

Private and Confidential



ACN 121 761 699  
ABN 57 121 761 699  
GPO Box 2642 Melbourne VIC 3001  
frontlineresourcing.com.au

<Insert Date>

<Company Name>  
<Supplier Contact>  
<Address Line 1>  
<Address Line 2>

Dear <Supplier Contact>,

**RE: Memorandum of Understanding <Supplier Position>**

Thank you for your recent application for the advertised contract for supplier position <Supplier Contract>. We are pleased to offer you the supplier contract for <Supplier Contract> with the Frontline Group where we hope you will enjoy your role and make a significant contribution to the success of our business.

The following documentation including the attachments referred to within this Memorandum of Understanding "MOU", highlights the scope of the <Supplier Contract> Supplier Contract including any terms and conditions of the agreement. In particular, we draw your attention to the document titled "*The Frontline Group*" further explaining the business model in which this MOU is intended to operate.

We look forward to working with you in the near future  
Sincerely

Claude Alain Staub  
Director, Service Development.

THIS INTERNAL SUPPLIER AGREEMENT dated: <Date of Agreement>

BETWEEN

THE FRONTLINE GROUP acting through JANDAPAC PTY LTD ACN 121 761 699 of 120 Spencer Street Melbourne in the state of Victoria, Australia ("Frontline")

AND

SHIFTING NIRVANA PTY LTD ACN 151 840 747 of 15 Janiesleigh Road Upper Ferntree Gully in the state of Victoria, Australia ("Supplier")

#### PREAMBLE:

The Frontline Group was created in 2013 as an alliance of four companies delivering, via its distributor primary Jandapac Pty Ltd, consultative services to the human service sector. Services delivered include but are not limited to the design, development and implementation of data management software and consultative services.

The Frontline Group is governed by a steering committee with each of the four companies providing a delegate (Referred to in this document as *Portfolio Director*) and given an equal shareholding. The Frontline Group is operated by Internal Suppliers who, under this agreement deliver the consultative services including the administrative functions of the Frontline Group. Suppliers are compensated financially for their services via three methods namely;

- (i) Consultative Services (fee for service)
- (ii) Shareholding in the products recurring income (licencing)
- (iii) Approved Expenses (reimbursement of approved one-off administrative costs)

The following agreement is designed to attract and retain high quality companies with the skills and expertise to contribute to The Frontline Groups core business. It is a balance of empowerment allowing contributing companies to lead with their identified expertise as well as stewardship, ensuring the sustainability of the business model.

#### AGREED TERMS:

##### 1. DEFINITIONS & INTERPRETATION

1.1 In this Agreement the following definitions apply:

1.2

"Agreement" means this document and all schedules to it;

"Approved Expenses" means the expenses (if any) set out in Item 2 of Schedule 2;

"Commencement Date" means:

- (a) the commencement date specified in Item 3 of Schedule 2; or

- (b) if no date is specified in Item 3 of Schedule 2, the date on which this Agreement is executed by the parties (and if not executed by the parties on the same day, the later of the dates of execution);

**“Completion Date”** means the completion date specified in Item 4 of Schedule 2;

**“Confidential Information”** means any information that is by its nature confidential or is designated by the Frontline as confidential, and includes:

- (a) information concerning the technical processes and policies, commercial operations, financial arrangements or affairs of Frontline;
- (b) the terms of this Agreement;
- (c) information which identifies or relates to patients of Frontline; and
- (d) Records,

But does not include:

- (e) information that is publicly known other than as a result of the suppliers breach of this Agreement; and
- (f) Information lawfully in the possession of the supplier through a source other than frontline.

**“Consultancy Services”** means the Consultancy Services to be delivered by the Supplier and described in Schedule 1.

**“Contract Material”** means:

- (a) any material forming part of or constituting a Deliverable that is created, written or otherwise brought into existence by or on behalf of the Supplier in the course of performing the Consultancy Services (**“New Contract Material”**); and
- (b) any material that exists at the Commencement Date and is incorporated into a Deliverable (**“Existing Contract Material”**);

**“Deliverable”** means any document, piece of equipment, data listing or other creation required to be delivered to Frontline or its clientele in order to complete the performance of the Consultancy Services;

**“Fee”** means the amount or schedule of rates payable for the performance of the Consultancy Services, as set out in Item 5 of Schedule 2;

**“GST Amount”** means the amount of GST payable in respect of any taxable supply under this Agreement, calculated at the rate of GST applicable at the time (10% as at the Commencement Date);

**“Intellectual Property Rights”** means all copyright, trade mark, design, patents or other proprietary rights, or any rights to registration of such rights existing in Australia or elsewhere, or as protected by statute from time to time, but excludes Moral Rights;

**“Key Personnel”** means the representatives of the Supplier specified in Item 6 of Schedule 2 (if any);

**“Moral Rights”** means the moral rights conferred by the *Copyright Act 1968* (Cth), including the right of integrity of authority, the right of attribution of authorship and the right not to have authorship falsely attributed;

**“Personal Information”** means information or an opinion (including information or an opinion forming part of a database), whether true or not and whether recorded in a material form or not, about an individual whose identity is apparent or can reasonably be ascertained, from the information or opinion;

**“Portfolio Director”** means the person nominated in Item 7 of Schedule 2, being the person nominated by Frontline to oversee and supervise the performance of the Supplier’s obligations under this Agreement;

**“Records”** means all material including but not limited to books, documents, information, computer software, equipment, and data stored by any means disclosed, or made available, by Frontline to the Supplier in connection with the performance of this Agreement;

**“Term”** means the term of this Agreement, as set out in clause 2.

1.3 In this Agreement:

- (a) words importing a gender include any other gender;
- (b) words in the singular include the plural and vice versa;
- (c) all dollar amounts refer to Australian currency;
- (d) a reference to any legislation includes any subordinate legislation made under it and any legislation amending, consolidating or replacing it;
- (e) a reference to an individual or person includes a corporation or other legal entity;
- (f) a reference to “consent” means prior written consent;
- (g) clause headings have been included for convenience of reference only and are not intended to affect the meaning or interpretation of this Agreement; and
- (h) if any expression is defined, other grammatical forms of that expression will have corresponding meanings.

1.4 If the Supplier comprises two or more persons, this Agreement will bind them jointly and each of them severally.

## 2. TERM

2.1 This Agreement will commence on the Commencement Date and, unless terminated sooner pursuant to clause 19, will continue until the Completion Date.

## 3. ROLE OF THE PORTFOLIO DIRECTOR

3.1 The Portfolio Director will be the primary liaison and contact officer between Frontline and the Supplier and is authorised to give notices and consents under this Agreement on Frontline's behalf. (This is us assuming the role of Director for each portfolio under the Quadrumwrite i.e Director, Service Development. Each MOU a PD)

3.2 The Supplier must:

- (a) liaise with and report to the Portfolio Director about the performance of the Consultancy Services;
- (b) attend meetings with, or provide briefings to, the Portfolio Director as required from time to time; and
- (c) Promptly comply with any request or direction given by the Portfolio Director about the performance of the Consultancy Services.

#### **4. PROVISION OF THE CONSULTANCY SERVICES**

4.1 The Supplier must provide the Consultancy Services, as an independent contractor, for the Term and in a competent and professional manner.

4.2 The Supplier must provide the Consultancy Services:

- (a) if milestones are specified in Item 8 of Schedule 2 – by the milestone dates; or
- (b) if the supply of the Consultancy Services is regular or recurrent – at the times, intervals and frequency specified in Item 9 of Schedule 2, and in any event, by the Completion Date.

4.3 In providing the Consultancy Services, the Supplier must:

- (a) inform itself of Frontline's requirements in respect of the Consultancy Services; and
- (b) exercise due skill, care and diligence.

4.4 The Supplier must ensure that:

- (a) the Consultancy Services are provided in accordance with any key performance indicators or performance standards specified in Schedule 1; and
- (b) all Consultancy Services are of a high quality, professional standard.

4.5 The Supplier is responsible for the supply and performance of all personnel and equipment necessary for the proper performance of the Consultancy Services.

4.6 The Supplier warrants that it has:

- (a) the necessary skills and expertise to complete the Consultancy Services; and
- (b) the qualifications, admissions and memberships specified in Item 10 of Schedule 2.

4.7 Frontline will provide the assistance described in Item 11 of Schedule 2 to the Supplier.

#### **5. PERFORMANCE OF CONSULTANCY SERVICES BY KEY PERSONNEL**

- 5.1 Where Key Personnel are specified, the Consultancy Services must be performed by the Key Personnel, unless the Supplier has obtained written consent from the Portfolio Director otherwise. A person replacing one of the Key Personnel with the Portfolio Director's consent will be considered to be one of the Key Personnel during the person's engagement on the Consultancy Services. (So we don't have to contract the next level of suppliers? We're effectively outsourcing each portfolio)
- 5.2 The Supplier must ensure that Key Personnel are competent and have the necessary skills to perform the Consultancy Services on which they will be engaged.
- 5.3 The Supplier must not without consent from the Portfolio Director:
  - (a) allow Key Personnel to delegate any part of the Consultancy Services; or
  - (b) Allocate tasks not connected with the Consultancy Services to any of the Key Personnel who are engaged on the Consultancy Services on a full time basis, until the Consultancy Services allocated to that person have been completed by that person.
- 5.4 If any of the Key Personnel are not available to perform any of the Consultancy Services allocated to them the Supplier must immediately:
  - (a) Notify Frontline of the circumstances; and
  - (b) If so requested by Frontline, arrange for replacement of that person with a person satisfactory to Frontline at no cost to Frontline.
- 5.5 Frontline may, on reasonable grounds, give notice requiring the Supplier to remove any Key Personnel from working on the Consultancy Services. Upon receipt of a notice under this clause 5.5, the Supplier must, at no cost to Frontline, promptly remove and replace the Key Personnel mentioned in the notice with a person satisfactory to Frontline. (So we can jump in a remove a rogue supplier's key personnel)

## 6. SUPPLIER CUTS & APPROVED EXPENSES

- 6.1 In consideration of the Supplier providing the Consultancy Services in accordance with this Agreement, Frontline will:
  - (a) Pay the Supplier the agreed Supplier Cuts; and
  - (b) Reimburse the Supplier for the Approved Expenses, after the Approved Expenses have been incurred by the Supplier. (This is what we spoke about Tony?)
- 6.2 Frontline will not be liable to reimburse the Supplier for expenses other than the Approved Expenses, unless the Supplier has obtained Frontline's prior written consent.
- 6.3 If the Approved Expenses are travel expenses, Frontline will not pay any amounts in excess of the amounts specified in Directive No 7/07 "Domestic Travelling and Relieving Expenses" and the "Frontline Group Travel and Accommodation Policy" as amended from time to time.

6.4 If the Approved Expenses are air travel expenses, Frontline will not pay any amount in excess of the cost of relevant economy class airfares.

## 7. PAYMENT

7.1 The relevant supplier cuts will be payable in the manner and at the times specified in Item 12 of Schedule 2 and the Supplier may submit invoices for the Approved Expenses at the times specified in Item 12 of Schedule 2.

7.2 Frontline is not obliged to pay the Supplier for any part of the Consultancy Services until:

- (a) the Supplier has given Frontline a correctly rendered invoice;
- (b) the Supplier has given Frontline any Deliverable that is due to be delivered; and
- (c) the Portfolio Director has certified that the Consultancy Services covered by the invoice have been performed in accordance with this Agreement.

7.3 The Supplier must promptly provide, or provide again, any part of the Consultancy Services that are certified by the Portfolio Director as not having been provided in accordance with this Agreement and Frontline may, without limiting any other rights it may have, defer payment for that part of the Consultancy Services until the Portfolio Director is satisfied that the Consultancy Services have been provided, or provided again, in accordance with this Agreement.

7.4 Invoices submitted by the Supplier must:

- (a) identify the title of the Consultancy Services and the name of the Portfolio Director;
- (b) include sufficient detail to allow Frontline to assess progress against any milestones set out in item 8 of Schedule 2;
- (c) for work carried out on a time basis, be supported by records of time spent by individuals on the Consultancy Services, verified by the Supplier; and
- (d) separately itemise Approved Expenses claimed.

7.5 Upon receipt of an invoice, Frontline may require the Supplier to provide additional information to assist Frontline to determine whether or not an amount is payable.

7.6 Frontline will make payment of a correctly rendered invoice within 30 days after receipt of the invoice or, if additional information is required by Frontline pursuant to clause 7.5, 30 days after receipt of the additional information.

7.7 For the purposes of this clause 7, a "correctly rendered invoice" is an invoice:

- (a) in which the amount claimed is due for payment in accordance with this Agreement;
- (b) in which the amount claimed is correctly calculated in accordance with this Agreement;
- (c) which correctly identifies the Consultancy Services provided; and
- (d) which complies with clauses 7.4 and 8.

- 7.8 Frontline will notify the Supplier within 14 days after the receipt of an invoice found not to be correctly rendered.
- 7.9 If an invoice is found, after Frontline has paid the invoiced amount to the Supplier, not to have been correctly rendered, Frontline will, as the case requires:
- (a) pay any amount owed to the Supplier within 30 days of receipt of a correctly rendered invoice or, if additional information is required by Frontline pursuant to clause 7.5, within 30 days after receipt of the additional information; or
  - (b) deduct any amount owed to Frontline from the next invoiced payment or, if no other payment is due to the Supplier pursuant to this Agreement, recover the amount from the Supplier as a debt due to Frontline.
- 7.10 Payment of any amount to the Supplier will not constitute an admission by Frontline that the Consultancy Services have been properly provided in accordance with this Agreement.

## 8. GST

- 8.1 In this clause "*adjustment event*", "*adjustment note*", "*GST*", "*supply*", "*supplier*" and "*tax invoice*" have the same meaning as defined in *A New Tax System (Goods and Consultancy Services Tax) Act 1999* (Cth) ("the GST legislation").
- 8.2 The Supplier acknowledges that in terms of the GST legislation it will, under this Agreement, be a "supplier" and may be required to pay GST to the Commissioner of Taxation.
- 8.3 The parties agree that the Fee for the Consultancy Services under the Agreement is a GST exclusive price.
- 8.4 The Supplier will ensure that all tax invoices and adjustment notes rendered to Frontline under the Agreement are in a format that identifies any GST paid, and which permits Frontline to claim an input tax credit.
- 8.5 Subject to clause 8.6, for a supply under this Agreement subject to GST, Frontline must pay to the Supplier an amount equal to the GST payable for that supply.
- 8.6 Where a party is required under this Agreement to pay or reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party, or to which the representative member for a GST group of which the other party is a member, is entitled.
- 8.7 The Supplier must issue an adjustment note to Frontline on or before seven days after the occurrence of an adjustment event. Frontline's request for an adjustment note shall be deemed to have occurred on the date of the adjustment event. The adjustment note must identify the goods or Consultancy Services relevant to the adjustment event. Adjustment notes issued to Frontline must comply with the requirements of the GST



legislation. Where an adjustment event occurs, the amount of GST payable under clause 8.5 will be recalculated to reflect the adjustment event and a payment will be made by the recipient to the supplier or by the supplier to the recipient as the case requires.

- 8.8 If the amount of GST recovered from Frontline under this Agreement differs, for any reason, from the amount of GST paid or payable by the Supplier to the Commissioner of Taxation, including by reason of:
- (a) an amendment to the GST legislation;
  - (b) the issue of or an alteration in a ruling or advice of the Commissioner of Taxation;
  - (c) a refund of GST to the Supplier in respect of any supply made under this Agreement;
  - (d) a decision of any tribunal or court, then, subject to obtaining the written approval or instruction from Frontline, the difference in amounts will be paid by or to Frontline as the case may be.
- 8.9 Frontline is authorised to withhold from payments to the Supplier, a subcontractor or worker such amounts as are required under the Pay as You Go (PAYG) system.

## 9. CONFLICT OF INTEREST

- 9.1 The Supplier warrants that, to the best of its knowledge, as at the Commencement Date it does not have, and is not likely to have, a conflict of interest in the performance of this Agreement.
- 9.2 If a conflict or risk of conflict of interest arises during the Term (without limitation, because of work undertaken by the Supplier for any person other than Frontline), the Supplier must immediately give notice of the conflict of interest, or the risk of it, to Frontline.
- 9.3 The Supplier must:
- (a) take all reasonable measures to ensure that its employees, agents and sub-contractors do not engage in any activity or obtain any interest which is in conflict with the Supplier's ability to provide the Consultancy Services to Frontline fairly and independently; and
  - (b) immediately give notice of any conflict of interest relating to the activities or interests of any of its employees, agents or sub-contractors to Frontline.
- 9.4 Upon receipt of a notice under clause 9.2 or 9.3(b) or upon Frontline otherwise identifying a conflict of interest, Frontline may elect to terminate this Agreement in accordance with clause 19.1(b).

## 10. COMMISSIONS AND INCENTIVES

10.1 The Supplier must not offer anything to Frontline or any employee or agent of Frontline, including a parent, spouse, child or associate of the employee or agent, as an inducement, gift or reward, which could in any way influence Frontline's actions in relation to this Agreement.

## 11. INTELLECTUAL PROPERTY RIGHTS AND RECORDS

**(WILL NEED HELP WITH THIS BIT)**

11.1 Title to and Intellectual Property Rights in all New Contract Material will, upon its creation, vest in Frontline unless otherwise specified in Item 13 of Schedule 2.

11.2 If title to and Intellectual Property Rights in New Contract Material will vest in Frontline:

- (a) this Agreement does not affect Intellectual Property Rights in Existing Contract Material but the Supplier grants, and will ensure that relevant third parties grant, to Frontline a paid up non-exclusive non-transferable licence to:
- (b)
  - (i) use, reproduce and adapt for its own use; and
  - (ii) perform any other act with respect to copyright; and
  - (iii) manufacture, sell, hire or otherwise exploit a product or process or to provide a service or to licence a third party to do these things in respect of, any Existing Contract Material incorporated in a Deliverable;
- (c) if requested to do so before or after the expiration or sooner termination of this Agreement, the Supplier must deliver to Frontline, in a format specified by Frontline, all New Contract Material;
- (d) the Supplier must ensure that New Contract Material and Records are used, copied, supplied or reproduced only for the purposes of this Agreement;
- (e) if the Supplier is an individual, the Supplier consents to any act or omission done by Frontline in the exercise of the Intellectual Property Rights granted under this Agreement that might otherwise constitute an infringement of the Supplier's Moral Rights and without limiting this, the Supplier consents to:
  - (i) being attributed as author of Contract Material comprised in a Deliverable, in a manner acceptable to Frontline; and
  - (ii) the specific acts or omissions (if any) specified in Item 14 of Schedule 2;
- (f) if the Supplier is an entity other than an individual, the Supplier must, prior to commencing work in respect of a Deliverable, obtain from every person who is to create New Contract Material:
  - (i) all consents, permissions and assignments necessary to enable Frontline to exercise the Intellectual Property Rights granted under this Agreement in full, without impediment or cost to Frontline; and

- (ii) without limiting paragraph (i), consent from the person to any act or omission by Frontline in the exercise of the Intellectual Property Rights granted under this Agreement that might otherwise constitute an infringement of the person's Moral Rights.

11.3 If Item 13 of Schedule 2 specifies that title to and Intellectual Property Rights in New Contract Material will, upon their creation, vest in the Supplier:

- (a) the Supplier grants to Frontline a non-exclusive, non-transferable, irrevocable and paid licence to use, reproduce, communicate to the public and adapt the New Contract Material; and
- (b) if requested to do so before or after the expiration or sooner termination of this Agreement, the Supplier must deliver to Frontline, in a format specified by Frontline, copies of all New Contract Material.

11.4 Intellectual Property Rights in Records supplied to the Supplier by Frontline for reproduction or guidance remain vested in Frontline.

11.5 If requested to do so before or after the expiration or sooner termination of this Agreement, the Supplier must deliver to Frontline, all Records.

## 12. DISCLOSURE OF INFORMATION

12.1 The Supplier must ensure that Confidential Information is kept confidential and not disclosed to any person except:

- (a) to its employees, officers and agents to the extent necessary for the performance of this Agreement;
- (b) where required by law; or
- (c) with Frontline's consent.

12.2 The Supplier must:

- (a) immediately notify Frontline if it becomes aware of a breach of this clause or if a disclosure of Confidential Information is required by law;
- (b) if requested by Frontline (either during the term of this Agreement or upon termination or expiry of this Agreement) deliver to Frontline or destroy all Confidential Information in the Supplier's possession or control; and
- (c) if requested by Frontline, the Supplier must obtain from its officers, employees and sub-contractors a deed of confidentiality in a form acceptable to Frontline.

## 13. PRIVACY

13.1 This clause 13 applies if:

- (a) the Supplier will in any way deal with Personal Information for Frontline; or
- (b) the provision of the Services under this Agreement will involve:
  - (i) the transfer of Personal Information to Frontline; or
  - (ii) the provision of services to a third party for Frontline.

13.2 The Supplier acknowledges that it is a bound contracted service provider for the purposes of the *Information Privacy Act 2009*.

13.3 The Supplier must:

- (a) In relation to the discharge of its obligations under this Agreement, comply with parts 2 and 3 of Chapter 2 of the *Information Privacy Act 2009* as if the Supplier was Frontline;
- (b) ensure that Personal Information is protected against loss and against unauthorised access, use, modification, disclosure or other misuse;
- (c) not use Personal Information other than for the purpose of performing its obligations under this Agreement, unless required or authorised by law;
- (d) not disclose Personal Information without the prior written consent of Frontline, unless required or authorised by law;
- (e) not transfer any Personal Information outside of Australia without the prior written consent of Frontline;
- (f) ensure that access to Personal Information is restricted to those of its employees and officers who require access in order to perform their duties under this Agreement;
- (g) ensure that its officers, employees and sub-contractors comply with the same obligations imposed on the Supplier under this clause;
- (h) fully cooperate with Frontline to enable Frontline to respond to applications for access to, or amendment of, a document containing a person's Personal Information and to privacy complaints;
- (i) immediately notify Frontline if the Supplier becomes aware that a disclosure of Personal Information is or may be required or authorised by law;
- (j) comply with such other privacy and security measures as Frontline reasonably advises the Supplier in writing from time to time and
- (k) upon request by Frontline, promptly return any Personal Information to Frontline upon expiry or termination of this Agreement.

- 13.4 Upon request by Frontline, the Supplier must obtain from its officers, employees and sub-contractors a deed of privacy in a form acceptable to Frontline.
- 13.5 The Supplier must immediately notify Frontline upon becoming aware of any breach of clause 13.

#### **14. SECURITY & ACCESS**

- 14.1 The Supplier must, when using Frontline's premises or facilities:
- (a) comply with all rules, directions and procedures, including those relating to security or workplace health and safety, which are in effect at the premises or facilities;
  - (b) avoid unnecessary interference with the passage of people and vehicles; and
  - (c) not create nuisance or unreasonable noise and disturbance.
- 14.2 The Supplier must give the Portfolio Director and any other person authorised in writing by Frontline reasonable access to premises occupied by the Supplier where the Consultancy Services are being undertaken and must permit them to inspect any Contract Material or other material related to the Consultancy Services.
- 14.3 The Portfolio Director and any other person authorised in writing by Frontline must, when attending at the Supplier's premises or facilities, comply with all rules, directions and procedures, including those relating to security or workplace health and safety, that are in effect at the premises or facilities.

#### **15. SUSPENSION OF SUPPLY OF THE CONSULTANCY SERVICES**

- 15.1 Frontline may at any time by notice direct the Supplier to:
- (a) suspend work on all or any part of the provision of the Consultancy Services for a specified period; or
  - (b) recommence work on all or any part of the suspended Consultancy Services.
- 15.2 Where Frontline suspends the provision of the Consultancy Services by notice under clause 15.1(a):
- (a) the Supplier and Frontline must negotiate in good faith as to reasonable compensation payable to the Supplier for any additional costs that are reasonably and properly incurred by the Supplier as a direct result of the suspension; and
  - (b) any previously agreed dates for the provision of the Consultancy Services will be postponed by a period equivalent to the duration of the suspension.

#### **16. VARIATION**

16.1 Frontline may at any time by notice direct the Supplier to vary the Consultancy Services in nature, scope or timing, and without limiting the generality of this, Frontline may direct the Supplier to:

- (a) increase, decrease or omit any part of the Consultancy Services;
- (b) change the character or content of any part of the Consultancy Services; or
- (c) perform additional work.

16.2 Where Frontline gives a notice to vary the Consultancy Services under clause 16.1, the parties must negotiate in good faith a variation of the Fee and the time for completion of the varied Consultancy Services. (This should cover what we spoke about Tony?)

16.3 If the variation required by Frontline constitutes a reduction of the Consultancy Services, Frontline will pay to the Supplier, in addition to the varied Fee agreed in accordance with clause 16.2, an amount representing the reasonable costs (if any) incurred by the Supplier that are directly attributable to the reduction of the Consultancy Services, except that Frontline will not be liable to pay:

- (a) any amount that would exceed the total of the Fee plus the Approved Expenses;
- or
- (b) any compensation for loss of prospective profits.
- (c) NEED TO INCLUDE THE RIGHT OF REFUSAL FOR NEW PRODUCT DEV

16.4 The Supplier must not commence work on the variation to the Consultancy Services unless the parties have agreed on the varied Fee and the time for completion of the varied Consultancy Services in accordance with clause 16.2, and any reasonable compensation under clause 16.3.

## 17. INDEMNITY

17.1 In this clause 17:

“Frontline” includes its officers, employees and agents;  
“claim” includes any claim, action, proceeding, demand, liability, obligation, costs, loss, damages and expenses; and  
“Supplier” includes its employees, agents or sub-contractors.

17.2 The Supplier releases, discharges and indemnifies Frontline against any claim by any person which may be brought against or made upon or incurred by Frontline arising from or in connection with:

- (a) any wilful unlawful or negligent act or omission of the Supplier in the course of the performance or attempted or purported performance of the Consultancy Services;
- (b) a breach of this Agreement; or
- (c) an actual or threatened breach of any third party's Intellectual Property Rights or Moral Rights, except to the extent that any act or omission by Frontline caused or contributed to the claim.

## 18. INSURANCE

18.1 The Supplier must take out and maintain for the duration of this Agreement:

- (a) workers' compensation insurance in accordance with the *Workers' Compensation and Rehabilitation Act 2003*;
- (b) public liability insurance if specified in Item 15 of Schedule 2, for the amount specified;
- (c) professional indemnity insurance if specified in Item 16 of Schedule 2, for the amount specified; and
- (d) any other insurance specified in Item 17 of Schedule 2.

18.2 The insurances must be effected with an insurer that is authorised and licensed to operate in Australia.

18.3 The Supplier must promptly produce evidence to Frontline of the existence and currency of any of the insurances required by this clause:

- (a) before providing any of the Consultancy Services; and
- (b) upon request in writing at any time by Frontline.

## 19. TERMINATION

19.1 Frontline may immediately terminate this Agreement by notice in writing to the Supplier if the Supplier:

- (a) fails to remedy a breach of this Agreement within 30 days after a notice to remedy has been given by Frontline specifying the breach;
- (b) gives notice under clause 9.2 or 9.3(b) or Frontline otherwise identifies a conflict of interest;
- (c) fails to comply with clause 18;
- (d) fails to comply with clause 21.7; or
- (e) the Supplier:
  - (i) becomes insolvent or bankrupt;
  - (ii) becomes subject to any form of external administration;
  - (iii) enters into an arrangement with its creditors or otherwise takes advantage of any laws in force in connection with insolvent debtors; or
  - (iv) is wound up, voluntarily or involuntarily.

19.2 The Supplier may terminate this Agreement immediately by notice in writing if Frontline has failed to remedy a breach of this Agreement within 30 days after a notice to remedy has been given by the Supplier specifying the breach.

19.3 Termination of this Agreement will not affect any claim or action either party may have against the other by reason of any prior breach of this Agreement and will not relieve either party of any obligation under this Agreement which is expressed to continue after termination.

19.4 Upon termination of this Agreement, all money which has been paid and all money to be paid for work done prior to the date of termination will be in full and final satisfaction of claims by the Supplier under this Agreement.

## 20. NOTICES

20.1 Any notice, request, notification, consent or approval (a "notice") under this Agreement must be in writing and may be sent by prepaid postage, fax or email or delivered by hand to the following respective addresses:

- (a) for Frontline – as set out in Item 18 of Schedule 2;
- (b) for the Supplier – as set out in Item 19 of Schedule 2,

or such other address as a party may subsequently notify to the other.

20.2 A notice will be deemed to be given:

- (a) if posted – two days after the date of posting;
- (b) if delivered – on the date of delivery;
- (c) if faxed – on the date the sender's facsimile machine notes a complete and successful transmission; or
- (d) if emailed – on the date of the email;

except that a fax or email received after 5:00 pm will be deemed to be given on the next business day.

## 21. GENERAL PROVISIONS

21.1 **Entire agreement** – This Agreement constitutes the entire agreement between the parties and supersedes all prior negotiations, arrangements and agreements between the parties.

21.2 **No partnership or joint venture, employment or agency** – The relationship of the parties under this Agreement is one of principal and contractor and the Supplier is not by virtue of this Agreement in partnership or joint venture with Frontline and must not represent itself or allow itself to be represented as a partner or joint venturer, employee or agent of Frontline.

21.3 **Delay not to constitute waiver** – Any failure by a party at any time to enforce a clause of this Agreement, or any forbearance, delay or indulgence granted by a party to the other, will not constitute a waiver of the party's rights.

21.4 **Waiver to be in writing** – No provision of this Agreement will be deemed to be waived unless that waiver is in writing and signed by the waiving party.

21.5 **Waiver limited to specific occasion** – a waiver by a party of a breach of any provision of this Agreement will not operate as a waiver of any subsequent breach of the same provision or as a waiver of any other provision.



- 21.6 **Governing law** – This Agreement is governed by the laws of Victoria and each party submits to the jurisdiction of the courts of Victoria.
- 21.7 **Compliance with all laws** – The Supplier must comply with all relevant laws in the performance of the Consultancy Services.
- 21.8 **Severability** – If any part of this Agreement is determined to be invalid, unlawful or unenforceable for any reason then that part, to the extent of the invalidity, unlawfulness or unenforceability, will be severed from the rest of the Agreement and the remaining terms and conditions will continue to be valid and enforceable to the fullest extent permitted by law.
- 21.9 **Further assistance** – The Supplier must do all things reasonably required by Frontline to give effect to this Agreement.
- 21.10 **No assignment or novation** – The Supplier may not assign or novate its interest in this Agreement, except with the prior written consent of Frontline.
- 21.11 **No sub-contracting** – The Supplier must not sub-contract the provision of the Consultancy Services without the prior consent of Frontline. Any consent given by Frontline may be conditional and will not relieve the Supplier from any of its obligations or liabilities under the Agreement.

## 22. CLAUSES TO SURVIVE TERMINATION

22.1 The following clauses will survive termination or expiration of this Agreement:

- (a) clause 11 – Intellectual Property Rights and Records;
- (b) clause 12 – Disclosure of Information;
- (c) clause 13 – Privacy;
- (d) clause 17 – Indemnity;
- (e) clause 18 – Insurance;
- (f) clause 19 – Termination; and
- (g) clause 21.9 – Further Assistance.

## 23. DISPUTE RESOLUTION

23.1 For the purpose of this clause, a dispute will have arisen when either Party gives notice in writing to that effect to the other Party.

23.2 The Parties agree to endeavour to settle any dispute arising in connection with this Agreement in good faith by negotiation or mediation for a period of 14 days (or a longer period agreed between the parties).

EXECUTED BY THE PARTIES on the respective dates set out below.

**SIGNED** for and on behalf of the **THE FRONTLINE GROUP**

Acting through ) .....  
 Jandapac Pty Ltd ABN 58 675393 ) (signature)  
 by )  
 )  
 ..... (name), )  
 ..... (position), )  
 a duly authorised person, in the presence of: ) ...../...../.....  
 (date)

.....  
 (signature of witness)

(for a company)

**SIGNED** for and on behalf of ) .....  
 ) (signature of director)  
 ABN )  
 by )  
 ..... (insert name), ) .....  
 a director, and ) (signature of director/secretary)  
 )  
 ..... (insert name), )  
 a director/the secretary, in the presence of: ) ...../...../.....  
 (date)

.....  
 (signature of witness)

(for an individual)

**SIGNED** by )  
 )  
 ..... (insert name), )  
 ABN )  
 in the presence of: ) .....  
 ) (signature)  
 )  
 ..... (signature of witness) )  
 )  
 ..... (name of witness) ) ...../...../.....  
 )  
 ..... (address of witness) )  
 )

## SCHEDULE 1 – THE CONSULTANCY SERVICES

The Consultancy Services to be provided by the Supplier are as follows:

- 1.
- 2.
- 3.
- 4.

[insert sufficient detail to clearly describe the Consultancy Services to be provided including the Deliverables – this description of the Consultancy Services is crucial to Frontline’s ability to enforce the Agreement, so try to include as much detail as possible. Some details to include are:

- Project scope and objectives
- Individual tasks/Consultancy Services required to be performed
- Outcomes/Deliverables (see definition clause 1.1)
- Key performance indicators/performance standards]

## SCHEDULE 2 – THE CONTRACT PARTICULARS

ITEM	DETAILS
1.	<p><b>Supplier:</b></p> <ul style="list-style-type: none"><li>• [Insert full name, address and ABN of the Supplier].</li><li>• [Ensure it is the correct legal name of the Supplier – ask for a copy of their incorporation documents or get an ASIC search done].</li></ul>
2.	<p><b>Approved Expenses (Clause 1.1, Definitions):</b></p> <ul style="list-style-type: none"><li>• [Insert expenses for which the Supplier will be entitled to be reimbursed pursuant to clause 6 e.g. travel, accommodation or printing costs].</li></ul>
3.	<p><b>Commencement Date (Clause 1.1, Definitions):</b></p> <ul style="list-style-type: none"><li>• [Insert date on which the provision of the Consultancy Services is to commence. If no date is inserted, the Agreement will commence when it is signed by the parties].</li></ul>
4.	<p><b>Completion Date (Clause 1.1, Definitions):</b></p> <ul style="list-style-type: none"><li>• [Insert date for completion of Agreement]</li></ul>
5.	<p><b>Fee (Clause 1.1, Definitions):</b></p> <ul style="list-style-type: none"><li>• \$[Insert fee, if flat fee or total fee is known]. OR \$[Insert schedule of rates].</li><li>• NB. Clause 8.3 provides that these amounts are to be GST exclusive</li></ul>
6.	<p><b>Key Personnel (Clause 1.1, Definitions):</b></p> <ul style="list-style-type: none"><li>• [Insert names of personnel who are to undertake the work for the Supplier. Insert 'Not applicable' if there are no Key Personnel].</li></ul>
7.	<p><b>Portfolio Director (Clause 1.1, Definitions):</b></p> <ul style="list-style-type: none"><li>• [Insert the name of the nominated Frontline person who will supervise the Agreement on Frontline's behalf].</li></ul>
8.	<p><b>Milestones (Clause 4.2(a)):</b></p> <ul style="list-style-type: none"><li>• [Insert description of milestones eg. reports, time frames and proposed achievement dates, if any].</li></ul>

9. **Periodic or recurrent Consultancy Services (Clause 4.2(b)):**
- [Insert times/frequency/intervals for performance of periodic or recurrent Consultancy Services. If Consultancy Services are not periodic or recurrent, insert 'Not applicable'].
10. **Qualifications, admissions and memberships of the Supplier (clause 4.6(b))**
- (Insert any required for the Consultancy Services – otherwise insert “nil”)
11. **Assistance to be provided by Frontline (Clause 4.7):**
- [If any assistance is to be provided by Frontline to the Supplier in relation to the Consultancy Services, specify that assistance. Insert 'Not Applicable' if Frontline is not providing any assistance].

**12. Payment (Clause 7):**

**(i) Payments for Consultancy Services**

Consultancy Services shall be paid under clause 7 of this agreement at 70% of the total invoice payable to Frontline.

**(ii) Payments for Supplier Cut Shareholdings**

Product ID	Description	Holding

The above supplier cut shareholdings are limited to recurring licence income generated by each product mentioned in the table above. The holdings are correct at the commencement date of this agreement and are subject to variation under clause 17 of this agreement.

**(iii) Payments for Additional Expenses**

Payments for any additional expenses shall be prescribed during the presentation of the expense budget. Requests for additional expenses shall be received no later than 01<sup>st</sup> June (annually) and are subject to approval by the Frontline Group Directors meetings.

13. **Intellectual Property Rights in New Contract Material will vest in (Clause**

11.1):

- (the Supplier). [Only complete this item if Frontline is **not** to own the IP. Otherwise, insert 'Not applicable'. Usually, Frontline will own anything created that it has paid for, but not always.]

**14. Moral Rights acts consented to (Clause 11.2(d)(ii)):**

[For example:

- 1. any amendments, deletion/destruction, alteration, relocation or selection of the Contract Material (or any part thereof) at the discretion of Frontline;
- 2. the publication or communication of the Contract Material or any part thereof ;)
- 3. list any other specific acts in relation to Moral Rights that are being consented to.
- If none are to be specified or if the Supplier is not an individual, insert 'Nil' or 'Not Applicable'].

**15. Public liability insurance (Clause 18.1(b)):**

- [Specify if public liability insurance is required, and if so specify amount].
- [Public liability insurance covers liability for personal injury and property damage. The standard amount that frontline requires is \$10 million per event. The cover is often restricted to a particular location. If the Supplier will not have contact with Frontline employees or the public, then this type of insurance may not be required]

**16. Professional**

**indemnity insurance (Clause 18.1(c)):**

- [Specify if professional indemnity insurance is required, and if so specify amount].
- [Professional indemnity insurance covers the consequences of a breach of professional duty and professional negligence. It is only required where relevant, that is where the Supplier is providing FRONTLINE with professional advice, say if you engage an accountant to provide professional accounting Consultancy Services or an IT person to advise about software.]

**17. Other insurances (Clause 18.1(d)):**

- [Specify any other insurance required e.g. product liability, motor vehicle

or volunteers insurance].

**18. Frontlines address for notices (Clause 20.1(a)):**

- [Insert address for notices, including fax no. and email address].

**19. Supplier's address for notices (Clause 20.1(b0)):**

- [Insert address for notices, including fax no. and email address].