1. General - This Purchase Order shall be governed by Fujitsu Purchase Order Terms and Conditions set out in Schedule 2 of the Competition and Consumer Act 2010 Cth.

2. Definitions - The following terms shall be used herein as defined in this clause 2.

3. Performance - The Supplier shall perform the Services in the manner set forth and in accordance with all terms and conditions of this Purchase Order.

4. Acceptance - Supplier shall deliver the Products to Fujitsu at the delivery address set out in the Purchase Order. Supplier shall make available all written technical specifications of the Products. The Product(s) shall be tested in the field. Supplier must submit written evidence of any tests and the results of the tests to Fujitsu. Where the Products do not meet the specifications, Supplier shall replace the defective Product(s) at no cost to Fujitsu.

5. Deliverables - The Supplier shall deliver all documents and drawings, if any, required under this Purchase Order.

6. Ownership - Ownership of the Products and/or Services remains with Fujitsu until payment in full has been made by Fujitsu to Supplier.

7. Taxes - If the full amount of tax is not shown on the invoice, Supplier shall pay any tax that becomes payable in respect of this Purchase Order.

8. Acceptance - Supplier shall provide written notice to Fujitsu that the Supplier has accepted the terms and conditions proposed by the supplier. The instructions are hereby rejected and shall not bind Fujitsu in any way. These terms or where applicable any separate terms to this Purchase Order, including the Schedule(s) regulate the purchase of the products and/or Services defined in this Purchase Order.

9. Documentation - Supplier must ensure that it provides all documentation and information to Fujitsu including its specification(s) and drawings and other documents, if any, required under this Purchase Order.

10. Cancellation - Fujitsu reserves the right upon written notice to Supplier to cancel all or any part of this Purchase Order if this Purchase Order is not accepted by Supplier within 3 business days from the date of issue by Fujitsu, without incurring any liability whatsoever.

11. Price - The Price stated in this Purchase Order is the total amount to be paid by Fujitsu to Supplier and includes all taxes, duties, levies and the like imposed by any domestic or foreign government, local authority, taxing authority or any other body or authority.

12. Payment - Supplier shall provide each invoice within 120 days of its delivery date. Supplier shall have the right to suspend delivery in the event of Supplier's failure to comply with these Terms and Conditions.

13. Warranties - Supplier shall warrant the Products and/or Services to be free from defects in materials, workmanship and installation. In the case of any non-conformance between these terms and conditions and Incoterms® 2010, these Terms and Conditions shall prevail.

14. Setoff - Fujitsu has the right to set off any amount owing by Supplier to Fujitsu against any amount payable by Fujitsu under this Purchase Order.

15. Inspection - Fujitsu shall inspect the Products and/or Services delivered and accepted in accordance with clause 11. Fujitsu reserves the right to inspect the Products and/or Services at any time and to require Supplier to provide all necessary information and documentation to enable Fujitsu to inspect the Products and/or Services.

16. Dispute Resolution - Supplier shall be liable to pay all such sales, use, excise, withholding, services, consumption, import, export, custom or other tax, duty or levy. Unless otherwise agreed, and subject to clause 17, Supplier shall pay all such sales, use, excise, withholding, services, consumption, import, export, custom or other tax, duty or levy required to perform the Purchase Order. Supplier must pay all such GST that is payable in respect of any taxable supply made under this Purchase Order in addition to the amount payable (exclusive of GST) for the Taxable Supply. GST is payable at the same time as the amount payable for the Taxable Supply. The reference in these terms and conditions to a term defined or used in GST Law is, unless the context indicates otherwise, a reference to that term as defined or used in GST Law.

17. Terms and Conditions - Supplier shall agree to the use of Products or Services. Supplier shall pass on to Fujitsu any decrease of prices including, but not limited to matching the prices on Supplier's standard price list for products and/or Services, that occur after delivery.

18. Invoicing Terms - Supplier shall not invoice for defective or non-conforming Products and/or Services, and/or to cancel all or any part of this Purchase Order if (i) Supplier does not accept the terms and conditions of this Purchase Order or (ii) Supplier has failed to perform the terms and conditions of this Purchase Order.

19. Acceptance - Fujitsu reserves the right to accept any defective or non-conforming Products and/or Services, and Supplier shall be liable for all costs incurred by Fujitsu in transacting via the Purchase to Pay Tool.

20. Payment - Supplier shall pay all taxes, duties, levies and the like imposed by any domestic or foreign government, local authority, taxing authority or any other body or authority. Supplier shall pay all such sales, use, excise, withholding, services, consumption, import, export, custom or other tax, duty or levy required to perform the Purchase Order. Supplier must pay all such GST that is payable in respect of any taxable supply made under this Purchase Order in addition to the amount payable (exclusive of GST) for the Taxable Supply. GST is payable at the same time as the amount payable for the Taxable Supply. The reference in these terms and Conditions to a term defined or used in GST Law is, unless the context indicates otherwise, a reference to that term as defined or used in GST Law.

21. Inspection - Supplier shall perform a delivery inspection and/or test of the Products and/or Services delivered by Supplier under this Purchase Order. Any defects found during such delivery inspection or test shall be duly documented within ten (10) business days from delivery of the Products and/or Services and be reported to Supplier in writing. If Supplier does not report any defects within the stipulated time frame, the Products and/or Services shall be deemed to be subject to Acceptance. Acceptance does not waive Fujitsu's right to subsequently reject Products which are found upon first usage to be non-functional. If Supplier submits a report on defects, Supplier shall, at its own cost and without undue delay, replace or correct defects at its own cost and without undue delay. Supplier shall also replace or correct defects at its own cost and without undue delay. Supplier shall not be liable for any non-conforming Products or Services other than those that occur before the delivery date.

22. Warranty - Supplier shall perform a delivery inspection and/or test of the Products and/or Services delivered by Supplier under this Purchase Order. Any defects found during such delivery inspection or test shall be duly documented within ten (10) business days from delivery of the Products and/or Services and be reported to Supplier in writing. If Supplier does not report any defects within the stipulated time frame, the Products and/or Services shall be deemed to be subject to Acceptance. Acceptance does not waive Fujitsu's right to subsequently reject Products which are found upon first usage to be non-functional. If Supplier submits a report on defects, Supplier shall, at its own cost and without undue delay, replace or correct defects at its own cost and without undue delay. Supplier shall also replace or correct defects at its own cost and without undue delay. Supplier shall not be liable for any non-conforming Products or Services other than those that occur before the delivery date.
defective during the applicable Warranty Period, Fujitsu may at its option, without prejudice to any other right or remedy it may have, require the Supplier to repair, replace or refund such Products at the Supplier's cost. Supplier shall be liable for any defects in the Products or Services caused by Supplier's negligence. Supplier shall at its own cost and expense, both during and subsequent to the applicable Warranty Period, repair, replace and make good any defect in the Products, Services or Documentation so that it becomes non-infringing and free from any defects.

18. Exports - The parties acknowledge that Products, Services, and any other information, equipment, software, technical data, or technology supplied hereunder that are subject to the Export Administration Regulations (with any implementing regulations, orders, licenses, consents, and approvals as may be required from time to time under local laws and regulations and those of any other country, including but not limited to the United States and the European Union) shall be controlled for export by the U.S. Department of Commerce, Bureau of Industry and Security, or other governmental authority, and the Supplier shall at its own expense and cost authorize the export of such Products, Services and Documentation hereunder in accordance with such laws and regulations, and shall obtain all licenses, consents and approvals as may be required from time to time under such laws and regulations and those of any other country, including but not limited to the United States and the European Union.

19. Required Insurance - Whilst performing its obligations under this Purchase Order and in accordance with Fujitsu’s instructions and all relevant legal and regulatory requirements, Supplier shall at all times maintain all insurance policies with reputable insurance companies having its limits of liability and capacity as set forth in this clause. The insurance policies shall include but not be limited to:

- Property and casualty insurance for the Products, Services and Documentation related to their sale or license hereunder and injury to persons only.
- Public liability insurance against any loss, damage or expense which may be instituted against Supplier arising out of a breach by Supplier of this Purchase Order and compliance with the obligations of clauses 18 and 24.
- Professional indemnity insurance against any loss, damage or expense (including legal fees) incurred by Fujitsu arising out of a breach by Supplier of this Purchase Order and compliance with the obligations of clauses 18 and 24.
- Workers compensation insurance as required by law.
- Professional indemnity insurance.
- Personal liability insurance as required by law.
- Any other insurance policies which Supplier may reasonably require to be maintained, and which may be required by the laws of any country.

20. Permitted Processing and Access to Personal Data - Supplier shall only process any Personal Data held in connection with this Purchase Order for the purposes of fulfilling its obligations under this Purchase Order and in accordance with Fujitsu’s instructions and all relevant legal and regulatory requirements. Supplier shall ensure that where such Personnel have access to any Personal Data held by Fujitsu, Supplier ensures that such Personnel are subject to an appropriate regime that ensures that where such Personnel have access to any Personal Data held by Fujitsu, Supplier ensures that such Personnel are subject to an appropriate regime that ensures that Supplier processes such Personal Data in accordance with applicable laws, regulations, and Fujitsu’s confidentiality policies and procedures.

21. Compliance with Law and Corporate Social Responsibility - In the performance of its obligations under this Purchase Order, Supplier shall comply with all laws, regulations, privacy principles, codes of practice, and policies applicable to the provision of the Products, Services or Documentation hereunder, including but not limited to: (i) any national and local laws and regulations governing suppliers of software and related services; (ii) all laws and regulations governing the transfer of software and other technologies from one country to another; (iii) any national and local laws and regulations governing any other transactions between Supplier and Fujitsu; (iv) applicable anti-bribery, anti-corruption, anti-money laundering, and counter-terrorism laws and regulations; and (v) any national and local laws and regulations governing Supplier’s operations in any country.

22. Performance Indemnities to Fujitsu - Supplier indemnifies Fujitsu and its employees, officers, agents and contractors against losses reasonably sustained or incurred by Fujitsu due to Supplier's failure to maintain all insurance policies in accordance with this clause.

23. Limitation of Liability - Both parties total cumulative liability to each other for any and all claims arising out of or in connection with this Purchase Order for breaches of contract, breach of warranty, breach of statutory duty or negligence (or other tort) is limited to the greater of $100,000.00 and three times the annual Price in this Purchase Order. This limitation of liability shall not apply to claims for loss arising out of a party’s obligations of indemnification relating to personal injury (including sickness or death of a person), loss of, or damage to, tangible property; any infringement of Intellectual Property Rights; any breach of confidentiality, security or privacy obligations in this Purchase Order or at law, any breach of any Law, fraud or any unlawful act or omission; or liability for taxes (and any
obligation to perform those obligations affected by the Force Majeure Event shall be suspended for the duration of the delay arising directly out of a Force Majeure Event continues for more than thirty (30) days, Fujitsu may at its election, by notice to the Supplier, modify or cancel this Purchase Order without being liable to the Supplier in damages or otherwise.

Termination - Fujitsu may by notice in writing to Supplier terminate this Purchase Order forthwith if Supplier is in material default of this Purchase Order or if the Supplier becomes or threatens to become or is in jeopardy of becoming subject to any form of bankruptcy or insolvency administration. Fujitsu may, at its option and without any cost or liability, terminate this Purchase Order without cause by giving Supplier not less than ten (10) days prior written notice. In the case where the Purchase Order has been accepted and Services delivered by the Supplier, Fujitsu may pay such sums as are fair and reasonable regarding the Services delivered by the Supplier prior to termination without cause by Fujitsu, subject to the Supplier having exercised all reasonable efforts to mitigate such loss or damage. Survival – Notwithstanding anything to the contrary in these Terms, the expiration or termination of this Purchase Order shall not affect or prejudice any provisions of these Terms which are expressly or by implication intended to continue in effect after such expiration or termination.

34. Australian Consumer Law and Consumer Guarantees

a. This clause 25 applies where: the Price of the Products and related services does not exceed $100,000.00 (or such other amount as may be identified as the prescribed amount under the ACL).

b. Nothing in this Purchase Order limits Fujitsu’s rights or the Supplier’s obligations under the ACL where Fujitsu benefits from a consumer guarantee under the ACL.

c. In the event of a major failure of a Service and/or a Product, Fujitsu may terminate this Purchase Order, claim a refund, claim compensation from the Supplier.

d. In the event of a failure of a Product or Service that does not amount to a major failure, Fujitsu may require the Supplier to rectify the failure within a reasonable time and if this is not completed to Fujitsu’s satisfaction, Fujitsu may terminate this Purchase Order, claim a refund, request Product replacement or compensation from the Supplier and the Supplier must comply with such a request.

25. Applicable Law - This Purchase Order shall be governed by and construed according to the laws of the State of New South Wales. The contract of laws provisions and the “UN Convention on Contracts for International Sale of Goods” dated April 11, 1980 (CISG) shall not apply.

26. Dispute Settlement - Any dispute arising out of or in connection with this Purchase Order, including any question regarding its existence, validity, non-payment, breach or termination, shall be referred to mediation in Sydney, Australia in accordance with the Mediation Rules of the Australian Commercial Disputes Centre (ACDC) for the time being in force, which rules are deemed to be incorporated by reference in this clause. The language of the mediation shall be English. The Parties hereto undertake to keep the mediation proceedings and all information, pleadings, documents, evidence and all matters relating thereto confidential. Notwithstanding anything else in this clause, neither party is restricted from seeking interlocutory relief.

27. Entire Agreement - Unless in accordance with clause 1 of these Terms and Conditions, the Supplier has signed a separate supply agreement with Fujitsu which shall instead govern this Purchase Order, this Purchase Order otherwise constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior undertakings, agreements, representations and warranties. Each party acknowledges that, in entering into this Purchase Order, it does not do so on the basis of, and does not rely on, any representation, warranty or other provision except as expressly provided herein.

28. Severability - If any provisions of this Purchase Order (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part thereof shall to the extent required, be deemed not to form part of the Purchase Order, and the validity and enforceability of the other provisions of this Purchase Order shall not be affected.

29. Modifications - No amendments or additions to this Purchase Order or these Terms and Conditions is binding unless made in writing and signed by duly authorized representatives of each party.

30. Subcontractors - Supplier may use sub-manufacturers and/or subcontractors upon Fujitsu’s prior written consent. Supplier shall make such sub-manufacturers and/or subcontractors comply with the standards and requirements contained in this Purchase Order and shall be fully liable for their non-compliance therewith.

31. Confidentiality; Publicity - Any Confidential Information which one party has disclosed or may hereafter disclose (the “Disclosing Party”) to the other party (the “Receiving Party”) in connection with the Products or Services covered by this Purchase Order and which is designated as confidential or by explicit identification or from the context of disclosure shall be deemed to be confidential or proprietary information, shall only be disclosed to those of its employees, advisors, contractors or subcontractors who have a need to know and are under obligations of confidentiality and shall not otherwise be disclosed to any third party without Disclosing Party’s prior written consent. Supplier shall not, without obtaining Fujitsu’s consent, in any manner, advertise or publish the fact that the Products or Services ordered hereunder have been contracted for or furnished by Supplier to Fujitsu.

32. Assignment - The Supplier may not assign, delegate or transfer all or any part of its rights or obligations under this Purchase Order without the prior written consent of Fujitsu.

33. Force Majeure - If a party (“Affected Party”) is unable to perform any of its obligations because of any event outside its reasonable control, including but not limited to strikes by employees of a third party, fires, wars, acts of God, governmental controls (“Force Majeure Event”), then it shall promptly notify the other party of its inability to perform and the nature and extent of the circumstances that amounts to a Force Majeure Event. Subject to compliance with the aforesaid, the Affected Party's