



CONSULTANCY SERVICES AGREEMENT





CONSULTANCY SERVICES AGREEMENT

HARRADYNAMICS PTY LTD

and

INSERT CONSULTANT

INSERT CONTRACT NUMBER

Date of Contract:

This Contract is made on Date of Contract:

BETWEEN

HARRADYNAMICS PTY LTD (ABN: 50 164 328 367) (the Company) of Unit 5, 88 Macquarie Street, ST LUCIA QLD 4067

AND

Consultant Trading Name (ABN: INSERT ABN) (the Consultant) of: INSERT ADDRESS

WHEREAS

- A. The Company provides engineering services to its clients.
- B. To effectively deliver certain services to its clients, the Company engages independent consultants to provide specialist services to the Company.
- C. The Consultant has represented to the Company that it can provide specialist services required by the Company, more particularly described in Schedule A (Services), and that it has the requisite skill, experience and ability to perform the Services and deliver the Services to the Company in accordance with this Agreement.
- D. In reliance of these representations made by the Consultant, the Company wishes to engage the Consultant to perform the Services.
- E. The Consultant has agreed to accept the engagement and perform the Services on the terms and conditions set out in this Agreement.

THE PARTIES AGREE AS FOLLOWS:

- 1.0 The Consultant must provide the Services in accordance with this Agreement.
- 2.0 The Company must pay the Consultant in accordance with this Agreement.
- 3.0 The documents listed below together form the agreement between the Company and the Consultant (Contract), and in the case of inconsistency or ambiguity between them the following order, in decreasing order of priority, will apply:
 - (a) this Contract, including the Schedule to the Contract;
 - (b) Special Conditions (if any);
 - (c) Consultancy Services Terms and Conditions;
 - (d) Schedule A (Scope of Services);
 - (e) Specifications and Drawings (if any);
 - (f) Schedule B (Contract Sum and Variations);
 - (g) Code of Conduct: and
 - (g) other schedules and attached documents (if any).

Signed for and on behalf of:

HARRADYNAMICS PTY LTD

ABN: 50 164 328 367

in accordance with Section 127 of the Corporations Act 2001 (Cth)

DIRECTOR

DATE

DIRECTOR / SECRETARY

DATE

Signed for and on behalf of:

CONSULTANT NAME

ABN: Consultant ABN

in accordance with Section 127 of the Corporations Act 2001 (Cth)

DIRECTOR

DATE

DIRECTOR / SECRETARY

DATE

SCHEDULE TO THE CONTRACT

Client:	Client Name
Client Head Contact Name and Number:	Client Name & Number
Project Number:	Project Number
Project Name:	Project Name
Contract Number:	CONTRACT NUMBER
Contract Name:	Contract Name
Commencement Date:	Commencement Date
Completion Date:	Completion Date
Company Name:	Harradynamics Pty Ltd
Company ABN:	50 164 328 367
Company Address:	Unit 5, 88 Macquarie Street, ST LUCIA QLD 4067
Company Phone:	(07) 3162 9384
Company Email:	gary.harradine@harradynamics.com.au
Company Representative:	Harradynamics Director Name
Company Project Manager:	Harradynamics Representative
Company Project Manager Address:	Unit 5, 88 Macquarie Street, ST LUCIA QLD 4067
Company Project Manager Phone:	Harradynamics Representative Phone
Company Project Manager Email:	Harradynamics Representative Email
Consultant Name:	Consultant Trading Name
Consultant ABN:	Consultant ABN
Consultant Address:	Consultant Street Address
Consultant Phone:	Consultant Phone Number
Consultant's Representative:	Consultant Representative
Consultant Email:	Consultant Representative Email
Consultant's Liability Limit:	Amount
Consultant's Professional Indemnity insurance:	\$10,000,000 in respect of any one claim and in the aggregate.

Consultant's General Liability insurance	\$20,000,000 in respect of any occurrence and in the minimum amount: aggregate.
Consultant's Workers Compensation insurance:	\$50,000,000 common law liability in respect of one event.
Consultant's motor vehicles insurance amount:	\$20,000,000 for each accident or occurrence.
Key Personnel:	Insert Names and Roles



TERMS AND CONDITIONS

INSERT CONTRACT NUMBER

1 DEFINITIONS AND INTERPRETATION

1.1 In these terms and conditions:

“ACDC” means Australian Commercial Disputes Centre.

“ACDC Rules” means ACDC Rules for Expert Determination.

“Agency” has the same meaning as in section 6 of the Privacy Act 1988 (Cth).

“Agreement” means the Contract executed between the Company and the Consultant, any Special Conditions, these Consultancy Services Terms and Conditions, Schedule A (Scope of Services), Specifications and Drawings (if any), Schedule B (Contract Sum and Variations) and all other schedules and documents annexed to the Contract or incorporated by reference (if any).

“Anti-bribery and Corruption Law” means any anti-bribery and corruption laws that are applicable to the Company, the Consultant or this Agreement, including the Foreign Corrupt Practices Act 1977 (US), the Bribery Act 2010 (UK) and The Criminal Code 1995 (Cth).

“Approval” means:

- (a) any licences, authorisations, consents, approvals or permits from or by any government agency; and
- (b) all requirements imposed under law or by a government agency.

“Aus Industry” means the specialist program delivery division of that name within the Commonwealth Department of Industry, Innovation, Science, Research and Tertiary Education.

“Author” means any person, including a relevant employee of the Consultant or any of its contractors or any other contributing person, who is the author of any documents, drawings or other materials or things in which rights under the Copyright Act 1968 (Cth) (or equivalent legislation) or forms of protection of a similar nature which may subsist anywhere in the world vest, created in respect of the Services.

“Business Day” means a day on which banks are open for business in the State or Territory in which the Services are being performed excluding a Saturday, Sunday or public holiday.

“Claim” means any demand, action or proceeding of any nature whether actual or threatened and includes any claim for payment of money (including damages) under, arising out of, or in any way in connection with this Agreement or the performance of the Services.

“Client” means the person, firm or corporation specified in the Schedule to the Contract.

“Commencement Date” means the commencement date set out in the Schedule to the Contract.

“Company” means the person, firm or corporation specified in the Contract as the Company, its successors and permitted assigns.

“Company Background IP” means all present and future Intellectual Property brought into existence by or on behalf of the Company, which is in existence before the Commencement Date, or after the Commencement Date other than in connection with this Agreement.

“Company Material” means the Company’s Background IP, and other data, equipment and information provided to the Consultant in accordance with clause 12.1 for the purposes of this Agreement.

“Company’s Personnel” means the Company’s directors, officers, employees, delegates, subcontractors, partners, agents and service providers of any nature (save for the Consultant and the Consultant’s Personnel).

“Company’s Representative” means the person specified in the Contract, or any subsequent replacement nominated by the Company in writing from time to time to act for and on behalf of the Company.

“Completion Date” means the completion date set out in the Schedule to the Contract.

“Confidential Information” means any information (of whatever nature, format and medium of communication) which is communicated, made available to, or accessible by the disclosing Party or any of its Related Body Corporate, to the receiving Party, in connection with the provision of the Services and this Agreement, including, but not limited to:

- (a) all business information, financial information, accounts, plans, marketing plans, management information, investment information, future operations, research, Client information, supplier information of a Party;
- (b) any technical information, techniques, methods, drawings, designs, specifications, programs, source code, object code, software, data, research, materials, photographs, documents, manuals, or other records of a Party used in their respective businesses;
- (c) all Intellectual Property;
- (d) the discussions and negotiations in connection with this Agreement;

it does not include:

- (a) any information which is in or becomes part of the public domain, other than by breach of this Agreement; or
- (b) information which the receiving Party acquires from a third party who is entitled to disclose it to the receiving Party, other than by breach of this Agreement.

“Consequential Loss” means any consequential, special or indirect cost, loss, expense or damage of any kind whatsoever including: loss of profits; loss of revenue; loss of any contract; loss of anticipated profit; loss of business opportunity; special or exemplary damages; cost of finance; loss of use; loss of sales; loss of goodwill or loss of reputation.

“Consultancy Services Terms and Conditions” means these Harradynamics Consultancy Services Terms and Conditions.

“Consultant” means the corporation or firm specified in the Contract, its successors and assigns.

“Consultant Background IP” means all present and future Intellectual Property brought into existence by or on behalf of the Consultant, which is in existence before the Commencement Date, or after the Commencement Date other than in connection with this Agreement.

“Consultant’s Insurances” means the insurances specified in clause 23.1 and the Schedule to the Contract.

“Consultant’s Personnel” means the Consultant’s directors, offices, employees, delegates, Subcontractors, partners, agents and secure providers of any nature.

“Consultant’s Representative” means the person specified in the Contract, or any subsequent replacement nominated by the Consultant from time to time to act for and on behalf of the Consultant.

“Contract” means the contract executed by the Parties for the provision of the Services, including the Schedule to the Contract.

“Contract Sum” means the consideration payable by the Company to the Consultant as set out in Schedule B (Contract Sum and Variations).

“Delay Event” means:

- (a) an act or omission of the Company or its officers, employees, agents, consultants or contractors; or
- (b) Force Majeure,

which causes delay to the completion of the Services.

“Deliverables” means the documents, designs, drawings, data or information in any form or format, electronic or otherwise, and in any repository including, correspondence, contracts, reports, notes, accounts, drawings, designs, plans, calculations, computer models, models, flow sheets and layouts, instructions, sketches, maps, specifications, presentations, source codes, and backup calculations, which are created for, or relate to, or are used in connection with, the supply of the Services.

“Dispute” means any dispute, difference or issue between the Parties concerning or arising out of or in connection with or relating to this Agreement, or the subject matter of this Agreement, or the existence, breach, termination, validity, repudiation, rectification, frustration, operation or interpretation of this Agreement.

“Extension of Time Claim” means an extension of time claim as defined in clause 18.1.

“Force Majeure” means an event or circumstance (or a combination of events or circumstances):

- (a) which is beyond the reasonable control of the Party affected by the event or circumstance;
- (b) which causes a delay or prevents or hinders the performance of the Agreement;
- (c) is not caused by either Party;
- (d) which was not reasonably foreseeable by the Parties at the time of entering into this Agreement; and
- (e) the consequences of which could not have been reasonably prevented by the Party affected, including:
 - (i) an act of God, natural disaster, cyclone, typhoon, severe storm, flood, fire, earthquake, volcanic ash;
 - (ii) strike, lockout, stoppage or restraint of labour or other industrial disturbance or dispute (whether lawful or unlawful);
 - (iii) acts of war (declared or undeclared), acts of public enemies, terrorism, riots, civil commotion, malicious damage, sabotage and revolution; or
 - (iv) expropriation by any governmental or military agency or authority, restraints, embargos and other acts by any governmental agency or authority.

“Gross Negligence” means an act or omission which was:

- (a) intended to cause loss or damage;

- (b) taken with reckless disregard, whether consciously or not, to the consequences of the act or omission; or
- (c) a grave, serious or significant departure from the standard of care which a reasonable person in the position of the Consultant would have observed in all circumstances.

“GST” has the meaning it bears in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) and terms which are defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) have the same meaning as those terms have in that Act.

“Head Contract” means the contract entered into between the Company and the Client specified in the Schedule to the Contract.

“Head Contract Variation” means a Variation required as a result of a variation to the Head Contract.

“Independent Experts” means the independent experts referred to in clause 32.1.

“Intellectual Property” means all present and future rights, title and interests in and to:

- (a) rights in relation to inventions, patents, trademarks, service marks, copyright and analogous rights, rights in designs, designs, trade names, copyright, topography rights, circuit layouts, topography rights, source code, domain names, computer programs, Confidential Information, trade secrets, know-how, in each case whether registered or not, and any applications for registration of any of them;
- (b) rights under licences, consents, and all renewals and extensions of these rights in relation to any of them;
- (c) other forms of protection of a similar nature or having equivalent or similar effect to any of them which may subsist anywhere in the world; and
- (d) includes such intellectual property developed or resulting from the R&D Work, but excluding Moral Rights.

“Insolvency Event” occurs, in respect of a Party, when that Party:

- (a) informs its creditors generally that it is insolvent;
- (b) has a meeting of its creditors called with a view to entering a scheme of arrangement or executing a deed of company arrangement;
- (c) enters a scheme of arrangement or executes a deed of company arrangement with its creditors;
- (d) has a controller or liquidator (as those terms are defined in the Corporations Act) of its property or part of its property appointed;
- (e) is the subject of an application to a court for its winding up, which application is not stayed within 10 Business Days;
- (f) has a winding up order made in respect of it;
- (g) has an administrator appointed under section 436A, 436B or 436C of the Corporations Act 2001(Cth);
- (h) enters into voluntary liquidation;

- (i) fails to comply with, or apply to have set aside, a statutory demand within 14 days of the time for compliance and:
 - (i) if the corporation applies to have the statutory demand set aside within 14 days of the time for compliance, the application to set aside the statutory demand is unsuccessful; and
 - (ii) the corporation fails to comply with the statutory demand within 7 days of the order of the court dismissing the application; or
 - (iii) has execution levied against it by creditors, debenture holders or trustees or under a floating charge.

“Key Personnel” means each of the Consultant’s Personnel specified in the Schedule to the Contract.

“Liability Limit” means the limit on the Consultant’s liability set out in the Schedule to the Contract.

“Loss” means any liability, cost, expense, loss, personal injury, death or damage.

“Moral Rights” means any moral rights arising under the Copyright Act 1968 (Cth), any rights described in Article 6b of the Berne Convention for the Protection of Literary and Artistic Works 1886 (as amended or revised from time to time), and any other similar rights arising under any other law in Australia or anywhere in the world.

“Notice” means a notice as defined in clause 30.1.

“Notice of Dispute” means a notice of dispute as defined in clause 31.2.

“Party,” “Party’s” or “Parties” means a reference to the Consultant and/or the Company, as appropriate.

“PPSA Law” means the Personal Property Securities Act 2009 (Cth) (PPSA) or any other legislation as a consequence of the PPSA.

“Project IP” means all Intellectual Property created, discovered or brought into existence by or on behalf of the Consultant in its performance of the Services under this Agreement.

“Program” means any program or milestones for the delivery of the Services as set out in Schedule A (Scope of Services) to this Agreement.

“R&D Work” means all Research and Development Activities (as defined in section 355 of the Tax Act).

“R&D Tax Incentive Offsets” means any refundable tax offsets available to eligible entities under the R&D Tax Incentive Program, relating to eligible research and development expenditure conducted within Australia.

“R&D Tax Incentive Program” means the program known as the ‘R&D Tax Incentive’ administered by Aus Industry on behalf of Innovation Australia and the Australian Taxation Office (or other relevant Governmental Agency) in relation to Division 355 of the Income Tax Assessment Act 1997 (Cth) and Part III of the Industry Research and Development Act 1986 (Cth).

“R&D Tax Incentive Registration” means an application to be made each financial year with Aus Industry (or other relevant governmental agency) for the R&D Tax Incentive Offsets pursuant to the R&D Tax Incentive Program.

“Related Body Corporate” has the same meaning given in section 9 of the Corporations Act 2001 (Cth).

“Services” means the work or services to be performed by the Consultant as set out in Schedule A (Scope of Services) to this Agreement.

“Site” means the place or places at which the Consultant is required to perform the Services.

“Site Requirements” means the requirements that the Consultant must comply with in relation to the Site which are communicated to the Consultant.

“Subcontractor” means any person engaged by the Consultant to perform any part of the Services.

“Tax Act” means the Income Tax Assessment Act 1936 (Cth) or the Income Tax Assessment Act 1997 (Cth) as applicable.

“Variation” means an increase, decrease or omission of any part of the Services, any change in the nature, character or quality of any part of the Services or any change in the timing of the Services. However, a variation does not include a direction by the Company or the Company’s Representative to perform the Services in accordance with this Agreement.

“Variation Order” means a written direction from the Company identified as such directing the Consultant to carry out a Variation.

“Without Prejudice Meeting” means a without prejudice meeting as defined in clause 31.5.

“Work Health and Safety Requirements” means all:

- (a) laws, including any legislation made for the purposes of the harmonisation of work health and safety legislation between the States and Territories;
- (b) codes of practice;
- (c) standards;
- (d) policies of the Company; and
- (e) policies of the Client that the Company requires the Consultant to comply with (together with such amendments and updates as may be notified to the Consultant from time to time) and having been provided to the Consultant at the date of this Agreement and any other policies of the Client provided by the Company to the Consultant from time to time, relating to work health and safety and relevant to the location where any part of the Services is being performed (including, for the avoidance of doubt mine safety legislation).

1.2 In these Consultancy Services Terms and Conditions, unless the context otherwise requires:

- (a) clause headings are for convenience only and do not affect the interpretation of this Agreement;
- (b) words in the singular include the plural and vice versa;
- (c) words importing a gender include any other gender;
- (d) “include”, “includes” or “including” is not a word of limitation;
- (e) a reference to a Party includes that Party’s successors and permitted assigns;
- (f) a reference to a party, schedule, attachment or exhibit is a reference to a party, schedule, attachment or exhibit to this Agreement;
- (g) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any government agency as well as an individual; and

- (h) monetary references are references to Australian currency.

2.0 AGREEMENT

- 2.1 The Consultant must perform the Services in accordance with this Agreement.
- 2.2 In consideration for the performance of the Services, the Company must pay to the Consultant the Contract Sum.

3.0 PERFORMANCE OF SERVICES

- 3.1 Unless the Company instructs otherwise in writing and subject to any extensions of time granted to the Consultant under clause 18.0, the Consultant must commence the Services on the Commencement Date and complete the Services on the Completion Date.
- 3.2 If the Services have been commenced before the date of this Agreement, the provisions of this Agreement apply to those Services.
- 3.3 The Consultant must, subject to the provisions of this Agreement, proceed with the Services in a diligent and timely manner and must complete the Services in accordance with any Program set out in Schedule A, Item 7.0.
- 3.4 The Consultant must perform the Services as an independent consultant and not as an agent or employee of the Company.

4.0 STANDARD OF SERVICES

- 4.1 The Consultant must perform the Services with the degree of professional skill, care and diligence expected of a competent professional consultant experienced in carrying out the same services or services of a similar size, scope and nature to the Services.
- 4.2 The Consultant represents to the Company that it has the requisite skill, experience and ability to perform the Services in accordance with this Agreement. The Consultant acknowledges that the Company has entered into this Agreement in reliance on this representation.
- 4.3 The Consultant must ensure that the Deliverables:
- (a) are suitable for their intended purposes;
 - (b) comply with all relevant codes, legislation, ordinances, regulations and applicable Australian Standards, unless otherwise expressly instructed by the Company in writing;
 - (c) comply with the Company's reasonable format standards and any other reasonable standards notified by the Company; and
 - (d) do not infringe any Intellectual Property Rights.
- 4.4 If required by Schedule A, the Consultant must prepare and implement to the Company's satisfaction a quality assurance system for the Services.
- 4.5 The Consultant must:
- (a) inform itself of the Company's requirements in respect of the Services;
 - (b) consult regularly with the Company throughout the performance of the Services; and
 - (c) act professionally at all times in the performance of the Services.

- 4.6** Without limiting any other provision of this Agreement, the Consultant warrants:
- (a) all of the Services will be provided and completed in accordance with all applicable legislation and laws or regulations, including (without limitation) in accordance with all health, safety and environment legislation and laws or regulations; and
 - (b) the Consultant and the Consultant's Personnel will exercise the standards of skill, care and diligence required under clause 4.1.

5.0 DESIGN

- 5.1** If the performance of the Services requires the Consultant to undertake design work, then such design must first be examined and approved in writing by the Company's Representative prior to commencing any work based on the design.
- 5.2** The Consultant must submit all Deliverables to the Company in the form of one paper copy, one electronic version in .pdf format and in an unlocked electronic native format.
- 5.3** The receipt, acceptance or review of the Services by the Company does not in any way deem there has been approval, comment, rejection, or non-approval of the Services by the Company.
- 5.4** Any review, approval, comment on any part of the Services does not affect the Consultant's obligations or absolve the Consultant from its sole responsibility for performance of the Services in accordance with this Agreement.
- 5.5** If the Company requires amendments or rectification to the Consultant's Services, including any design then, subject to the direction of the Company's Representative, the Consultant will amend and resubmit the design (or part thereof) to the Company.
- 5.6** The Consultant must advise the Company's Representative of the cost and/or time implications as a result of any non-approval of design by the Company, or as the result of any comment, direction, or request in relation to the Consultant's design by the Company, including the Company's Representative or other of the Company's employees or personnel.

6.0 WORK HEALTH AND SAFETY MANAGEMENT

- 6.1** The Consultant must, prior to the commencement of the Services undertake an assessment of the occupational health and safety risks associated with the Services and prepare a health and safety management system for the Services which identifies and implements appropriate measures to control all such risks.
- 6.2** In performing the Services, the Consultant must:
- (a) comply with all Work Health and Safety Requirements and any directions given by the Company which are necessary for the Company to comply with any Work Health and Safety Requirements;
 - (b) report to the Company any work health and safety issues, including any non-compliance with any Work Health and Safety Requirements;
 - (c) advise the Company of any health and safety hazards associated with the design, documents, types of materials and methods of construction proposed or specified by the Consultant of which the Consultant is, or ought reasonably to be, aware;
 - (d) cooperate with all other parties who may from time to time have responsibilities concerning health and safety in relation to the Services or the Site;

- (e) where the Consultant is in control of any Site, perform all duties and functions of a person in control of a site under the Work Health and Safety Requirements.

6.3 The Company may at any time:

- (a) conduct an audit of the Consultant's compliance with Work Health and Safety Requirements and this clause 6.0; and
- (b) conduct inspections of any Site for the purpose of assessing the Consultant's compliance with the Work Health and Safety Requirements and this clause 6.0.

7.0 ENVIRONMENTAL AND HERITAGE PROTECTION

7.1 The Consultant must, prior to the commencement of the Services, undertake an assessment of the environment and heritage risks associated with the Services and prepare an environmental management system for the Services which identifies and implements appropriate measures to control all such risks.

7.2 In performing the Services, the Consultant must:

- (a) comply with all relevant statutory requirements and regulations applicable to environmental protection and aboriginal heritage sites and any applicable approvals, licences, authorisations, consents, permits, policies and procedures which are provided to the Consultant; and
- (b) report to the Company any environmental or heritage issues, including any non-compliance with relevant statutory requirements, approvals, licences, authorisation, consents, permits, policies or procedures.

7.3 The Company may at any time:

- (a) conduct an audit of the Consultant's compliance with this clause 7.0; and
- (b) conduct inspections of any Site for the purpose of assessing the Consultant's compliance with this clause 7.0.

8.0 LAWS, REGULATIONS, LICENCES AND TAX

8.1 The Consultant must comply with all relevant laws of the State, Commonwealth, or local authority and to all rules and regulations provided by the Company to the Consultant applicable to the performance of the Services under this Agreement.

8.2 The Company must obtain all required approvals, permits and licences, give all notices required to be given and must pay all fees, deposits and taxes necessary for the performance of the Services.

8.3 The Parties acknowledge and agree that, notwithstanding the terms of any existing agreements:

- (a) any R&D Work will be carried out wholly or primarily on behalf of the Company;
- (b) as between the Company and the Consultant all risks associated with the R&D Work will be borne by the Company; and
- (c) R&D Work, by its nature, involves uncertainty, the requirement for experimentation and risk of unexpected results.

8.4 The Consultant must, if requested by the Company, use all reasonable endeavours to assist the Company in connection with any R&D Tax Incentive Registration it may make in respect of the R&D Work.

- 8.5** The Consultant acknowledges that the Company will claim all R&D Tax Incentive Offsets relating to the Services. The Consultant will exclude its research and development costs related to or in connection with the Services under this Agreement from its annual R&D Tax Incentive Registration to Aus Industry.
- 8.6** The Consultant must provide to the Company:
- (a) a brief statement outlining the technical objectives of the Services and the potential benefits to the Company if the objectives are met;
 - (b) a research and development plan overview updated as necessary; and
 - (c) on a quarterly basis, a list of activities as prescribed by the Company, and expenses in relation to those activities, for that quarter that may potentially qualify for eligible R&D expenditure.
- 8.7** The Consultant will make available relevant personnel to the Company's R&D tax advisors for the purposes of resolving any issues with the reporting of activities and eligible R&D expenditure which may arise during the preparation of any R&D Tax Incentive Registration.
- 8.8** If the R&D tax incentive provisions should change so as to require a changed or additional form of reporting to the Australian Taxation Office, Aus Industry, or another government body, by Company, then the Consultant will provide such changes or additional information as may be requested by the Company in order to allow it to comply with the changed provisions.
- 9.0** **SITE**
- 9.1** The Consultant must comply, and must ensure that the Consultant's Personnel comply, with the Site Requirements and any direction of the Company's Representative relating to the Site Requirements.
- 9.2** The Company will use best endeavours to provide the Consultant and any of its Subcontractors with access to the Site to perform the Services.
- 9.3** If the Consultant suffers or anticipates a loss of time, or incurs additional cost through the interference of any other workmen or contractors, the Consultant must notify the Company's Representative and must seek direction from the Company's Representative as to action to mitigate such interference or additional costs.
- 9.4** The Consultant acknowledges that:
- (a) to the extent that the Site is the Company's property, the Company at all times retains overriding control of the Site and all personnel within the Site; and
 - (b) to the extent that the Site is the property of the Client, the Client at all times retains overriding control of the Site and all personnel with the Site, and in each case the Consultant must comply with any directions given by the Company in relation to the Consultant's actions or activities or Consultant's Personnel's actions or activities, on the Site.
- 9.5** The Consultant must keep the Site and the surrounding site clean and tidy.
- 9.6** The Consultant must, and must ensure that the Consultant's Personnel, work co-operatively with other contractors at the Site, and must use all reasonable endeavours to avoid any conflict between the Consultant's activities (and Consultant's Personnel's activities) and activities of other contractors.
- 9.7** Whilst at the Site (or any other property for the purpose of performing the Services), the Consultant must not in any way, and must ensure that the Consultant's Personnel do not, impede, obstruct or interfere with the execution of work by the Company's Personnel, the Client's personnel or any other third party.

10.0 CONSULTANT'S PERSONNEL

10.1 The Consultant must ensure that the Consultant's Personnel engaged in the performance of the Services:

- (a) are competent and professional; and
- (b) have the skills, qualifications and experience necessary to ensure full and proper performance of the Services in accordance with this Agreement.

10.2 The Consultant must ensure that, subject to events beyond its control, the Key Personnel:

- (a) are the key personnel performing the Services;
- (b) allocate as much of their time as necessary to properly perform the Services and the Consultant's other obligations under this Agreement; and
- (c) remain available to deal with contingencies and other issues that may arise in respect of this Agreement, even though that the phase of the provision of the Services that they are responsible for, may have been completed.

10.3 Subject to clause 10.4, the Consultant may not, without the Company's prior written consent:

- (a) remove any of the Key Personnel; or
- (b) substitute another person for one or more of the Key Personnel.

10.4 The Company's consent under clause 10.3 is not required if the Key Person becomes seriously ill, dies, retires, resigns or is dismissed by the Consultant. In that case, the Consultant must (at its own cost) provide a replacement acceptable to the Company.

10.5 The Company may (acting reasonably) issue a notice to the Consultant at any time requiring the Consultant to remove any Key Personnel from the performance of the Services.

10.6 If the Company gives the Consultant written notice under clause 10.5, the Consultant must immediately:

- (a) comply with the notice;
- (b) provide a replacement acceptable to the Company at the Consultant's own cost; and
- (c) ensure that Key Person does not carry out any work in connection with the Services.

11.0 ADDITIONAL RESOURCES

11.1 If, in the Company's opinion, the Consultant's resources are inadequate to perform any of its obligations under this Agreement, the Company may direct the Consultant to rectify the inadequacy of resources within a period stipulated by the Company or, where no period is stated, within a reasonable time after the Consultant receives the direction.

11.2 The Consultant must meet any increased costs or expenditure it incurs as a consequence of complying with a direction under clause 11.1, and is not entitled to claim or recover any additional costs or expenditure from the Company.

11.3 The provision of additional resources by the Consultant under this clause:

- (a) does not relieve the Consultant of any liability under this Agreement; and

- (b) is without prejudice to any other remedies which the Company may have against the Consultant.

12.0 COMPANY INFORMATION AND DOCUMENTS

12.1 The Company will make available to the Consultant, at appropriate times, information and documents relevant to the Services. Such information may include:

- (a) design briefs to define the Company's requirements;
- (b) programs to set out the key dates for the provision of the Services;
- (c) document schedules based on the programs, to set out the dates on which the Deliverable are required by the Company; and
- (d) cost parameters applicable to the designs to be provided by the Consultant.

12.2 The Consultant must examine the information and documents relating to the Services referred to in clause 12.1. Subject to this clause 12.2, the Consultant is deemed to have satisfied itself of their sufficiency, clarity and suitability for the purpose of satisfying its obligations under this Agreement.

12.3 If the Consultant is not so satisfied, it must immediately advise the Company in writing requesting the further information, documents or amendments it requires.

12.4 The Company must use its reasonable endeavours to provide the further information, documents or amendments requested by the Consultant under clause 12.3 promptly so as not to delay the Consultant in the provision of the Services.

12.5 The Company Material remains the property of the Company. The Company grants or will procure a royalty-free, non-exclusive licence for the Consultant to use, reproduce and adapt the Company Material for the purposes of this Agreement.

12.6 The Consultant must ensure that all Company Material is used strictly in accordance with any conditions or restrictions set out in this Agreement and any direction by the Company.

13.0 DELIVERABLES PRODUCED BY THE CONSULTANT

13.1 The Consultant must provide to the Company the Deliverables set out in Schedule A, Item 6.0.

13.2 The Consultant must promptly give the Company written notice if the Consultant discovers:

- (a) any error, inconsistency, omission or defect in or between the Deliverables; or
- (b) any inconsistency or conflict between the Deliverables and the designs, drawings, specifications or other documents of the other contractors or consultants engaged by the Company.

13.3 If the Company, in its sole discretion, considers that as a result of:

- (a) any error, inconsistency, omission or defect in the Deliverables; or
- (b) a failure by the Consultant to perform the Services in accordance with this Agreement, the Deliverables require amendment, it may give notice to the Consultant to that effect.

13.4 If the Consultant receives a notice under clause 13.3 it must, promptly and at its own expense, make any amendments required by the Company.

- 13.5** The Consultant must complete any amendments to the Deliverables within a reasonable time after receiving the Company's notice under clause 13.3.
- 13.6** If the Consultant does not complete the amendments within a reasonable time, the Company may take whatever action it considers necessary to complete the amendments.
- 13.7** The Company's action under clause 13.6 will be at the Consultant's expense and will not in any way affect or negate the Consultant's obligations, responsibilities or liabilities.
- 13.8** The Company may review the Deliverables. When requested by the Company, the Consultant must, as soon as practicable, provide to the Company all relevant information relating to the Deliverables to ensure that the review is expedited.
- 13.9** The Company does not assume any duty to advise the Consultant, to supervise or control the Consultant's performance of the Services, to ensure the proper performance of any of the Consultant's obligations or to exercise any discretion for the Consultant's benefit.
- 13.10** The receipt of Deliverables by the Company, its review of, approval of or comment on the Services, the Deliverables or any other documents prepared by or on behalf of or provided by the Consultant, or its provision of information to the Consultant, do not affect the Consultant's obligations or absolve the Consultant from its obligations and its responsibility to perform the Services in accordance with this Agreement.
- 14.0 COORDINATION WITH OTHER CONTRACTORS**
- 14.1** The Consultant must liaise, consult and cooperate with other consultants and contractors engaged by the Company and must integrate the Services with the services of those other consultants and contractors.
- 14.2** Without limiting clause 14.1, the Consultant may find it necessary, or the Company may require the Consultant, to prepare joint programs, method statements, coordination drawings and specifications with other contractors and consultants.
- 14.3** The Consultant must immediately notify the Company if it becomes aware of any delay affecting, or on the part of, any other consultants and contractors engaged by the Company.
- 14.4** Despite the provisions of this clause 14.0, the Consultant remains fully responsible for the timely performance of all the Services.
- 15.0 MEETINGS AND REPORTING**
- 15.1** The Consultant must:
- (a) keep itself fully and properly informed of all matters concerning the Services;
 - (b) promptly notify the Company of all matters of which the Consultant is aware which are material to the Company's interests in relation to the Services; and
 - (c) promptly give the Company copies of all correspondence, reports and other documents within the Consultant's power, possession or control which are necessary to ensure that the Company is at all times kept fully advised as to all material matters concerning the Services.
- 15.2** The Consultant must cooperate with the Company to assist the Company in meeting its reporting obligations as required by law and its policies in relation to this Agreement (as notified to the Consultant in writing).

- 15.3** Without limiting clauses 15.1 and 15.2, the Company may require the Consultant to provide a report reviewing and giving the Consultant's recommendation in respect of any matter within the scope of the Services (including, but not limited to, those matters on which the Consultant is expressly required to report under this Agreement).
- 15.4** If the Company requests a report under clause 15.3, the Consultant must provide it to the Company as soon as reasonably practicable.
- 15.5** Without limiting clause 15.4, the Consultant must submit a weekly progress report to the Company which summarises the progress of the Services in the preceding week and manhours expended and identifies significant events expected in the coming week.
- 15.6** The Consultant and Company's Representative must meet each week for a Progress Meeting.
- At the Progress Meeting:
- (a) the Consultant must inform the Company's Representative of its progress in completing the Services for the previous week; and
 - (b) the Company must inform the Consultant of any changes to the programs provided by the Consultant under this Agreement (if any).
- 15.7** Either Party may call an emergency meeting with the other Party at any time, on reasonable Notice having regard to the emergency. The other Party must use reasonable endeavours to attend an emergency meeting.
- 15.8** The Consultant must attend any other meetings at the request of the Company's Representative at the Site or at the Company's premises or the Client's premises as appropriate.
- 16.0 CONFLICT OF INTEREST**
- 16.1** The Consultant must inform the Company immediately of any matter connected with the performance of the Services which could give rise to an actual or potential conflict of interest on the part of the Consultant.
- 16.2** The Consultant must consult with the Company about the manner in which the Consultant proposes to manage the potential or actual conflict of interest.
- 17.0 VARIATION TO THE SERVICES**
- 17.1** The Company may at any time issue a Variation Order and the Consultant must carry out the Services as varied by such Variation Order as if the Services were originally defined in this Agreement to be the Services as varied.
- 17.2** If the Consultant becomes aware that a service is required which is additional to the Services, or that there is a need to vary the Services, the Consultant must immediately notify the Company in writing giving details of the nature and extent of the variation.
- 17.3** Subject to clauses 17.4 and 17.5, the Company and Consultant must agree in writing the scope and extent of the Variation before the Consultant carries out the varied Services.
- 17.4** Where the Company issues a Variation Order in respect of a Head Contract Variation, clause 17.3 will not apply and the Consultant must carry out the varied Services as directed in such Variation Order.
- 17.5** The Company may require the Consultant to provide a quotation for a proposed Variation before it issues a Variation Order for that Variation (Variation Quotation).

- 17.6** The Consultant must provide the Variation Quotation to the Company as soon as practicable after receipt of the Company's request, and at its own cost.
- 17.7** A Variation Quotation must include particulars of the effect (if any) on the Contract Sum and the Program for the completion of the Services.
- 17.8** A Variation is to be valued by agreement between the Company and the Consultant. Failing agreement, the Company will determine a reasonable value using the rates set out in Schedule B, where applicable. All payments for Variations must be claimed and made in accordance with clauses 19.0.
- 17.9** Despite any other provision of this Agreement, the Company is not liable to pay for any Variation unless the scope and extent of the Variation has been agreed in accordance with clause 17.3.
- 18.0 EXTENSION OF TIME**
- 18.1** If the Consultant considers that it has been or is likely to be delayed in performing the Services (or any part thereof) in accordance with the provisions of this Agreement, the Consultant must, within 3 Business Days of the date the Consultant became aware, or the date it should reasonably have become aware, give the Company and the Company's Representative written Notice of the delay, including details of the nature, cause and the likely extent of the delay, proposed mitigation options, and estimated costs.
- 18.2** Subject to clauses 18.4 and 18.5, if a Delay Event occurs and the Consultant is or will be delayed in performing the Services (or any part thereof) in accordance with this Agreement by that Delay Event and within 10 Business Days of the relevant Delay Event commencing, the Consultant gives the Company a written claim for an extension of time in relation to such delay, setting out:
- (a) the facts on which the claim is based; and
 - (b) the period for which an extension of time is claimed, (Extension of Time Claim), then the Consultant will be entitled to an extension of time as determined by the Company's Representative in accordance with clause 18.6.
- 18.3** If a Delay Event continues for a period longer than 10 Business Days from the time it commenced, the Consultant may amend any Extension of Time Claim given to the Company's Representative by submitting a revised Extension of Time Claim to the Company and the Company's Representative in respect of such continuing delay within 5 Business Days of the Delay Event so continuing.
- 18.4** It is a condition precedent to any entitlement to an extension of time that:
- (a) the Consultant must submit an Extension of Time Claim with all necessary supporting documentation that is reasonably available to the Consultant to the Company's Representative for an extension of time within 10 Business Days of the Delay Event commencing;
 - (b) the Consultant has taken all reasonable steps to mitigate the delay and the effect of the delay;
 - (c) no reasonable reprogramming or alteration of sequences of activities or other methods could avoid the delay;
 - (d) the delay must be on the critical path of the Services; and
 - (e) the Consultant has strictly complied with all Notice requirements in this clause 18.0 with respect to the Extension of Time Claim.
- 18.5** Where more than one event causes concurrent delays and the cause of at least one of those events, but not all of them, is not a Delay Event, then to the extent that the delays are concurrent, the Consultant is not entitled to an extension of time under this clause 18.0.

- 18.6** If the Consultant is entitled to an extension of time under this clause 18.0 (including any amended extension of time under clause 18.3), the Company's Representative must, within 20 Business Days after receipt of the Extension of Time Claim, grant an extension of time as follows:
- (a) the Company's Representative must have regard to whether the Consultant has taken all reasonable steps to minimise the consequences of the delay; and
 - (b) the extension of time must be limited to the actual delay in achieving completion of the relevant part of the Services.
- 18.7** The Company may direct an extension of time under this clause 18.0 at:
- (a) any time that the Company directs a Variation or the Company's Representative agrees to a Variation as requested by the Consultant; or
 - (b) at any other time, at the absolute discretion of the Company, that the Company decides to be appropriate notwithstanding that the Consultant has not submitted an Extension of Time Claim.
- 18.8** The Consultant acknowledges that the mechanism in clause 18.7 is a discretionary right of the Company which may be exercised by the Company for the sole benefit of the Company and does not:
- (a) impose any obligations on the Company;
 - (b) to the maximum extent permitted by law, give rise to any duty to act in good faith; or
 - (c) in any way constitute a waiver or relaxation of any of the requirements under this clause 18.0.
- 18.9** A failure of the Company's Representative to grant an extension of time or to grant an extension of time within the time provided for in clause 18.6, does not cause any milestone relating to or date for completion of the Services set out in this Agreement to be set at large. However if:
- (a) the Company's Representative does not respond to an Extension of Time Claim within 20 Business Days; and
 - (b) as a result, the Consultant is entitled to an extension of time under clause 18.2, the Consultant will be entitled to claim an extension of time in relation to the Company's Representative's delay in responding (over and above the 20 Business Day period).
- 18.10** The Consultant acknowledges that any entitlement of the Consultant to an extension of time in respect of any Delay Event will be the Consultant's sole remedy in respect of that Delay Event and, except as provided in this clause 18.0:
- (a) the Company is not liable for any Claim by the Consultant; and
 - (b) the Consultant is absolutely barred from making any Claim, arising out of, or in connection with, the Delay Event or any delay or disruption to the progress of the Services.
- 18.11** Subject to this clause 18.0, the Consultant must complete the Services by the Completion Date.
- 18.12** Any disagreement or dispute concerning an Extension of Time Claim will not relieve either Party of its obligation to comply with this Agreement, but compliance with the Agreement shall not prejudice either Party in pursuing dispute resolution in accordance with clause 31.0 of this Agreement.
- 19.0 PAYMENT AND INVOICING**
- 19.1** The Company will pay the Contract Sum in accordance with this clause 19.0.

- 19.2** At the end of each <<fortnight/month>>, the Consultant must submit a tax invoice to the Company for payment of Services performed during the relevant period and including the value of any goods or materials that are ordered under the Agreement.
- 19.3** Unless expressly included, the consideration for any supply made under or in connection with this Agreement does not include an amount on account of GST in respect of the supply.
- 19.4** Each tax invoice must:
- (a) be submitted in a format approved by the Company and must specify the contract number and purchase order number (where same has been provided) and any other verifications required by the Company;
 - (b) identify the relevant period that the invoice covers and specify the amount due under the invoice;
 - (c) state the Consultant's details, including the Consultant's ABN and electronic funds transfer details;
 - (d) itemise the Services provided by the Consultant during the period;
 - (e) be accompanied by evidence to the satisfaction of the Company verifying all of the items in the invoice; and
 - (f) submitted to the Company's Accounts Payable department by email at kristen.parkes@harradynamics.com.au.
- 19.5** Subject to clauses 19.6 and 19.7, payment of all approved tax invoices will be made within 30 Business Days of the end of the month of receipt of the tax invoice by the Company.
- 19.6** Payment may be withheld by the Company or recovered as debts due and owing and payable on demand, in part or in full on account of:
- (a) defective Services not remedied;
 - (b) the Consultant's failure to comply with clause 19.4;
 - (c) the Company's right to set off any amount due to the Company by the Consultant; or
 - (d) where Services already paid for in good faith by the Company are later found to be incomplete or defective.
- 19.7** All claims by the Consultant for expense reimbursement under this Agreement must be submitted to the Company in a tax invoice within 30 Business Days of the expense being incurred. The Company reserves the right to reject and refuse to reimburse any claims which do not comply with this requirement.
- 19.8** Notwithstanding any other provision in this Agreement, the Company is not required to make any payment to the Consultant under this Agreement until the Consultant has properly executed the Contract and returned the two executed copies of the Contract to the Company.
- 19.9** Prior to submitting any tax invoice after the Completion Date or a tax invoice otherwise seeking final payment under this Agreement, the Consultant must execute and deliver to the Company two copies of a deed of release in the form of Schedule C (Deed of Release).
- 19.10** The Company shall not be obliged to make payment against the tax invoice referred to in clause 19.9 until the Consultant has executed the Deed of Release in accordance with this Agreement.

20.0 WARRANTIES

20.1 The Consultant warrants that:

- (a) all Services and Deliverables will be fit for the purposes for which the Services are to be used by the Company and for the purposes made known by the Company or represented to the Consultant on or before the date of this Agreement;
- (b) it has conducted its own analysis and review of the Company Material and has satisfied itself as to the accuracy, completeness and fitness for purpose of all Company Material upon which it places reliance;
- (c) it has examined, familiarised itself and otherwise satisfied itself as to:
 - (i) the policies, guidelines, procedures;
 - (ii) the drawings, specifications, schedules, reports, maps, diagrams and other information made available to the Consultant by the Company; and
 - (iii) all information that is relevant to the risks, contingencies and other circumstances that could affect the performance of the Agreement by the Consultant and that is obtainable by making reasonable enquiries;
- (d) it has the skills, experience and knowledge necessary to perform the Services and will perform the Services with the degree of professional skill, care and diligence expected of a competent professional consultant experienced in carrying out the same services or services of a similar size, scope and nature to the Services; and
- (e) the provision of the Services and Deliverables by the Consultant and the use by the Company of any Deliverables will not infringe the Intellectual Property of any third party.

20.2 Failure by the Consultant to do all or any of the things it is deemed to have done under clause 20.1 will not relieve the Consultant from its liability to perform the Services in accordance with the provisions of this Agreement.

21.0 INDEMNITY

21.1 Subject to clause 22.0, the Consultant is liable for and indemnifies the Company against any Loss and/or Claims suffered or incurred by the Company or the Company's Personnel in connection with any act or omission by the Consultant or the Consultant's Personnel arising from or in connection with the performance or non-performance of the Services.

21.2 The liability of the Consultant to indemnify the Company under clause 21.1 will be reduced proportionately to the extent that an act or omission of the Company contributed to the Loss or Claim.

21.3 The Consultant agrees that the Company holds the benefit of each indemnity given by the Consultant in this Agreement for itself and on trust for the Company's officers, employees and agents and each of those persons is entitled to receive the benefit of the indemnities.

22.0 LIABILITY

22.1 The total liability of the Consultant to the Company for all Claims and/or Loss under the Agreement is limited to the Liability Limit.

22.2 The Liability Limit in this clause 22.0 does not apply in respect of:

- (a) personal injury or death;
- (b) loss or damage to property;

- (c) any fraud, deliberate default, Gross Negligence or wilful misconduct or any act or omission done or not done with a reckless disregard for the consequences on the Company, the Company's Personnel or the Company's Representative of any nature (as the case may be), or any other party for whom the Consultant is responsible; or
- (d) the Consultant's breach of clauses 6, 7, 8, 16, 23, 25, 26 and 39.

22.3 Notwithstanding any other provision of this Agreement, neither Party will be liable to the other Party for any Consequential Loss suffered or incurred in connection with this Agreement or the performance of the Services.

22.4 Each Party agrees that Part 1F of the Civil Liability Act 2002 (WA), to the extent that the same may be lawfully excluded, is excluded from operation with respect to any Dispute, Claim or action brought by one Party against the other Party arising out of or in connection with:

- (a) this Agreement; and
- (b) any of the Consultant's Personnel.

23.0 INSURANCE

23.1 The Consultant must, at its own cost and expense, maintain the insurance cover set out in this clause 23.0 and the Schedule to the Contract (Insurance Policies) from insurers with a security rating of not less than "A" as rated by Standard and Poor's or as otherwise approved by the Company.

23.2 The Consultant must maintain general liability insurance. The general liability policy must:

- (a) come into effect on or before the Commencement Date and be maintained without interruption until the Completion Date;
- (b) name the Company as an insured;
- (c) cover all loss resulting from damage to property and the death or injury (including illness) to any person arising out of or in connection with performance of the Services;
- (d) be endorsed to cover the use of unregistered vehicles;
- (e) include a cross liability endorsement; and
- (f) be for not less than the amount stated in the Schedule to the Contract.

23.3 The Consultant must maintain professional indemnity insurance. The professional indemnity policy must:

- (a) come into effect on or before the Commencement Date and be maintained without interruption until at least seven (7) years after the Completion Date;
- (b) cover liability arising from any breach of professional duty (or negligent or wilful act or omission) in connection with or arising out of the professional activities and duties under this Agreement;
- (c) cover claims under the Competition and Consumer Act 2010 (Cth), Fair Trading Act 1987 (WA) and any similar legislation in any other State or Territory in so far as they relate to the provision of professional services; and
- (d) be for not less than the amount stated in the Schedule to the Contract.

- 23.4** The Consultant must insure against liability for death of or injury to natural persons employed or engaged by the Consultant including liability by statute and at common law. The insurance cover must:
- (a) come into effect on or before the Commencement Date and be maintained until the Completion Date;
 - (b) if available, be extended to indemnify the Company for its statutory and common law liability to natural persons employed or engaged by the Consultant; and
 - (c) be for not less than the amount stated in the Schedule to the Contract.
- 23.5** If the performance of Services requires the use of motor vehicles and/or plant or equipment, the Consultant must maintain third party personal injury and property damage insurance in respect of all motor vehicles and/or plant or equipment used in the performance of the Services whether owned or in the Consultant's legal or physical custody for an amount of not less than the amount stated in the Schedule to the Contract. In addition, the Consultant will comply with all statutory requirements concerning compulsory third party motor vehicle insurance.
- 23.6** The Consultant must:
- (a) pay all premiums and deductible applicable to the Insurance Policies when due;
 - (b) promptly reinstate any insurance required to be maintained under this Agreement if it lapses or if cover is exhausted;
 - (c) comply with and observe all of the terms of the Insurance Policies and not do anything which could result in any insurance policy being rendered void; and
 - (d) as soon as practicable, notify the Company in writing of the occurrence of any event that may give rise to a claim under any of the Insurance Policies and keep the Company informed of all subsequent action and developments concerning the claim.
- 23.7** The Insurance Policies must provide that where the Company is not a named insured or is not entitled to cover under any of the Consultant's insurance policies, the Consultant's insurers must waive rights of subrogation against the Company; and
- 23.8** Prior to the commencement of the Services and whenever reasonably requested by the Company, the Consultant must provide to the Company:
- (a) certificates of currency for the Insurance Policies; and
 - (b) copies of the Insurance Policies and schedules or the Consultant brokers unqualified evidence of cover incorporating the insurance policy wording and schedules.
- 23.9** If the Consultant fails to:
- (a) maintain any of the Insurance Policies;
 - (b) ensure that a Subcontractor maintains the insurances cover specified in clause 23.1 or
 - (c) provide evidence of insurance as required by clause 23.8, the Company may immediately terminate this Agreement.
- 24.0** **FORCE MAJEURE**
- 24.1** Neither Party will be liable for any delay or failure to perform its obligations under the Agreement if such a delay is due to Force Majeure.

- 24.2** If a Force Majeure event occurs, the affected Party must give the other Party prompt Notice of the Force Majeure event.
- 24.3** If a delay or failure of a Party to perform its obligations is caused by Force Majeure, the performance of that Party's obligations will be suspended to the extent that they are affected by the Force Majeure event, from the date of the written notice under clause 24.2 until the cessation of the Force Majeure event.
- 24.4** The Party affected by the Force Majeure event will be entitled to an extension of time.
- 24.5** The Party affected by the Force Majeure event must within a reasonable period of time give written notice to the other Party of the cessation of the Force Majeure event, and resume performance of its obligations which were suspended as a result of the Force Majeure event.
- 24.6** Notwithstanding clause 24.5, if a Force Majeure event exceeds 20 Business Days either Party may terminate this Agreement by giving the other Party not less than 5 Business Days written notice to the other Party.
- 24.7** If this Agreement is terminated pursuant to clause 24.6, the obligations under clause 29.1 shall apply.
- 25.0 CONFIDENTIAL INFORMATION**
- 25.1** The receiving Party acknowledges that it has no right or interest in respect of the Confidential Information of the disclosing Party, and that all of the Confidential Information of the disclosing Party is the sole and exclusive property of the disclosing Party.
- 25.2** The receiving Party covenants and undertakes:
- (a) to keep confidential all Confidential Information of the disclosing Party;
 - (b) use the Confidential Information for the purpose of performing the obligations or rights under this Agreement; and
 - (c) not to disclose any Confidential Information to any person except to the receiving Party's agents, employees or advisers in the proper performance of the Agreement; and
 - (d) to use their best endeavours at all times to prevent the use or disclosure of any Confidential Information to, or by third parties.
- 25.3** The obligations in clause 25.2 do not apply to:
- (a) any disclosure of Confidential Information to the legal advisers of the receiving Party;
 - (b) any disclosure required by law (including any order of a court of competent jurisdiction) or the rules of any stock exchange; and
 - (c) any disclosure made with the disclosing Party's written consent, which may be given subject to conditions or withheld at its sole discretion.
- 25.4** Prior to the receiving Party disclosing Confidential Information to any of its agents, employees or advisers as set out in clause (c), the receiving Party will obtain written undertakings from each relevant person in order to comply with the obligations under this clause 25.0.
- 25.5** If the Confidential Information lawfully comes into the public domain, then to the extent that the Confidential Information is public, the receiving Party's obligation to keep such information confidential ceases.

- 25.6** Upon the Completion Date or termination of this Agreement, or at any time at the request of the disclosing Party, the receiving Party must immediately return all Confidential Information to the disclosing Party, which is in physical form including all copies of computer files (whether in digital, magnetic media or otherwise). Where the receiving Party is no longer in possession of Confidential Information as a result of destroying or permanently deleting the Confidential Information, it must provide the disclosing Party with a statutory declaration signed by its authorised representative confirming the destruction or deletion of the receiving Party's Confidential Information.
- 25.7** The rights and obligations under this clause 25.0 must continue and survive after the Completion Date or termination of the Agreement. Each Party's obligations in relation to the Confidential Information shall be enforceable at any time at law or in equity and shall continue to the benefit of and be enforceable by the other Party.
- 26.0 INTELLECTUAL PROPERTY**
- 26.1** Ownership and property in the Consultant Background IP is and remains the property of the Consultant.
- 26.2** Nothing in this Agreement affects the ownership of, and property in, the Company Background IP.
- 26.3** The Consultant agrees that all Project IP vests in the Company upon its creation.
- 26.4** The Consultant grants to the Company an irrevocable, non-exclusive, royalty free, transferrable, sublicensable, world-wide, licence to use all Consultant Background IP to the extent required by the Company and the Company's Client to perform, complete, repair and maintain the Services under this Agreement.
- 26.5** The Consultant warrants to the Company that it is able to licence the Consultant Background IP and it shall not infringe the Intellectual Property of any third party.
- 26.6** The Company grants to the Consultant a revocable, non-exclusive, non-transferrable, non-sublicensable, non-assignable and royalty free licence to use all Company Background IP to the extent it is required by the Consultant to perform the Services under this Agreement.
- 26.7** Intellectual Property in any manuals, reports, communications, drawings, computer programs and other information supplied to the Consultant by the Company, which are not Project IP or Company Background IP, which is provided to the Consultant for reproduction or guidance in relation to the Services remains the sole property of the Company. This information shall not be used or reproduced for any other purpose without the prior written approval of the Company.
- 26.8** Upon completion, termination or expiry of this Agreement, the Consultant shall immediately cease using the Company Background IP, and will within 5 Business Days deliver to the Company all Confidential Information, documentation and any other information containing the Company Background IP.
- 26.9** The Consultant warrants that it shall not infringe any third party Intellectual Property Rights in its performance of the Services under this Agreement.
- 26.10** The Consultant must indemnify the Company against all Claims and/or Loss arising out of and in connection with:
- (a) the performance of the Services; or
 - (b) the use, adaptation, change, relocation, demolition, destruction or non-attribution by the Company of any part of the Services, documentation, information, building, structure, design, or any other work produced or performed during the performance of the Services, which

infringe the Intellectual Property or Moral Rights of the Company, the Company's Client or any person.

26.11 This clause shall survive expiry or termination of this Agreement.

27.0 MORAL RIGHTS

27.1 The Consultant must use reasonable endeavours to procure from all its personnel and any Subcontractor personnel and any other holders of Moral Rights in the Project IP and Consultant Background IP an irrevocable and unconditional consent in writing authorising the Company, and its successors in title, and licensees and persons authorised by the Company, the Client of the Company, its successors in title or licensees to:

- (a) use the Consultant Background IP and the Project IP without attribution of the Author;
- (b) subject the Consultant Background IP and the Project IP to derogatory treatment; and
- (c) falsely attribute the authorship of the Consultant Background IP and the Project IP.

27.2 The Company may notify the Consultant at any time that it requires a further written unconditional, irrevocable consent from an Author or holder of Moral Rights in the Consultant Background IP or Project IP for specific acts or omissions by the Company. The Consultant must procure and promptly provide the consent from the Author or holder of Moral Rights in the Consultant Background IP and Project IP to the Company.

27.3 On the performance of the Services, the Consultant warrants that it has obtained all written consents needed to allow the Company and its successors in title, and licensees and persons authorised by the Company, its successors in title or licensees to perform the acts and omissions specified in clause 27.1 from the relevant Authors and other holders of Moral Rights.

27.4 Upon request of the Company, the Consultant must immediately provide the Company with copies of the consents referred to in clause 27.1.

27.5 The Consultant must indemnify the Company against all costs, expenses and liabilities of any kind arising out of or in connection with any claim that:

- (a) the performance of the Services; or
- (b) the use, adaptation, change, relocation, demolition, destruction or non-attribution by the Company of any part of the Deliverables, documentation, building, structure or any other work produced during the performance of the Services, which infringe the Intellectual Property Rights or Moral Rights of the Company or any person.

28.0 SUSPENSION

28.1 The Company may immediately suspend the performance of any or all of the Services at any time and for any reason by giving written notice to the Consultant.

28.2 If the Company suspends any of the Services under clause 28.1, the Company may at any time give the Consultant a written notice to resume performing the suspended Services.

28.3 The Consultant must resume performing those Service as soon as practicable after the date of the notice, and in any event no later than 5 Business Days after the date of the notice.

28.4 If the Company suspends any of the Services under clause 28.1, the Consultant must bear the costs and expenses it incurs as a result of or in connection with such suspension.

28.5 The Consultant may not suspend the Services or any part thereof without the prior written approval of the Company's Representative, which will be at the Company's Representative's absolute discretion.

29.0 TERMINATION

29.1 Without prejudice to any of the Company's rights or powers under this Agreement, the Company may at any time terminate this Agreement by giving the Consultant 20 Business Days Notice of the effective date of termination (Termination for Convenience Notice).

29.2 If the Company issues a Termination for Convenience Notice to the Consultant, the Company has the unfettered and absolute ability to decide what action to take in respect of the Services that have not been performed under this Agreement.

29.3 Without prejudice to clause 29.1, the Company may issue a notice to the Consultant (Consultant Breach Notice) if, at any time during this Agreement, the Consultant:

- (a) fails to perform the Services in accordance with the requirements of this Agreement, including by providing any defective Services; or
- (b) otherwise breaches a term of this Agreement.

29.4 The Company must include the following details in the Consultant Breach Notice:

- (a) state that it is a Consultant Breach Notice; and
- (b) identify and give details of the breach of this Agreement on which the Consultant Breach Notice is based.

29.5 The Consultant must remedy the breach within 5 Business Days after receipt of the Consultant Breach Notice.

29.6 If the Consultant fails to remedy the breach in accordance with clause 29.5, a consultant default (Consultant Default) will have occurred and the Company may exercise its rights in accordance with clause 29.2.

29.7 The Company may terminate this Agreement with immediate effect, by written notice to the Consultant (Consultant Default Notice) if:

- (a) the Consultant breaches its obligations relating to health and safety;
- (b) the Consultant suffers an Insolvency Event; or
- (c) breaches a material term of this Agreement.

29.8 The Consultant may give the Company a notice (Company Default Notice) if at any time during this Agreement, the Company:

- (a) fails to make more than three monthly payments when they are due and payable (as agreed or determined) under this Agreement; or
- (b) suffers an Insolvency Event.

29.9 The Consultant must include the following details in the Company Default Notice:

- (a) state that it is a Company Default Notice;

- (b) specify the alleged breach; and
- (c) request that the Company show cause why the Consultant should not terminate this Agreement.

29.10 If the Company does not show reasonable cause within 20 Business Days after receipt of the Company Default Notice, the Consultant may issue a notice to the Company to remedy the breach (Remedy Notice).

29.11 The Consultant must include the following details in the Remedy Notice:

- (a) state that it is a Remedy Notice; and
- (b) require the Company to remedy the breach referred to in the Company Default Notice.

29.12 If the Company does not remedy the breach referred to in the Remedy Notice within 20 Business Days after receipt of the Remedy Notice, the Consultant will be entitled to terminate this Agreement by written notice to the Company.

29.13 In the event that the Company terminates the Agreement in accordance with clause 29.1, the Company must pay to the Consultant:

- (a) payments due for Services performed prior to the effective date of termination; and
- (b) any cost or liability reasonably incurred by the Consultant in the expectation of completing its contractual obligations to the date of termination including the any costs or liabilities associated with the cancellation of any subcontracts and any demobilisation costs.

29.14 On termination of this Agreement for any other reason:

- (a) the Consultant must return to the Company, or (on the Company's request) procure the return to the Company of, any property of the Company in the possession of the Consultant, or the Consultant's Personnel, as soon as reasonably practicable;
- (b) the Consultant must deliver to the Company all Deliverables being prepared by the Consultant under this Agreement; and
- (c) any rights of the Consultant to payment under clause 29.1 are subject to the right of the Company to set-off any amounts due and payable to the Company by the Consultant under or in relation to this Agreement.

30.0 NOTICES AND OTHER COMMUNICATIONS

30.1 A notice or other communication under this Agreement (Notice) must be in writing and delivered by hand or sent by pre-paid post or fax to a Party at the address or the fax number for that Party listed in the Contract or as otherwise specified by a Party by Notice.

30.2 Email or similar electronic means of communication must not be used to give Notices under this Agreement.

30.3 A Notice:

- (a) sent by post is regarded as given and received on the second Business Day following the date of postage;
- (b) sent by fax is regarded as given and received on production of a transmission report by the machine from which the fax was sent which indicates that the fax was sent in its entirety to the

recipient's fax number, unless the recipient informs the sender that the Notice is illegible or incomplete within 4 hours of it being transmitted; and

- (c) A Notice delivered or received other than on a Business Day or after 4.00pm (recipient's time) is regarded as received at 9.00am on the following Business Day and a notice delivered or received before 9.00am (recipient's time) is regarded as received at 9.00am.

30.4 Unless the Company advises the Consultant otherwise in writing, all general correspondence and technical queries of the Consultant must be addressed to the Company's Project Manager Party listed in the Contract.

31.0 DISPUTES

31.1 Subject to clause 31.7 below, all disputes arising from the performance of the Services between the Company and Consultant must be resolved in accordance with the procedure set out in clauses 31.2 to 31.6 below.

31.2 If there is a Dispute, either Party must deliver a notice to the other Party that identifies the Dispute including enough information about the Dispute for the other Party to reasonably understand the alleged facts on which the claim is based, the legal basis on which the claim is made and the relief that is claimed (Notice of Dispute).

31.3 Within 10 Business Days after a Notice of Dispute has been delivered, the receiving Party must deliver a written response to the other Party stating its position in relation to the Dispute and the basis for its position.

31.4 If a Notice of Dispute is delivered, the parties must meet, in good faith, for the purpose of resolving the Dispute, in whole or in part, or for considering whether a process other than that already provided for under this Agreement should be used to resolve the Dispute including involving senior management not involved in the day to day running of this Agreement in a negotiation process.

31.5 At a without prejudice meeting under clause 31.4 (Without Prejudice Meeting) the representatives of the parties must have authority to resolve the Dispute, and unless otherwise agreed in writing, all communications will be deemed to occur on a without prejudice basis and any agreement must be in writing and signed by both Parties.

31.6 If a Dispute is not resolved within 20 Business Days after the relevant Notice of Dispute was delivered, the Dispute must be referred as follows (whether or not a Without Prejudice Meeting occurred):

- (a) where the Party making the claim reasonably believes that the value of the Dispute is less than \$250,000, to the Independent Expert for determination in accordance with clause 32.0; or
- (b) where the Party making the claim reasonably believes that the value of the Dispute is more than \$250,000, to mediation/litigation in accordance with clause 33.0.

31.7 Nothing in this clause 31.0 will prejudice the right of a Party to seek urgent injunctive or declaratory relief concerning any matter arising under the Agreement.

31.8 Each Party must continue to perform their respective obligations under the Agreement irrespective of the existence of any Dispute.

32.0 EXPERT DETERMINATION

- 32.1** Where the Dispute is to be referred to expert determination pursuant to clause 31.6(a), the parties must refer the Dispute to the Australian Commercial Disputes Centre (ACDC) who will nominate two or more appropriate experts (Independent Experts) to determine the Dispute in accordance with the ACDC Rules for Expert Determination (ACDC Rules) operating at the time.
- 32.2** The Independent Experts' determination will be conducted in the jurisdiction of this Agreement and will be made in accordance with the ACDC Rules and according to law.
- 32.3** The Parties must lodge written submissions as to the subject matter of the Dispute to the Independent Experts and the Independent Experts must deliver their determination in writing in accordance with the procedure set out in the ACDC Rules.
- 32.4** Each Party must pay their own costs of the Independent Experts' determination process, unless otherwise agreed. The Parties are jointly and severally liable for the costs of the Independent Experts and must pay these costs in equal shares.
- 32.5** The determination of the Independent Expert is final and binding on the Parties other than in the case of fraud or manifest error.

33.0 MEDIATION/ LITIGATION

- 33.1** The mediator must be agreed by the Parties. If the Parties cannot agree on the mediator within 20 Business Days after the relevant Notice of Dispute was delivered, the mediator will be the mediator nominated, at the request of either Party, by The Australian Centre for International Commercial Arbitration.
- 33.2** The costs of the mediation must be borne equally by the Parties.
- 33.3** Where a Dispute referred to mediation pursuant to clause 31.6(b) has not been resolved within 50 Business Days after the relevant Notice of Dispute was delivered, then either Party may issue proceedings to have the Dispute determined, whether or not any mediation process has commenced or concluded.

34.0 PPSA

- 34.1** For the purposes of this clause 34.0, the Company's Personal Property means all personal property the subject of a security interest granted under this Agreement, and words and phrases used in this clause 34.0 that have defined meanings in the PPS Law have the same meaning as in the PPS Law unless the context otherwise indicates.
- 34.2** If the Company determines that this Agreement (or a transaction in connection with it) is or contains a security interest for the purposes of the PPS Law, the Consultant agrees to do anything (including obtaining consents, signing and producing documents, getting documents completed and signed and supplying information) which the Company asks and considers necessary for the purposes of:
- (a) ensuring that the security interest is enforceable, perfected and otherwise effective;
 - (b) enabling the Company to apply for any registration, complete any financing statement or give any notification, in connection with the security interest; and/or
 - (c) enabling the Company to exercise rights in connection with the security interest.
- 34.3** The Company need not give any notice under the PPSA (including notice of a verification statement) unless the notice is required by the PPSA to be given.

34.4 The Consultant must notify the Company as soon as the Consultant becomes aware of any of the following:

(a) if any personal property which does not form part of the Company's Personal Property becomes an accession to the Company's Personal Property and is subject to a security interest in favour of a third party, that has attached at the time it becomes an accession;

or

(b) if any of the Company's Personal Property is located or situated outside Australia or upon request by the Company, of the present location or situation of any of the Company's Personal property.

34.5 The Consultant must not:

(a) create any security interest or lien over any of the Company's Personal Property whatsoever (other than security interests granted in favour of the Company);

(b) sell, lease or dispose of its interest in the Company's Personal Property;

(c) give possession of the Company's Personal Property to another person except where the Company expressly authorises it to do so;

(d) permit any of the Company's Personal Property to become an accession to or commingled with any asset that is not part of the Company's Personal Property; or

(e) change its name without first giving the Company 21 days' notice of the new name or relocate its principal place of business outside Australia or change its place of registration or incorporation.

34.6 Everything the Consultant is required to do under this clause 34.0 is at the Consultant's expense.

34.7 Neither the Company nor the Consultant will disclose information of the kind mentioned in section 275(1) of the PPSA and the Consultant will not authorise, and will ensure that no other party authorises, the disclosure of such information. This clause 34.0 does not prevent disclosure where such disclosure is required under section 275 of the PPSA because of the operation of section 275(7) of the PPSA.

35.0 SUBCONTRACTING

35.1 The Consultant must not subcontract any part of the Services without the Company's prior written consent.

35.2 The Company's consent may be subject to any conditions which the Company in its absolute discretion imposes.

35.3 Any consent by the Company to subcontract any part of the Services does not relieve the Consultant from any of its liabilities or obligations under this Agreement.

35.4 Despite consent by the Company to subcontract, the Consultant is liable for any act or omission, default or negligence of any Subcontractor or any employee or agent of the Subcontractor as if it were the act, omission, default or negligence of the Consultant.

36.0 ASSIGNMENT AND NOVATION

36.1 The Company may at any time assign, novate, subcontract or otherwise transfer all or any part of its rights or liabilities under this Agreement without the consent of the Consultant. The Consultant must execute any document reasonably required by the Company to give effect to the assignment, novation or other transfer.

36.2 The Consultant must not assign its rights under this Agreement without the Company's prior written consent.

37.0 PUBLICITY

37.1 The Consultant must not make any public announcement or issue any media release relating to this Agreement, the performance of the Services, or the existence of, or entry into this Agreement, without the prior written consent of the Company as to the form, content and timing of the announcement or media release.

38.0 GOVERNING LAW AND JURISDICTION

38.1 This Agreement is governed by the laws of the State or Territory of where the Services are substantially performed by the Consultant, or, where and the Parties irrevocably submit to the exclusive jurisdiction of courts exercising jurisdiction in that State or Territory.

39.0 ANTI-BRIBERY AND CORRUPTION

39.1 Each Party, in performing this Agreement, must comply with any applicable Anti-bribery and Corruption Law.

40.0 WAIVER

40.1 No Party to this Agreement may rely on the words or conduct of any other Party as a waiver of any rights unless the waiver is in writing and signed by the Party granting the waiver.

41.0 VARIATION

41.1 Any variation of this Agreement must be in writing and signed by the Parties.

42.0 ENTIRE AGREEMENT

42.1 The Agreement states all express terms of the agreement between the Parties and supersedes all prior discussions, negotiations, understandings and agreements.

SPECIAL CONDITIONS

SC1.0 CLAUSE REFERENCES

A reference to a clause or sub-clause in these Special Conditions unless otherwise specified, is a reference to a clause or sub-clause in the Consultancy Services Terms and Conditions.

SC2.0 SPECIAL CONDITIONS

Harradynamics Commercial Manager must read the Head Contract and ensure that all necessary provisions in the Head Contract are included in this Agreement on a back to back basis.

Example – Head Contract “back to back” clauses if required

SC2.1 To the extent relevant to the Services, the Consultant agrees to be bound by the terms and conditions set out in the Head Contract on a “back to back” basis.

SC2.2 The Consultant acknowledges that it has been provided with a copy of the Head Contract.

OR

SC2.3 The Consultant agrees to be bound by clauses Insert Clauses of the Head Contract on a “back to back” basis.

SC2.4 The Consultant acknowledges that it has been provided with a copy of these clauses of the Head Contract.

SCHEDULE A - SCOPE OF SERVICES

1.0 GENERAL

1.1 The Consultant will perform the services set out in: Insert Document No. and Revision No.

1.2 The Consultant acknowledges that the services set out in this schedule:

- (a) are not a definitive description of the Services; and
- (b) will not limit or affect the Consultant's general obligation to provide the Services and to do all things that might reasonably be expected of the Consultant from time to time as necessary or appropriate to secure the proper and timely performance of the Services.

2.0 OTHER SPECIFIC SERVICES TO BE PERFORMED

2.1 The Consultant will also perform the following specific services:

[Insert any additional services not set out in the Scope of Works Document]

3.0 BACKGROUND

3.1 [Insert Project Team OR "Not Used".]

4.0 PROJECT TEAM

4.1 [Insert Background OR "Not Used".]

5.0 WORK PACKAGES/STAGES

5.1 [Insert Work Packages/ Stages or Refer Scope of Work: Insert Document No. and Revision No.]

6.0 DELIVERABLES

6.1 [Insert Deliverables or Refer Scope of Work: Insert Document No. and Revision No.]

7.0 PROGRAM

7.1 [Insert Deliverables milestone if any or Refer Scope of Work: Insert Document No. and Revision No.]

SCHEDULE B - CONTRACT SUM AND VARIATIONS

CONTRACT SUM

Option 1: Schedule of Rates (or the Alternative)

The amounts payable to the Consultant shall be calculated by multiplying the hours or units in accordance with the Contract and approved by the Company, by the rates or prices stated within the following table:

Item No	Person / Item	Position / Description	Estimated Total Hours / Units	Rate / Price \$	Estimated Total Price
1					
2					
Contract Sum					

Estimated hours includes site and office based activities. Sums, prices, or rates in the Agreement are subject to adjustment on 1 January and 1 July of each year.

The Contract Sum is \$Insert Contract Value (Insert Value in Words Australian Dollars), all costs stated are exclusive of GST.

Payment to the Consultant will not exceed the Contract Sum of Insert Contract Sum, unless the Contract Sum has been varied in accordance with the Contract.

The Consultant shall be entitled to payment for any expenses or disbursements reasonably and properly incurred in connection with the Agreement where:

- (a) items are subject to prior written approval from the Company; and
- (b) are supported by appropriate third party tax invoices containing sufficient detail and accompanying verification as are reasonably acceptable to the Company and/or Client.

Option 2: Lump Sum – Progress Payments (or the Alternative)

The Contract Sum will be a lump sum of \$Insert Contract Value (Insert Value in Words Australian Dollars).

The Contract Sum is deemed to include the following costs:

- (a) cost of the Consultant providing and appointing all necessary staff in connection with the Agreement;
- (b) minor variations to the design which may occur during the course of the Agreement; and
- (c) all expenses, outlays and disbursements reasonably and properly incurred by the Consultant in connection with the Agreement.

The Contract Sum is attributed to the performance of the Services as follows:

Stage	Description of Stage	Percentage of Contract Sum (%)
1	Insert description of work package / stage / deliverable	Insert % of Contract Sum
2	Insert description of work package / stage / deliverable	Insert % of Contract Sum
		Total (100%)

VARIATIONS

If the Parties have not agreed a reasonable value for the varied Services under clause 17.0, the Parties will use the following rates to value the Variation, to the extent such rates are applicable:

No.	Role	Rate per Hour
1	Insert role	\$
2	Insert role	\$
3	Insert role	\$
4	Insert role	\$

Estimated hours includes site and office based activities. Sums, prices, or rates in the Agreement are subject to adjustment on 1 January and 1 July of each year.

SCHEDULE C - DEED OF RELEASE

<<CONTRACT NUMBER>>

This deed of release is executed pursuant to the provisions of the Agreement dated Insert Date.

Between:

Harradynamics Pty Ltd (ACN: 150 624 356) (Company)

And

Insert Consultant (ABN: Insert Consultant ABN) (Consultant)

In consideration of payment by the Company to Consultant of all monies due under the Agreement or otherwise in connection with the Agreement up to and including the Completion Date, the Consultant hereby:

- (a) waives, releases and forever discharges the Company from all claims, demands, debts, accounts, expenses, costs, liens, actions and proceedings of any and every kind name and nature and description whether known or unknown which the Consultant has or might assert against Company arising prior to the date of this deed under or by virtue of the Agreement or out of its performance, purported performance, non-performance or otherwise; and
- (b) indemnifies and holds harmless the Company, its officers, servants and agents from and against all claims, demands, debts, accounts and expenses, costs liens, actions and proceedings of any and every kind, name and nature and description, whether known or unknown by any person, corporation or firm arising from, incidental to or by virtue of the Agreement or out of its performance, purported performance or non-performance save and except any Services expressly requested in writing by the Company after the date of this deed and for which Consultant will be paid in accordance with the Agreement.

Signed for and on behalf of:

Insert Consultant

ABN: Insert Consultant ABN

in accordance with Section 127 of the Corporations Act 2001 (Cth)

DIRECTOR

DATE

DIRECTOR / SECRETARY

DATE