loss includes any consequential loss, indirect loss, real or anticipated loss of profit, loss of benefit, loss of revenue, loss of business, loss of goodwill, loss of opportunity, loss of savings, loss of reputation, loss of use and/or loss or corruption of data, whether under statute, contract, equity, tort (including negligence), indemnity or otherwise.

Custom Collaboration Form means a custom order including any variations or additional terms and conditions as agreed between the parties.

Customer Provisions means the provisions of any of the Customer's terms of trade provided by the Customer or on its behalf, whether or not those provisions are attached to or referred to in the Custom Collaboration Form or any other instrument.

Data means all of the information, documents and other data, including any personal information, provided or uploaded by you or your Personnel to us or our Systems or otherwise accessed by us in providing the Services.

Intellectual Property means any domain names, know-how, inventions, processes, trade secrets or Confidential Information; or circuit layouts, software, computer programs, databases or source codes, including any application, or right to apply, for registration of, and any improvements, enhancements or modifications of, the foregoing.

Liability means any expense, cost, liability, loss, damage, claim, notice, entitlement, investigation, demand, proceeding or judgment (whether under statute, contract, equity, tort (including negligence), indemnity or otherwise), howsoever arising, whether direct or indirect and/or whether present, unascertained, future or contingent and whether involving a third party or a Party to this Agreement or otherwise.

Privacy Policy means our privacy policy, which is available on our website and updated from time to time.

Proposal means a quotation, work order or statement of work document setting out the services and the associated fees to be delivered to you.

Relevant Legislation means the Competition & Consumer Act 2010 (Cth) and any other relevant legislation that implies warranties, conditions or guarantees in respect of the Deliverables or the Agreement and that may not be excluded or only excluded to a limited extent.

Schedules refers to our Schedules to these General Terms.

Services refers to technical support, education, consulting, or other services which you have ordered.

Software refers to the software owned by Baseline that you have ordered, as described in the Proposal or Custom Collaboration Form.

System means all hardware, software, networks, and other IT systems used by a Party from time to time, including a network

SCHEDULE E – BASELINE END USER LICENSE AGREEMENT (EULA)

This Baseline EULA (this "Schedule E") is a Schedule to the General Terms. This Schedule E shall co-terminate with the General Terms. Capitalised terms used but not defined in this Schedule E have the meanings set forth in the General Terms.

1. Background

1.1 We have created an in-source proprietary software framework called Baseline.

1.2 We own or have rights to license the Intellectual Property rights in Baseline.

1.3 We agree to license Baseline to you on the terms and conditions of this EULA.

2. License Grant

2.1 Perpetual Licence. For Baseline identified in the Proposal or Custom Collaboration Form for a one-off fee, we grant you a perpetual, non-exclusive, non-sublicensable and non-transferable license to use, compile, modify, improve and enhance Baseline solely for your own internal business purposes including commercial use.

2.2 Subscription Licence. For Baseline identified in the Proposal or Custom Collaboration Form as subscription fees, we grant you a non-exclusive, non-sublicensable and non-transferable right to use, compile, modify, improve and enhance Baseline solely for your own internal business purposes including commercial use.

2.3 Personal Use Licence. We may, in our sole discretion make Baseline available for personal use ("Personal Use license"). You may only use Baseline made available under a Personal Use license for your own non-commercial use and not for any other purposes. A Personal Use license may be used for personal projects that do not have any monetary, commercial, or business outcome. The Personal Use license prohibits any commercial use of the Baseline, including but not limited to selling or licensing Baseline, using it to provide services to others, or using it in a commercial environment. If you wish to use the Personal Use license beyond the scope defined in this clause, you must purchase a perpetual or subscription licence from us.

2.4 You acknowledge that ownership in Baseline and any Updates we provide does not pass to you and you must use Baseline and any Updates only in accordance with this EULA.

2.5 We will provide you with the source code for Baseline, as identified in the Proposal or Custom Collaboration Form.

2.6 You must not, nor permit any other person to:

(a) publish or communicate to the public Baseline;

(b) disclose or sub-license, lease, rent, loan, assign or otherwise transfer Baseline to any third person or entity; or

(c) do anything that would prejudice our right, title or interest in the Baseline.

2.7 You must not remove, alter, obscure or deface any:

(a) trade mark, service mark, logo or branding, proprietary or restricted use legend; or

(b) any disclaimer, warning, instruction or advisory notice, on Baseline or on any other materials provided under the EULA.

2.8 You will indemnify us and hold us harmless from any liabilities, damages, costs, and expenses that we may suffer or incur as a result of the information supplied by you, or due to the combination or use of Baseline with your equipment or software not supplied by us, as well as any modifications you make to Baseline that result in the infringement of any person's Intellectual Property.

3. Updates and Technical Support

3.1 We will provide access to Updates for Baseline at our sole discretion. The availability and delivery of Updates shall be determined by us, and we are under no obligation to provide specific Updates.

3.2 Unless explicitly stated in the Proposal or Custom Collaboration Form, Technical Support

for Baseline is not included.

3.3 If you have made any modifications to Baseline, the use of Updates is solely at your discretion and responsibility. We do not guarantee the compatibility or effectiveness of Updates on modified Baseline, and any risks or consequences arising from such use are entirely your responsibility.

4. Your Obligations and Warranties

4.1 You represent, warrant, acknowledge and agree that:

- (a) you will be responsible for the use of any part of the Baseline, and you must ensure that no person, uses any part of the Baseline to break any law or infringe any person's rights (including Intellectual Property rights and privacy rights) or in any way that damages, interferes with or interrupts the supply of the Baseline;
- (b) there are no legal restrictions preventing you from agreeing to this EULA;
- (c) you have not relied on any representations or warranties made by us in relation to the Baseline (including as to whether the Baseline are or will be fit or suitable for your particular purposes), unless expressly stipulated in the Proposal or Custom Collaboration Form;
- (d) you will not do, or omit to do, anything that would likely damage, negatively impact on, or bring into disrepute our reputation, brand or image or the reputation, brand or image of our business or the Baseline;
- (e) you will comply with all of our reasonable directions as to the use of the Baseline;
- (f) the Baseline is provided to you solely for your benefit and you will not (or you will not attempt to) disclose, or provide access to, our Baseline to third parties without our prior written consent; and
- (g) you have all hardware, software, services and systems which are necessary to access and use the Baseline (other than those expressly required to be provided by us as specified in the Proposal or Custom Collaboration Form).

5. Warranty Exclusions

5.1 We expressly exclude any warranty that Baseline:

- (a) will be error free;
- (b) will operate without interruption;
- (c) will correct all program errors;
- (d) will be compatible with any hardware, software or data not supplied by us; and
- (e) will meet your requirements.

5.2 We will not be liable for any breach of the EULA which arises as a result of:

- (a) modifications to the Baseline that were made or attempted by a person other than us;
- (b) any act, error, fault, neglect, misuse or omission by you;
- (c) damage caused by the operation of Baseline other than in accordance with our recommended operating procedures;
- (d) any virus, denial of service attack or other malicious act that adversely affects Baseline
- (e) your improper use or mismanagement; or
- (f) a Force Majeure event.

5.3 Personal Use Licenses are provided without warranty or remedy of any kind.

5.4 Any modifications made by you to Baseline will void any warranty obligations by us. You acknowledge that any alterations, adjustments, or changes to Baseline, whether performed by you or a third party on your behalf, release us from any responsibility for warranty coverage or remedies related to such modifications.

5.5 IF ANY LIMITATION, EXCLUSION, DISCLAIMER OR OTHER PROVISION CONTAINED IN THIS EULA IS HELD TO BE INVALID FOR ANY REASON BY A COURT OF COMPETENT JURISDICTION AND WE BECOME LIABLE THEREFORE FOR LOSS OR DAMAGE RELATING TO BASELINE, SUCH LIABILITY WHETHER IN CONTRACT, TORT OR OTHERWISE, WILL NOT EXCEED ONE HUNDRED DOLLARS (AU\$100).

6. Definitions

Technical Support refers to assistance and guidance provided by us to help resolve technical issues and provide general support related to the use and functionality of Baseline.

Updates means any development, modification, adaptation or improvement of the Baseline made by us or any of our personnel.