

**CONSULTANCY SERVICES AGREEMENT**

**(NON-RESEARCH)**

La Trobe University (ABN 64 804 735 113) (“the **University**”) has agreed to perform certain consultancy services for the Client as set out below in accordance with the Terms and Conditions attached.

**DETAILS:**

|  |  |
| --- | --- |
| **Client**  | Legal Name: ABN/ACN:  |
| **Client’s** **address for notices**  | Address: Fax:  |
| **University’s****address for notices** | Director Research Services, Research Services, La Trobe University, Victoria 3086 Fax: (03) 9479 1464 |
| **Client’s representative** | Name: Title: Phone: Email:  |
| **University representative** | Name (project leader): Title: Phone: Email: School or Administrative Division:  |
| **Services** | (Select one): [ ]  As set out in the document attached titled [ ]  As described below:  |
| **Deliverables :** |   |
| **Timetable:** |   |
| **Fees and allowances**  | Amount(s): $  |
|  | GST: $  |
|  | Total: $  |
| **Time(s) for payment**  |   |

**TERMS AND CONDITIONS**

1. **INTERPRETATION**
	1. In this Agreement unless the contrary intention appears:

**Agreement** means this agreement including the Details, Terms and Conditions and any attachments

**Client** means the party so named in the Details

**Details** means the details described on page 1 of this Agreement

**Fees** means the fees and allowances set out in the Details

**Services** means the services required to be performed by the University under this Agreement, as described in the Details and amended by agreement from time to time

**Terms and Conditions** means these terms and conditions.

1. **CONSULTANCY SERVICES**
	1. The University shall perform the Services at the times and in the manner specified in this Agreement.
2. **PAYMENT**
	1. The Client shall pay to the University the Fee, at the times specified in the Details. The University shall submit invoices for amounts payable and the Client undertakes to pay such amounts within 14 days of receipt of invoices.
	2. In this clause terms have the meanings given those expressions in the *A New Tax System (Goods and Services Tax) Act 1999*. The Fees and any other consideration under this Agreement are exclusive of GST unless otherwise stated. If GST is imposed on any supply made under or in accordance with this Agreement, the recipient of the taxable supply must pay to the supplier an additional amount equal to the GST payable on or for the supply subject to the recipient receiving a valid tax invoice in respect of the supply at or before the time of payment. Any reimbursement of expenses under this Agreement will be net of input tax credits (if any) to which the party is entitled.
3. **CONFIDENTIAL INFORMATION AND PRIVACY**
	1. Each party agrees that all confidential information obtained from the other party pursuant to this Agreement will be treated as confidential and, except as required by law, must not be disclosed to any third party without the prior written consent of the other party.
	2. Both parties agree that in carrying out this Agreement they will comply with all applicable privacy legislation, including the *Privacy and Data Protection Act 2014* and *Health Records Act 2001* (Vic) and the Information Privacy Principles and Health Privacy Principles under those Acts.
	3. Notwithstanding any other provision of this Agreement, the University shall not be required to provide to the Client any material, including but not limited to questionnaire returns, tape recordings and interview transcripts, which contains data in which persons who are respondents to questionnaires and subjects of interview are identifiable.
4. **COOPERATION AND DELAY**
	1. The Client shall as soon as practicable make available to the University all available information documents and other particulars reasonably necessary to enable the University to perform the Services.
	2. At all times during this Agreement the parties shall co-operate with each other and act in good faith to resolve any dispute or disagreement touching on or concerning this Agreement or the parties’ respective obligations under it.
	3. A party to this Agreement shall not be entitled to exercise its rights and remedies upon the default of the other party (whether at common law or under clause 9.1) if that default is caused by an act or event that is beyond the reasonable control of that other party or was not reasonably foreseeable at the time this Agreement was entered into.
5. **LIABILITY**
	1. Subject to clause 6.2, the University shall not be liable to the Client for any loss or damage, whether direct or indirect, howsoever arising whether in contract, tort or otherwise, and makes no warranty whether express or implied in relation to the performance of the Services, including without limitation those of merchantability, fitness for a particular purpose, or that the use of any materials developed under this agreement will not infringe the intellectual property rights of a third party.
	2. Where an Act of Parliament implies in this Agreement any term or warranty which cannot be excluded, restricted or modified, such term or warranty shall be deemed to be included in this Agreement provided that the University’s liability for a breach of such term or warranty is, at the option of the University, limited to the supply of the services again or the cost of supplying the services again.
	3. The University shall not be liable to any third party for any loss, damage, cost or penalty that any third party may suffer as a result of the Client providing any material relating to the Services to a third party. The Client shall indemnify and hold harmless the University from and against any loss, damage, cost or penalty that the University may sustain or incur as a result of the Client providing any material relating to the Services to a third party.
6. **INTELLECTUAL PROPERTY**
	1. The ownership of intellectual property existing prior to the commencement of this Agreement (“Background IP”) shall not be altered, transferred or assigned merely by virtue of its use for the purposes of this Agreement.
	2. If, under the Copyright Act, this Agreement or any other law intellectual property in material created or developed under this Agreement (“Services IP”) vests in a party other than the University, the University shall have an irrevocable royalty-free non-exclusive licence to use, reproduce and communicate the Services IP, in all formats either now in existence or invented in the future, for the purposes of education, teaching, research and publication.
	3. The University grants the Client an irrevocable royalty-free non-exclusive licence to use any Services IP owned by the University for the purposes of this Agreement.
	4. Nothing in this Agreement shall prevent the University or any student involved in the performance of the Services from providing any thesis or paper to an examiner for assessment provided that the Client may require the thesis or paper to be submitted to examiners in confidence where confidential information is involved. Notwithstanding anything to the contrary in this Agreement copyright in a student’s thesis shall remain vested in that student.
7. **PUBLICITY**
	1. All press releases, publicity, advertisements or other announcements relating to this Agreement will be made jointly with the written approval of each party. Each party agrees that it will not use the other party’s name or logo in any promotional or other material without the prior written approval of the other party.
8. **TERMINATION**
	1. Either party may by written notice immediately terminate this Agreement if the other party is in breach of any terms of this Agreement and the breach is not remedied within thirty (30) days of a notice from the complaining party specifying the breach and requiring its remedy.
	2. If the Client has any winding up petition presented against it or is placed under official management, administration, provisional liquidation or a receiver or receiver and manager or other controller (as that term is defined in the Corporations Act 2001) is appointed over its undertaking or property or any part of its property or undertaking or, in the case of an individual, becomes bankrupt or insolvent or enters into any arrangement or assignment with creditors, the University may, by notice in writing, terminate this Agreement.
	3. If the University’s Representative becomes unwilling or unable to provide the Services (for any reasons including but not limited to ceasing employment with the University), this Agreement may by written notice be immediately terminated by the University.
9. **GENERAL**
	1. All notices required to be given under this Agreement shall be in writing sent to the party’s address for notices as set out in the Details or otherwise advised from time to time. Any notice may be delivered by post or facsimile.
	2. This Agreement constitutes the entire agreement of the Parties with respect to its subject matter and supersedes all prior oral or written representations and agreements.
	3. This Agreement shall be governed by the laws of Victoria and may only be varied by the further written agreement of the parties.
	4. The Agreement does not set up or create any employer-employee relationship or a partnership of any kind. Each party is individually responsible only for its obligations as set out in this Agreement and the parties agree their relationship is one of independent contractors. Neither party is authorised or empowered to act as agent for the other for any purpose and neither party shall on behalf of any other enter into any contract give any warranty or make any representation as to any matter. Neither party will be bound by the acts or conduct of the other.
	5. Any provisions of this Agreement which are held to be illegal or otherwise in conflict with any laws, statutes or regulations shall be deemed to be severed from the remainder of the Agreement and the validity of the remaining provisions shall not be affected.
	6. If a party to this Agreement consists of more than one person those persons shall be jointly and severally bound under this Agreement.
	7. A party to this Agreement shall not assign any right under this Agreement without the prior written consent of the other party.

**EXECUTED BY THE PARTIES AS AN AGREEMENT:**

**SIGNED** for and on behalf of )

**La Trobe University** )

by an authorised signatory )

**SIGNED** for and on behalf of )

the **Client** )

by its duly authorised signatory )

*(Head of School or other authorised delegate)*

Name:

Title:

Date: / /

*(Signature)*

Name:

Title:

Date: / /