Master Terms and Conditions

Effective Date: [As per Quote Instrument]

This Master Services Agreement ("Agreement") establishes the terms and conditions under which Pan Software Pty Limited will provide services and/or products to the Customer. This Agreement is entered into by:

(1) Pan Software Pty Limited, registered in Australia with Australian Business Number (ABN) 21 053 520 734 as specified, having its principal place of business at Level 2, 351 Burwood Highway, Forest Hill, Australia ("Pan Software"); email for notices: sales@pansoftware.com.au; and

(2) Customer, as identified and described in the corresponding Quote Instrument, Proposal, Transaction Document, or other commercial instrument ("Customer"); email for notices: [As specified in Quote Instrument].

The terms and conditions set forth in this Agreement shall be considered binding upon both parties upon Customer's acceptance of a Quote Instrument, Proposal, Transaction Document, or any other commercial instrument provided by Pan Software that references this Agreement.

Introduction

PAN Software Pty Ltd holds the rightful ownership and authority to license the Software. The company has agreed to allow the Customer to use the Software under the conditions mentioned in this Agreement, along with providing Services as per the terms and conditions of this Agreement.

NOW IT IS HEREBY AGREED as follows:

1   Definitions and Interpretation

In this Agreement, the following expressions have the following meanings:

"Affiliate" means in relation to either party, each and any subsidiary or holding company of that party and each and any subsidiary of a holding company of that party, where "subsidiary" and "holding company" have the meanings given in the *Corporations Act 2001 (Cth)*.

"Business Day" means any day (other than a Saturday or Sunday, public holiday in Australia or designated bank holiday in Australia) on which banks in Sydney are physically open for the transaction of general banking business.

"Charges" refers to the fees specified in the corresponding Quote instrument.

"Confidential Information" means all confidential and proprietary information of a party disclosed to the other party, whether orally or in writing, that is either marked or designated as confidential or is identified in writing as confidential or proprietary or that a reasonable person would deem confidential or proprietary given the nature of the information and the circumstances under which it is disclosed, and including in respect of PAN Software Pty Ltd trade secrets and know-how (including the concepts, techniques and ideas embodied in the Software and the structure, sequence and organisation of the Software).

"Customer Data" means the data inputted into the information fields of the Software by the Customer, by Users, or by PAN Software Pty Ltd on the Customer's behalf.

"Date of Disposal" means the date on which a Divested Entity ceases to be an Affiliate of the Customer or ceases to be owned by the Customer.

"Divested Entity" means any (a) company which at any time is an Affiliate of the Customer, and which ceases to be an Affiliate of the Customer, or (b) business or undertaking which at any time is owned by the Customer, and which ceases to be owned by the Customer.

"Documentation" means any documentation provided by PAN Software Pty Ltd to the Customer with the

Software.

"GST" means Goods and Services Tax as imposed by GST Law.

"GST Law" has the meaning set out in the *A New Tax System (Goods and Services Tax) Act 1999*.

"Hosting Provider" means such third party as PAN Software Pty Ltd may contract from time to time to provide the Hosting Services, including (as will be notified to the Customer) Amazon Web Services, Microsoft Azure or any other provider, and any replacement from time to time.

"Hosting Services" means the hosting services provided by PAN Software Pty Ltd in respect of the Software.

"Implementation Fees" means the charges for the Implementation Services as set out in the relevant Statement of Work, Quote, or Proposal.

"Implementation Services" means the installation, configuration and training services to be provided by PAN Software Pty Ltd in respect of the Software in accordance with clause 2.

"Insolvency Event" means being in liquidation or provisional liquidation or under administration, having a controller (as defined in the *Corporations Act 2001 (Cth)*) or analogous person appointed to a company or any of its property, being taken under section 459F(1) of the *Corporations Act 2001 (Cth)* to have failed to comply with a statutory demand, being unable to pay its debts as and when they fall due or otherwise insolvent, the taking of any step that could result in a company becoming an insolvent under administration (as defined in section 9 of the *Corporations Act 2001 (Cth)*), entering into a compromise or arrangement with, or assignment for the benefit of, any of its creditors, or any analogous event, provided that a compromise or arrangement is not an Insolvency Event if it does not prejudice the interests of any creditors.

"Intellectual Property Rights" means inventions, patents, technical information and know-how of all descriptions, utility models, trademarks, service marks, rights in design (registered and unregistered), copyrights (including all rights in computer software), database rights, business and trade names and associated goodwill, domain names and all other industrial or intellectual property or other rights or forms of protection of a similar effect in any part of the world and all rights in relation to any of them, applications to register any of them and the rights to apply for or claim priority in respect of any of them.

"Licence Period" means the licence period set out in the relevant Quote.

"Maintenance and Support Services" means the maintenance and support services provided by PAN Software Pty Ltd in respect of the Software.

"Maintenance Release" means a release of the Software which corrects faults, adds functionality or otherwise amends or upgrades the Software, but which does not constitute a Major Release.

"Major Release" means any new version of the Software which from time to time may be publicly marketed and offered for purchase by PAN Software Pty Ltd. A Major Release shall be described with a major release number prefix and a lower number for the version. New modules released by PAN Software Pty Ltd from time to time that provide complementary but separate functionality to the Software referenced in a Transaction Document do not constitute Major Releases and such new modules must be licensed as separate items of "Software".

"Modification" means a Maintenance Release or a Major Release.

"Professional Services" means professional services, other than Implementation Services and Maintenance and Support Services, requested by the Customer from time to time and set out in an agreed Statement of Work.

"Roles Schedule" means PAN Software Pty Ltd's standard roles schedule setting out the roles and authorities attaching to each licence granted to the Customer, a copy of which is available on request.

"Service Credits" means credits payable for failure to meet the Service Levels for availability of the Hosting Services, as provided in the Support Policy.

"Service Levels" means the availability service levels for the Hosting Services provided in the Support Policy.

"Services" means the Professional Services, the Maintenance and Support Services and the Implementation Services, or such of them as the context requires.

"Software" refers to the software mentioned in a quote signed by both parties in the form specified in the relevant pricing document, as well as any modifications acquired by the customer or provided by PAN Software Pty Ltd during the term. Any spelling, grammar, or punctuation errors have been corrected.

"Standard Support Hours" means 9am to 5.30pm on Working Days (and "Standard Support Hour" shall mean any of these hours).

"Statement of Work" means a statement of work provided in respect of the Implementation Services and any other Professional Services requested by the Customer from time to time.

"Support Policy" means PAN Software Pty Ltd.'s standard support policy for the Software, a copy of which will be provided to the Customer on the Effective Date and is available on the Support Portal.

"Support Portal" means PAN Software Pty Ltd.'s support portal, log in details for which will be provided to the Customer.

From the Effective Date, "Term" refers to a specific period, such as 12 or 36 months.

"User" means any employee, agent or independent contractor of the Customer authorised under this Agreement to access and use the Software through the Hosting Services via a designated log-in.

"Working Day" means a normal working day in the country of the Customer, other than Christmas Day.

"Quote": The term "Quote" as used in this Agreement shall mean any document that sets forth the commercial terms for provision of services and/or goods by Pan Software Pty Ltd to the Client. This includes, but is not limited to, Transaction Documents, Proposals, Tender Responses, Statements of Work, Service Level Agreements, Purchase Orders, and any other instruments that detail pricing, scope, deliverables, or obligations with respect to the services and/or goods provided by Pan Software Pty Ltd.

1.1   The Schedules referencing this Agreement are an integral part of the Agreement itself. They should be read as though they are included in the main text of the Agreement. Therefore, any mention of this Agreement also includes references to these attached Schedules.

1.2   Whenever words like "including," "include," "in particular," "for example," or any similar terms are used in this Agreement, they are to be understood as introducing examples. These examples are not limiting or exclusive; they serve merely to illustrate the broader context of the preceding words, phrases, or terms.

1.1   A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time, and shall include all subordinate legislation made from time to time under that statute or statutory provision.

1.2   All headings in this Agreement are for ease of reference only and shall not affect the interpretation or construction of this Agreement.

1.3   Unless the context otherwise requires, words in the singular shall include the plural and words in the plural shall include the singular, and a reference to one gender shall include a reference to the other genders.

1.4   Each Statement of Work and Transaction Document signed between the parties' forms part of this Agreement and are subject to its terms. If there is any inconsistency between the terms of this Agreement on the one hand and any Statement of Work or Transaction Document on the other the terms of the Statement of Work or Transaction Document shall prevail.

1.3   Any reference to dollars or $ is to Australian dollars unless otherwise expressly provided.

2   Implementation Services

2.1   PAN Software Pty Ltd will make a reasonable effort to deliver the Implementation Services as described in the relevant Statement of Work, Proposal, Transaction Document, or any other instrument defining implementation services. While PAN Software Pty Ltd will aim to meet any performance, dates outlined in these instruments, it is important to note that such dates are only estimates and not guarantees.

2.2   PAN Software Pty Ltd shall:

2.2.1   Upon reaching a minimum annual license spend of $35,000, PAN Software Pty Ltd will assign a dedicated Account Manager who will serve as the Customer's primary point of contact for all matters related to the Implementation Services.

2.2.2   Promptly inform the Customer of the absence (or anticipated absence) of such manager and for such period of absence, provide a suitably qualified replacement;

2.2.3   observe and ensure that its personnel observe all health and safety rules and reasonable security requirements that apply at the Customer's premises and that are made known to it prior to the commencement of the Implementation Services; and

2.2.4   before each date on which the Implementation Services are to start, obtain, and always maintain, all necessary licences and consents and comply with all relevant legislation in relation to the Implementation Services.

2.3   Each Statement of Work will set forth the projected work effort and schedule applicable to the Implementation Services. All statements and agreements in respect of performance times are good faith estimates based upon information available and circumstances existing at the time made, and each Statement of Work is subject to equitable adjustment upon any material change in such information or circumstances, the occurrence of an excusable delay or upon modification of the scope, timing or level of work to be performed by PAN Software Pty Ltd. Either party will be entitled to propose changes to a signed Statement of Work. It is mutually acknowledged that any such change may affect the Implementation Fees payable under the applicable Statement of Work. Neither party shall have any obligation respecting any change until an appropriate change order or amendment to the applicable Statement of Work is executed and delivered by both parties.

2.4   If PAN Software Pty Ltd experiences delays or cannot complete the Implementation Services due to the Customer's lack of timely cooperation, such as not providing necessary information, equipment, or facility access, then PAN Software Pty Ltd will not be held responsible for these delays or failures. This also applies if any assumptions stated in any Statement of Work, Proposal, or other guiding document turn out to be incorrect. The Customer should be aware that such delays or failures could incur additional Implementation Fees. If any such issues arise, PAN Software Pty Ltd will promptly inform the Customer.

2.5   For any Implementation Services that may require PAN Software Pty Ltd.'s personnel to be present at the Customer's sites, the Customer is responsible for ensuring the safety of those sites. The Customer shall also provide:

2.5.1   Reasonable access to and use of essential facilities and information, which may include but is not limited to, software, hardware, documentation, and an adequate Internet connection.

2.5.2   Any additional requirements as specified in a Statement of Work, Proposal, or other guiding documents.

2.6   The Customer will ensure that all Customer personnel who may be required for the successful completion of the Implementation Services will, on reasonable notice and in a timely manner:

2.6.1   be available to assist PAN Software Pty Ltd's personnel by answering business, technical and operational questions and providing requested documents, guidelines and procedures;

2.6.2   participate in the Implementation Services as outlined in the relevant Statement of Work;

2.6.3   participate in progress and other Implementation Services related meetings as defined in the relevant Statement of Work; and

2.6.4   be available to assist PAN Software Pty Ltd with any other activities or tasks required to complete the Implementation Services in accordance with the relevant Statement of Work.

2.7   The Customer is required to actively collaborate with PAN Software Pty Ltd for the successful delivery of the Implementation Services. This collaboration extends to ensuring that any third parties involved also work cooperatively with PAN Software Pty Ltd. In addition, the Customer must promptly and accurately provide any information that PAN Software Pty Ltd needs to perform these services.

2.8   If the Customer requests PAN Software Pty Ltd to provide Professional Services, it shall inform PAN Software Pty Ltd and where PAN Software Pty Ltd agrees to provide such Professional Services the parties shall seek to agree a Statement of Work. Once a Statement of Work is agreed and signed between the parties PAN Software Pty Ltd shall provide the relevant Professional Services in accordance with this clause 2, with the words "Implementation Services" being read as replaced with the words "Professional Services".

3   Licence

3.1   PAN Software Pty Ltd hereby grants to the Customer for the Licence Period set out in the relevant Transaction Document a personal, non-transferable, non-exclusive licence to access and use the Software and the Documentation through the Hosting Services for its own internal business purposes only, and in particular where relevant for the purpose set out in the relevant Transaction Document, subject to the terms and conditions of this Agreement.

3.2   The Customer acknowledges that they are granted a license to allow a specific number of Users, as indicated in the quote or proposal at the time of signing, to access the Software and Documentation via the Hosting Services. User permissions will be aligned with the user types listed in the said quote or proposal. Should additional licenses be needed, these can be acquired at PAN Software Pty Ltd.'s current fee rates or as mutually agreed upon. PAN Software Pty Ltd reserves the right to make changes to the user types, but any changes that would significantly and negatively impact the Customer will not be implemented without providing at least two months of prior written notice.

3.3   Each individual who accesses the Software is counted as a unique User, whether they access it directly or indirectly. Exceptions can be made for people who benefit from the Software without directly using it; these individuals are classified as "Beneficiaries." Sharing of login credentials is not allowed. Additional fees may apply for Beneficiaries. Whenever this Agreement mentions "Users," it also includes Beneficiaries, unless specified otherwise. Beneficiaries are not allowed to directly access the Software.

3.4   The Customer shall:

3.4.1   Ensure that the number of persons accessing and using the Software does not exceed the number of Users for which the Customer has paid the Charges, and shall act reasonably in redesignating Users;

3.4.2   Ensure that each User keeps a secure password for their access and use of the Software, that such password is changed no less frequently than monthly, and that each User keeps their password confidential;

3.4.3   Ensure that Users do not exceed their authorities or roles set out in the quote;

3.4.4   Ensure that it meets the system requirements and pre-requisites for the Software as notified to it from time to time by PAN Software Pty Ltd and

3.4.5   Keep a complete and accurate record of the Customer's Users and produce such record to PAN Software Pty Ltd on request from time to time.

3.5   The Customer may allow its affiliated companies involved in the same project to use the Software and Documentation, if it stays within the allowed number of Users specified in the related Transaction Documents. The Customer will be held responsible for any violations of this Agreement by these affiliated companies.

3.6   In addition to clause 3.5, the Customer may extend a sub-license for the Software and Documentation to any Divested Entity engaged in the same business activity or related tasks for which PAN Software Pty Ltd provides access to and use of the Software. This sub-license is valid for up to six months from the Date of Disposal, subject to strict compliance with this Agreement and not exceeding the permitted number of Users specified in the relevant Transaction Documents. The Customer will be held accountable for any violations of this Agreement by such Divested Entity.

3.7   Unless agreed otherwise by PAN Software Pty Ltd, the Customer is responsible for obtaining and paying for any other software required to access and use the Software, including any operating system, database, or third-party application software.

4   Copying the Documentation

4.1   The Customer is permitted to duplicate the Documentation only for legitimate internal use.

4.2   The Customer further acknowledges and agrees that:

4.2.1   All copies must include the original copyright symbols and any ownership or legal disclaimers present in the original Documentation;

4.2.2   This Agreement applies equally to the original and any copies of the Documentation.

4.2.3   The Customer must maintain sole custody of, and restrict access to, any copies of the Documentation. Adequate precautions must be taken to prevent unauthorized persons from accessing or using them.

5   Maintenance and Support Services

5.1   Unless specified differently in the relevant transactional documents, and subject to any early termination of this Agreement, PAN Software Pty Ltd will offer Maintenance and Support Services for the agreed License Period under the terms of this Agreement, with reference to the Support Policy. The Customer should note that these services will be subcontracted out by PAN Software Pty Ltd, who remains accountable for any contractual breaches resulting from the actions or failures of its subcontractors.

5.2   If the Customer breaches the agreement and as a result, PAN Software Pty Ltd terminates Maintenance and Support Services, the Customer may face a re-commencement fee if they later wish to restart these services. The fee can be up to 200% of the fees that would have been due during the unsupported period. This is to account for the effort required to update any software releases that occurred during the time support was not provided.

5.3   PAN Software Pty Ltd will offer Maintenance and Support Services during regular support hours.

Any support provided outside of these hours is at our discretion and may come with additional fees at standard rates.

5.4 PAN Software Pty Ltd can change the Support Policy at any time. The version available on the Support Portal is the one you are held to. However, we will not

5.5 The Customer shall:

5.5.1 notify PAN Software Pty Ltd promptly of any fault in the Software or the Hosting Services which requires PAN Software Pty Ltd to provide Maintenance and Support Services;

5.5.2 comply with the Support Policy;

5.5.3 provide reasonable co-operation to PAN Software Pty Ltd to assist diagnosis and replication of any fault; and

5.5.4 Provide PAN Software Pty Ltd with remote access to the Software as needed to perform the Maintenance and Support Services. On-site access will not be required but, if it becomes necessary, the Customer will also provide PAN Software Pty Ltd with the necessary access to its premises

5.6 In addition to any exclusions in the Support Policy, the Maintenance and Support Services do not include:

5.6.1

5.6.2 Diagnosis or rectification of problems not attributable to the Software or the Hosting Services;

5.6.3 Any modifications by the Customer or a third party to the Software not authorised in writing by PAN Software Pty Ltd;

5.6.4 Any fault which occurs when the Software is interacting with equipment and/or software not supplied or approved by PAN Software Pty Ltd;

5.6.5 Any fault arising from the Customer's breach of this Agreement or operator error; or

5.6.6 Rectification or restoration of lost or corrupted data to the extent not caused by the Software or PAN Software Pty Ltd.

5.7 Any additional services that PAN Software Pty Ltd provides to the Customer covering the matters in clause 5.6 shall be provided under and on the basis of the terms in this Agreement and shall be charged for by PAN Software Pty Ltd at its then standard rates for such additional services.

6 Implementation Fees and Charges

6.1 As payment for the Implementation Services, the Customer is required to pay the specified Implementation Fees. Additionally, the Customer will cover any reasonable expenses, such as travel and accommodation, that PAN Software Pty Ltd incurs while providing these services. Any other costs eligible for reimbursement will be outlined in each respective Statement of Work.

6.2 PAN Software Pty Ltd will invoice the Customer for all Implementation Fees and reimbursable items payable to PAN Software Pty Ltd on a monthly basis or as otherwise set out in a Statement of Work.

6.3 In return for the license to use the Software, along with Maintenance and Support Services, the Customer shall pay the specified Charges, as detailed in the relevant Transaction Document. These Charges will remain fixed regardless of any decrease in the number of Users unless PAN Software Pty Ltd explicitly agrees to a reduction. If the Charges are calculated based on the total number of

the Customer's employees, the Customer must promptly inform PAN Software Pty Ltd if the employee count increases, leading to a new pricing bracket. The Customer will then be obligated to pay the adjusted Charges accordingly. No refunds will be issued if the employee count decreases

6.4   Payment to PAN Software Pty Ltd is only deemed complete upon receipt of cleared funds. The stated Charges do not cover any travel or living expenses that may be incurred reasonably during the provision of Maintenance and Support Services; these will be invoiced separately to the Customer for reimbursement. Additionally, PAN Software Pty Ltd reserves the right to adjust the Charges annually. The Customer will be notified at least 60 days in advance of any such changes. The increase will be calculated based on the percentage change in the Consumer Price Index published by the Australian Bureau of Statistics during the previous 12 months, with an added 2%

6.5   All sums due under this Agreement and reimbursable items are exclusive of GST (if applicable) for which the Customer shall be responsible.

6.6   The Customer must settle all verified and uncontested invoices within 30 days of receiving them unless different payment terms are specified in the Statement of Work or Transaction Documents. If the Customer disputes any part of an invoice, they must notify PAN Software Pty Ltd within 14 days of receiving the invoice. Regardless of any disputes, the undisputed portion of the invoice should be paid according to the terms set in clause 6.6. All payments made under this agreement are non-refundable.

6.7   PAN Software Pty Ltd reserves the right to suspend any hosted services or other services if the Customer has outstanding payments due. A minimum of five business days' written notice will be provided to the Customer before any such suspension takes place.

6.8   If the Customer does not make a payment by the due date, PAN Software Pty Ltd has the right to charge a 4% annual interest on the overdue amount. This interest will accumulate daily until the full overdue amount is paid, and this applies whether or not legal judgment has been rendered.

6.9   Subject to clause 6.10, the Customer shall not assert any credit, set-off or counterclaim against PAN Software Pty Ltd in order to justify withholding payment of any amounts due under this Agreement (whether in whole or in part).

6.10   If the Customer must withhold taxes from any payment under this Agreement due to legal requirements, the Customer will make every reasonable effort to minimize the withheld amount. The Customer will also promptly provide PAN Software Pty Ltd with proof of tax payment to the relevant tax authority. If PAN Software Pty Ltd cannot recover the full deducted amount, the Customer will make an additional payment to ensure PAN Software Pty Ltd receives the same total amount as if no withholding had occurred.

7   Obligations of the Customer in Respect of the Software

7.1   The customer is permitted to use the Software exclusively for its own internal business functions, as specifically outlined in the relevant transaction documents. Affiliated companies and any entities that are divested can also be given access rights, but only for their own internal business purposes. Access to the Software should be restricted to pre-authorized Users or agreed-upon Beneficiaries. The customer is explicitly prohibited from using the Software to offer 'Software as a Service' solutions or managed services to external parties.

7.2   PAN Software Pty Ltd reserves the right to audit the Software to verify the number of authorized Users. This can include asking the Customer for data on Software usage and employee count. Audits can be carried out up to once every three months, at the expense of PAN Software Pty Ltd, and will be scheduled in advance to minimize disruption to the Customer's business operations. If the audit finds that the Customer has more Users or employees than have been paid for, the Customer will be required to pay additional fees. These fees will be calculated based on PAN Software Pty Ltd.'s current pricing for each User or employee tier. Additionally, interest will be charged from the date the unauthorized usage began until the date of payment, as outlined in clause 6.8. Unless the breach is found to be ongoing or intentional, paying these additional fees will resolve the issue, and PAN

Software Pty Ltd will not seek additional penalties. If PAN Software Pty Ltd deems the breach to be persistent or deliberate, it will notify the Customer in writing. Any subsequent similar breaches will allow PAN Software Pty Ltd to exercise its rights for irremediable material breach under clause 15

7.3   PAN Software Pty Ltd additionally reserves the right to require the Customer from time to time to submit a declaration of compliance with the provisions of this Agreement, including in relation to the number of employees within the Customer's organisation from time to time, such declaration to be provided within 60 days of the Customer's receipt of such request.

7.4   The Customer shall not:

7.4.1   attempt to copy, duplicate, modify, create derivative works from or distribute all or any portion of the Software except to the extent expressly set out in this agreement or as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties;

7.4.2   attempt to reverse compile, disassemble, reverse engineer, or otherwise reduce to human-perceivable form all or any part of the Software, except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties; or

7.4.3   access all or any part of the Software or Hosting Services in order to build a product or service which competes with the Software and/or the Hosting Services.

7.5   The Customer shall provide all assistance as may reasonably be required by PAN Software Pty Ltd under this Agreement.

8   Intellectual Property Rights

8.1   The Customer understands that all Intellectual Property Rights in the Software, related services, and accompanying documentation are owned by PAN Software Pty Ltd. The Customer's rights are limited to accessing and using the Software in line with the terms of this Agreement. Any rights the Customer may have concerning products generated from the services or related documentation are also confined to using these resources solely for the purpose of utilizing the Software, as outlined in this Agreement.

8.2   The Customer must not claim or act in a way that suggests it owns or has rights to the Intellectual Property Rights in the Software, the outcomes of the services, or the related documentation. The Customer's rights are strictly limited to those outlined in this Agreement

8.3   The Customer shall not delete, modify, or otherwise alter in any manner whatsoever any copyright marks or proprietary or legal notices in or on the Software or the Documentation.

8.4   The Customer shall give PAN Software Pty Ltd full particulars in writing of any use by any person, firm, or company of the Intellectual Property Rights in the Software, the products of the Services or the Documentation which may infringe PAN Software Pty Ltd.'s right, title and interest in and to the Intellectual Property Rights in the Software, the products of the Services or the Documentation

8.5   The Customer shall ensure that all Users are advised that all Intellectual Property Rights in the Software, the products of the Services and the Documentation are the property of PAN Software Pty Ltd and the Customer shall ensure that all Users comply with the terms and conditions of this Agreement.

8.6   PAN Software Pty Ltd acknowledges that PAN Software Pty Ltd has no rights in the Customer Data or any output data arising from the Customer's use of the Software.

8.7   PAN Software Pty Ltd shall follow its archiving procedures for Customer Data as described in the Support Policy. In the event of any loss or damage to Customer Data, the Customer's sole and

exclusive remedy shall be for PAN Software Pty Ltd to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by PAN Software Pty Ltd in accordance with the archiving procedure described in the Support Policy. PAN Software Pty Ltd shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by PAN Software Pty Ltd to perform services related to Customer Data maintenance and back-up).

9   Indemnities

9.1   PAN Software Pty Ltd undertakes at its own expense to defend the Customer or, at its option, settle any claim or action brought against the Customer alleging that the use of the Software as permitted by this Agreement infringes the Intellectual Property Rights of a third party ("Infringement Claim") and shall be responsible for any damages, reasonable costs (including legal fees) and expenses incurred by or awarded against the Customer as a result of any such Infringement Claim. For the avoidance of doubt, clause 10.1 shall not apply where the Infringement Claim in question is attributable to access or use of the Software (or any part thereof) by the Customer other than as permitted by this Agreement, use of the Software in combination with any hardware or software not supplied or specified by PAN Software Pty Ltd if the infringement would have been avoided by the use of the Software not so combined, or use of a non-current Major Release. It is a condition of the indemnity in this clause 10.1 that:

9.1.1   PAN Software Pty Ltd is given immediate and complete control of the Infringement Claim;

9.1.2   the Customer does not prejudice PAN Software Pty Ltd's defence of the Infringement Claim; and

10.1.3   the Customer gives PAN Software Pty Ltd all reasonable assistance with the Infringement Claim at PAN Software Pty Ltd's expense.

9.2   If an Infringement Claim is made or threatened then without prejudice to the rights and remedies of the Customer under clause 10.1, PAN Software Pty Ltd may at its option:

9.2.1   procure the right for the Customer to continue using those elements of the Software to which the Infringement Claim relates; or

9.2.2   modify or replace those elements of the Software to which the Infringement Claim relates in order to remove them from the scope of the Infringement Claim provided that:

(a)   the performance and functionality of the replaced or modified item is at least equivalent to the performance and function of the original item;

(b)   there is no additional cost to the Customer; and

(c)   the terms of this Agreement shall apply to the modified or replaced items.

9.3   This clause 10 states the entire liability of PAN Software Pty Ltd to the Customer in respect any Infringement Claim.

9.4   Socraites Indemnity for AI-Assisted Risk Assessments

9.4.1   The Customer acknowledges and agrees that the Socraites system, which incorporates AI technology such as ChatGPT, is designed to assist with the process of risk assessments and is not intended to replace professional judgment. The AI technology provides suggested guidance and should not be considered as the conclusive or exclusive basis for any decision-making or risk evaluations.

9.4.2   The Customer is responsible for ensuring the completeness, accuracy, and relevance of any risk assessment outputs generated by the Socraites system. The Customer agrees to

thoroughly review and, if necessary, independently validate all risk assessments and recommendations provided by the AI to confirm they are applicable and appropriate for their specific circumstances.

9.4.3   Therefore, PAN Software Pty Ltd shall not be liable for any claims, damages, losses, or expenses of any kind arising out of or in connection with the Customer's reliance on the Socrates system for making decisions, and the Customer hereby indemnifies and holds harmless PAN Software Pty Ltd against any such claims.

10   Warranties

10.1   PAN Software Pty Ltd warrants to the Customer that the Services will be performed:

10.1.1   in accordance with all applicable laws; and

10.1.2   with reasonable skill and care and using suitably experienced personnel.

10.2   If the Customer notifies PAN Software Pty Ltd in writing of any breach by PAN Software Pty Ltd of the warranties contained in clause 11.1.2, PAN Software Pty Ltd shall, at its own expense, use reasonable endeavours to remedy that breach within 30 days following receipt of such notice, failing which the Customer may pursue such rights and remedies as are available to it.

10.3   In respect of the Software licensed under a Transaction Document, PAN Software Pty Ltd warrants that:

10.3.1   it has the right to grant to the Customer a licence to access and use the Software as contemplated by this Agreement; and

10.3.2   the Software will conform in all material respects to the Documentation and be free from material defects for a period of 60 days from completion of the Implementation Services ("Warranty Period").

10.3.3   clause 11.5, if within the Warranty Period, the Customer notifies PAN Software Pty Ltd of any defect or fault in the Software in consequence of which it fails to conform to clause 11.3.2, PAN Software Pty Ltd shall, at its option, promptly repair or replace the Software.

10.3.4   PAN Software Pty Ltd shall not be liable for any breach of the warranties set out in clause 10.3.2 to the extent such breach is caused by a modification, variation or addition to the Software not performed by or on behalf of PAN Software Pty Ltd, or any incorrect use, abuse or corruption of the Software by the Customer, or any other defect or deficiency in, or a failure of, the equipment through which the Software is accessed. The Customer must provide all reasonable information requested by PAN Software Pty Ltd to resolve the defect or fault.

10.3.5   PAN Software Pty Ltd does not warrant that the Software or Hosting Services will meet the Customer's requirements or that the operation of or access to the Software or Hosting Services will be uninterrupted or error-free.

10.3.6   All other conditions, warranties or other terms which might have effect between the parties or be implied or incorporated into this Agreement or any collateral contract, whether by statute, common law or otherwise, are to the fullest extent permitted by law hereby excluded.

10.3.7   The Customer understands that while the AI system aims to provide accurate and up-to-date information, there may be technical limitations or inaccuracies that could affect the results. PAN Software Pty Ltd makes no guarantees regarding system uptime, speed, or error-free service.

11 Liability

11.1 The Customer's attention is drawn to clause 8 which sets out specific provisions for liability in respect of the provision or failure to provide the Hosting Services. Subject as expressly provided in clause 8, clause 8 applies to the Hosting Services in preference to this clause 12

11.2 Indemnification for the use of "Socraites" AI Co-pilot:

11.2.1 The client agrees to indemnify and hold harmless Pan Software Pty Ltd, its affiliates, officers, directors, employees, and agents, from and against any and all claims, damages, liabilities, costs, and expenses (including reasonable attorneys' fees) arising from or related to the use of "Socraites" AI Co-pilot for risk assessments. It is understood that "Socraites" is an AI-powered tool and may have limitations and inaccuracies in providing risk assessments or advice to the client. The client is responsible for vetting all work conducted by "Socraites" and agrees to assume all risks associated with its use.

11.3 Nothing in this Agreement shall limit either party's liability to the other for:

11.3.1 death or personal injury resulting from a party's negligence;

11.3.2 fraud or fraudulent misrepresentation;

11.3.3 liability for an Infringement Claim;

11.3.4 breach of clause 7.1 or 7.4;

11.3.5 breach of clause 15; or

11.3.6 any liability that cannot be limited or excluded under applicable law.

11.4 Subject to clause 11.3:

11.4.1 PAN Software Pty Ltd shall not in any circumstances have any liability for any losses or damages which may be suffered by the Customer (or any person claiming under or through the Customer), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever, which fall within any of the following categories:

    (a) special damage even if the Supplier was aware of the circumstances in which such special damage could arise;

    (b) loss of profits;

    (c) loss of anticipated savings;

    (d) loss of business opportunity;

    (e) loss of goodwill;

    (f) loss or corruption of data,

provided that this clause 11.4 shall not prevent any other claims for direct financial loss that are not excluded by any of clauses 11.4.1(a) to 11.4.1(f) inclusive;

11.4.2 PAN Software Pty Ltd's total liability under this Agreement, whether in contract, tort (including negligence) or otherwise under or in connection with this Agreement, shall be limited to $50,000; and

11.4.3   the Customer agrees that, in entering into this Agreement, either it did not rely on any representations (whether written or oral) of any kind or of any person other than those expressly set out in this Agreement or if it did rely on any representations, whether written or oral, not expressly set out in this Agreement, that it shall have no remedy in respect of such representations and (in either case) PAN Software Pty Ltd shall have no liability in any circumstances otherwise than in accordance with the express terms of this Agreement.

11.5   To the extent permitted by law, PAN Software Pty Ltd disclaims all warranties, express or implied, in connection with the AI service. Liability for any direct or indirect losses arising from use of the AI system shall be limited to the amount the Customer has paid for the service.

12   Data Protection and Personal Information

12.1   For the purposes of this clause 13, "personal information" and "use" shall have the meanings given to them in the *Privacy Act 1988 (Cth)*. Where a party in given access to data containing personal information as a data processor on behalf of the other party, it will:

12.1.1   act only on the lawful and reasonable instructions of that other party; and

12.1.2   take all appropriate technical and organisational measures to prevent any breach of the *Privacy Act 1988 (Cth)* including any unauthorised or unlawful use of the data, and prevent the accidental loss or destruction of, or damage to, the data.

12.2   The party giving access to data containing personal information warrants that:

12.2.1   the personal information has been collected fairly and lawfully and with the consent, where required, of the persons to whom the personal information pertains;

12.2.2   the personal information is accurate, complete and up-to-date to the best of its knowledge;

12.2.3   it has not committed a breach of the *Privacy Act 1988 (Cth)* with respect to the data; and

12.2.4   when required by the party given access to the data, must discharge any obligations arising under the *Privacy Act 1988 (Cth)* with respect to the data whether or not that obligation falls on it or on the party given access to the data, including any obligation to deal with third parties or update or provide access to the personal information.

12.3   AI Data Processing and Privacy

12.3.1   The Customer acknowledges that the AI system may collect and analyse data for the purpose of improving the service. All data processing activities will be conducted in accordance with applicable data protection and privacy laws.

13 Confidentiality

13.1   Each party (as "Receiving Party") agrees that it shall not use, divulge or communicate to any person, other than its sub-contractors, Affiliates and the Hosting Provider, without the express prior written consent of the other party (as "Disclosing Party") any Confidential Information of the Disclosing Party which may come to the Receiving Party's knowledge or into its possession.

13.2   The Receiving Party shall ensure that persons referenced in clause 14.1 are aware of the provisions of this clause 14 and the Receiving Party shall be responsible to the Disclosing Party in respect of any loss or damage which may be sustained or incurred by the Disclosing Party as a result of any breach of this clause 14 by the Receiving Party or any

such persons.

13.3 The restrictions contained in this clause 14 shall not apply to any Confidential Information which:

13.4 is or becomes generally available to the public other than as a result of a breach of this Agreement;

13.5 the Receiving Party can demonstrate was in its possession prior to the time of disclosure to it by the Disclosing Party;

13.6 was lawfully acquired from others who did not obtain it in circumstances which gave rise to any obligation of confidentiality (express or implied) owed to the Disclosing Party; or

13.7 is required to be disclosed by law or the requirements of any recognised stock exchange.

13.8 The provisions of this clause 14 shall survive the termination of this Agreement

14 Export

14.1 Neither party shall export, directly or indirectly, any technical data acquired from the other party under this Agreement (or any products, including software, incorporating any such data) in breach of any applicable laws or regulations ("Export Control Laws"), including United States export laws and regulations, to any country for which the UK or US government or any agency thereof at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval.

14.2 Each party undertakes:

14.3 contractually to oblige any third party to whom it discloses or transfers any such data or products to make an undertaking to it in similar terms to clause 15.1; and

14.4 if requested, to provide the other party with any reasonable assistance, at the reasonable cost of the other party, to enable it to perform any activity required by any competent government or agency in any relevant jurisdiction for the purpose of compliance with any Export Control Laws.

15 Termination

15.1 Without prejudice to any other right or remedy a party may have hereunder or at law, either party may terminate this Agreement immediately at any time by notice in writing to the other party if:

15.2 the other party is in material breach of this Agreement and fails to rectify such breach (in the case of a breach capable of being remedied) within 30 days of receiving a written notice requiring it to do so; or

15.3 the other party suffers an Insolvency Event.

15.4 The party terminating pursuant to clause 15.1.1 may as an alternative to termination of this Agreement as a whole terminate this Agreement only so far as relevant to Software licensed and Services or Hosting Services provided under particular Transaction Documents or Statements of Work and this Agreement shall in such event be deemed amended to remove such Transaction Documents or Statements of Work.

15.5 Upon the expiration of this Agreement's Term, the Customer will no longer have the ability

to obtain new Software, Services, or any other offerings from PAN Software Pty Ltd under the terms of this specific Agreement. Any existing right to access and use the Software will also cease. PAN Software Pty Ltd retains the right to enforce any terms and conditions of this Agreement, both during its Term and after its expiration.

15.6   Subject to clauses 16.3 on termination of this Agreement, or where relevant on expiry of the relevant Licence Period, all rights granted to the Customer under this Agreement, or where relevant under the relevant Transaction Documents, shall cease and the Customer shall immediately:

15.7   cease all activities authorised under this Agreement, or as relevant the Transaction Documents;

15.8   return the relevant Software and the Documentation and all copies of the relevant Documentation to PAN Software Pty Ltd or, at the option of PAN Software Pty Ltd, destroy the same and on written request, certify to PAN Software Pty Ltd that they have been so destroyed; and

15.9   where the Agreement has been terminated by PAN Software Pty Ltd under clause 15.1 or by either party under clause 16.3 pay to PAN Software Pty Ltd any unpaid portion of the Charges and any other sums stated to be due to PAN Software Pty Ltd pursuant to Transaction Documents and Statements of Work then in effect, or where applicable the terminated Transaction Documents and Statements of Work. Such Charges and other sums payable include all sums referenced in the applicable Transaction Documents and Statements of Work and falling due after the effective date of termination, which payments the Customer acknowledges and agrees represent a genuine pre-estimate of PAN Software Pty Ltd's loss in the applicable circumstances.

15.10   On termination of this Agreement, or where relevant on expiry of the relevant Licence Period, PAN Software Pty Ltd may destroy or otherwise dispose of any of the relevant Customer Data in its possession unless PAN Software Pty Ltd receives, no later than ten days after the effective date of the termination of this Agreement, or expiry of the relevant Licence Period, a written request for the delivery to the Customer of the then most recent back-up of the relevant Customer Data. PAN Software Pty Ltd shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all sums outstanding at and resulting from termination or expiry (whether or not due at the date of termination or expiry). The Customer shall pay all reasonable expenses incurred by PAN Software Pty Ltd in returning or disposing of Customer Data.

15.11   Any expiry or termination of this Agreement shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of clauses that are expressed to come into force or continue in force on expiry or termination or that do so by implication.

16 Service Limitations

16.1   The Customer understands that while the AI system aims to provide accurate and up-to-date information, there may be technical limitations or inaccuracies that could affect the results. PAN Software Pty Ltd makes no guarantees regarding system uptime, speed, or error-free service.

17 Force Majeure

17.1   Neither party will be liable for any failure or delay in its performance under this Agreement due to causes beyond its reasonable control, including acts of God, failure of

the internet or telecommunication networks, war, terrorism, natural disaster, fire, strikes, and civil disorder (collectively referred to as "Force Majeure").

17.2   If the performance by a party of its obligations under this Agreement is affected by Force Majeure, then:

17.3   it (the "Affected Party") shall give written notice to the other (the "Non-Affected Party") specifying the nature and extent of the Force Majeure, promptly on becoming aware of the Force Majeure and will at all times use reasonable endeavours to mitigate the severity of the Force Majeure;

17.4   the date for performance of such obligation shall be deemed suspended only for a period equal to the delay caused by such event; and

17.5   the Affected Party shall not be entitled to payment from the Non-Affected Party in respect of extra costs and expenses incurred by the Affected Party by virtue of the Force Majeure.

17.6   If a Force Majeure event persists for a continuous period exceeding 30 days, the party not affected by the Force Majeure ('Non-Affected Party') may issue a written notice to the party affected by the Force Majeure ('Affected Party') to terminate this Agreement either in its entirety or the specific components that the Affected Party is unable to fulfill due to the Force Majeure. The termination notice must specify the date of termination, which shall not be less than 15 days from the date the notice is issued. If the Non-Affected Party is the Customer, the notice must specify which Services are subject to termination. The Agreement will terminate, either wholly or partially as specified, on the date set forth in the termination notice unless the Affected Party is able to resume full compliance with the Agreement before that date

18   Non-solicit

18.1   Neither party shall for a period of six months from the Effective Date directly or indirectly, solicit or entice away (or attempt to solicit or entice away) from the employment of the other party any employee of the other party who is employed or engaged in the sale or procurement of the Software or the receipt or provision of the Services.

18.2   A party shall not be in breach of clause 18.1 as a result of running a national advertising campaign open to all comers and not specifically targeted at any of the staff of the other party.

18.3   If either party commits any breach of clause 18.1, the breaching party shall, without prejudice to any other rights or remedies of the claiming party, on demand, pay to the claiming party a sum equal to one year's basic salary that was payable by the claiming party to that employee, plus the recruitment costs incurred by the claiming party in replacing such person.

19   Amendments

19.1   Unless expressly provided otherwise, no amendment of any provision of this Agreement shall be effective unless made by a written instrument signed by both parties.

19.2   Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other party, or authorise either party to make or enter into any commitments for or on behalf of the other party.

19.3   Each provision of this Agreement shall be construed separately and notwithstanding that

the whole or any part of any such provision may prove to be illegal or unenforceable the other provisions of this Agreement and the remainder of the provision in question shall continue in full force and effect.

19.4　No failure or delay by either party in enforcing the provisions of this Agreement shall prejudice or restrict the rights of that party nor shall any waiver of its rights operate as a waiver of any subsequent breach.

19.5　Except as expressly provided in this Agreement, the Customer shall not sub-license, assign, transfer or novate the benefit or burden of this Agreement in whole or in part, or allow the Software or Documentation to become the subject of any charge, lien or encumbrance, or deal in any other manner with any or all of its rights and obligations under this Agreement, without PAN Software Pty Ltd's prior written consent.

19.6　This Agreement may be executed in any number of counterparts and on separate counterparts, and each counterpart shall when executed constitute an original of this Agreement and together all such counterparts shall constitute one and the same document. Executed copies of this Agreement transmitted electronically in either Tagged Image File Format (**TIFF**) or Portable Document Format (**PDF**) shall be treated as originals, fully binding and with full legal force and effect, and the parties waive any rights they may have to object to such treatment.
) shall be treated as originals, fully binding and with full legal force and effect, and the parties waive any rights they may have to object to such treatment.

19.7　This Agreement, together with any Transaction Documents and Statements of Work signed after the Effective Date, constitutes the entire agreement and understanding of the parties and supersedes any previous agreement or understanding (whether informal, written or oral) between the parties relating to the subject matter of this Agreement.

19.8　Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law. No right, power or remedy herein conferred upon or reserved for either party is exclusive of any other right, power or remedy available to that party and each such right, power or remedy shall be cumulative.

20　Notices

20.1　Any notice given to a party under or in connection with this Agreement shall be in writing in English and shall be deemed duly given if signed by or on behalf of a duly authorised officer of the party giving the notice and if left at or sent by first class post or by email to the address of the party receiving such notice as set out above or as notified between the parties for the purpose of this clause.

20.2　Any notice shall be deemed to be given to and received by the addressee:

20.2.1　at the time the same is left at the address of or handed to a representative of the party to be served;

20.2.2　by post on the date not being a Sunday or public holiday two days following the date of posting; and

20.2.3　if sent by email, at 9am on the next Business Day and provided that if any email produces an automated response reporting a failure to deliver, delayed delivery to the intended recipient or "out of office" reply, such email shall be deemed not to have been received by the addressee.

20.3　In proving the giving of a notice, it shall be sufficient to prove that the notice was left or that the envelope containing the notice was properly addressed and posted, or that the

applicable means of telecommunication was addressed and despatched and despatch of the transmission did not produce an automated response of the nature referenced in clause 20.2.3.

21 Third Party Rights

21.1   Clause 8 is entered into for the benefit of the Hosting Provider. Except as expressly provided a person who is not a party to this Agreement shall not have any rights to enforce any of its terms.

21.2   The rights of the parties to terminate, rescind or agree a variation, waiver or settlement to this Agreement are not subject to the consent of any other person, including the Hosting Provider.

22 Governing Law

22.1   This Agreement shall be governed by and construed in accordance with the law of New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of New South Wales.

23 Acceptance of Terms

23.1   Linking and Referencing: These Master Terms and Conditions ("Agreement") are linked to and referenced in every quote, Statement of Work, invoice, or other transactional instruments issued by PAN Software Pty Ltd. The link to this Agreement will be visible and accessible from within those documents.

23.2   Automated Platforms: All quotes, Statements of Work, and other transactional documents are issued through PAN Software Pty Ltd.'s designated sales platform, currently HubSpot. By electronically signing these documents, the Customer is also acknowledging and agreeing to be bound by the terms outlined in this Agreement.

23.3   Confirmation of Acceptance: The Customer's issuance of a purchase order, the signing of a Statement of Work, or any other acceptance via an approved transactional instrument, including but not limited to accounts receivable or signed quotes, shall constitute the Customer's acceptance of this Agreement.

23.4   Non-Negotiable Terms for Lower-Value Contracts: PAN Software Pty Ltd expressly states that it will not negotiate the terms of this Agreement for transactions with an Annual Contract Value of less than $75,000 AUD.

23.5   Continued Relationship: Acceptance of this Agreement is ongoing and applies to any future transactional instruments, issued updates, and additional Statements of Work unless explicitly replaced or updated through written agreement by both parties.

23.6   Special Terms in Quotes: Any quote issued by PAN Software Pty Ltd may contain special terms and conditions that are unique to the specific transaction. In the event of a conflict between these special terms and the terms outlined in this Agreement, the special terms in the quote shall supersede the terms of this Agreement.