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## **Res-Q IT Services – Terms and Conditions of Trade (Full MSP Extended Version)**

### **1. Definitions**

1.1 “RES-Q IT” means Resq Pty Ltd T/A RES-Q IT Services, its successors and assigns or any person acting on behalf of and with the authority of Resq Pty Ltd T/A RES-Q IT Services.

1.2 “Client” means the person/s buying the Goods and/or Services as specified in any invoice, document or order, and if there is more than one Client is a reference to each Client jointly and severally.

1.3 “Goods and/or Services” means all Goods and/or Services supplied by RES-Q IT to the Client at the Client’s request from time to time.

1.4 “Price” means the Price payable for the Goods and/or Services as agreed between RES-Q IT and the Client in accordance with clause 4 below.

### **2. Acceptance**

2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for or accepts delivery of the Goods and/or Services.

2.2 These terms and conditions may only be amended with RES-Q IT’s consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Client and RES-Q IT.

2.3 The Client shall as soon as practicable make available to RES-Q IT all information, documents, software, hardware, and other particulars required by RES-Q IT for the supply of Goods and/or Services.

2.4 The Client acknowledges that any advice or recommendations are provided by RES-Q IT on the basis of RES-Q IT’s industry knowledge and experience only and as such shall not be deemed to be specialist advice.

2.5 The Client acknowledges that it is their responsibility to ensure that the specifications provided to RES-Q IT (in writing) for the supply of Goods and/or Services are in sufficient detail to satisfy RES-Q IT’s requirements of interpretation and understanding. RES-Q IT shall not accept any liability for the supply of Goods and/or Services contrary to the Client’s intention due to insufficient or inadequate provision of detailed specifications by the Client.

### **3. Change in Control**

3.1 The Client shall give RES-Q IT not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client’s details (including but not limited to, changes in the Client’s name, address, contact phone or

fax number/s, or business practice). The Client shall be liable for any loss incurred by RES-Q IT as a result of the Client's failure to comply with this clause.

#### 4. Price and Payment

4.1 At RES-Q IT's sole discretion the Price shall be either: (a) as indicated on any invoice provided by RES-Q IT to the Client; or (b) RES-Q IT's quoted price (subject to clause 4.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.

4.2 RES-Q IT reserves the right to change the Price in the event of a variation to RES-Q IT's quotation or as a result of any changes to the supply of the Goods, plan of scheduled Services or Client specifications (including, but not limited to, additional Goods and/or Services required due to hidden or unidentifiable difficulties not evident prior to delivery of the Goods and/or Services), or as a result of fluctuations in foreign exchange rates, international freight or insurance charges, or increases beyond RES-Q IT's reasonable control in the cost of materials or labour.

4.3 At RES-Q IT's sole discretion a deposit may be required.

4.4 Time for payment for the Goods and/or Services being of the essence, the Price will be payable by the Client on the date/s determined by RES-Q IT.

4.5 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card (plus a surcharge of up to 1.5% of the Price), or by any other method as agreed to between the Client and RES-Q IT.

4.6 Unless otherwise stated the Price does not include GST. In addition to the Price the Client must pay to RES-Q IT an amount equal to any GST RES-Q IT must pay for any supply by RES-Q IT under this or any other agreement for the sale of the Goods and/or Services.

#### 5. Subscriptions

5.1 If you ordered a product on a subscription basis and after your trial period (if there is any), you will be automatically billed as per subscription terms. You may cancel your subscription at any time. You are responsible for the full subscription fee in the subscription billing cycle in which you cancel. Once your account has been billed, all sales are final and there will be no refunds.

5.2 When you cancel, your cancellation will generally be effective at the end of your current subscription month. Please allow us up to 5 business days to process your cancellation request.

5.3 Please note that your subscription fees for your current month are generally non-refundable except in special circumstances, subject to law.

5.4 **Mandatory Payment Authority.** Clients on subscription services must maintain a valid credit card or direct debit authority on file with RES-Q IT at all times. This authority will be

used for automatic collection of subscription fees and other recurring charges. If the payment method provided fails, the Client must immediately update their details to prevent suspension of services.

5.5 Failure to maintain a valid payment method may result in immediate suspension of subscription services until payment arrangements are rectified.

### **5A.1 Onboarding and Offboarding Services**

5A.2 Onboarding services (including account setup, licensing, configuration, migration, or deployment tasks) may attract a one-time setup fee, payable in advance, as specified in Res-Q IT's quotation or invoice.

5A.3 Offboarding services (including but not limited to data exports, documentation, transition meetings, account transfer or training of a replacement provider) are not included in standard service or onboarding fees.

5A.4 Offboarding assistance provided by Res-Q IT beyond the return of system access credentials and standard documentation will be charged at Res-Q IT's then-current hourly rates, unless otherwise agreed in writing.

## **6. Delivery of Goods and/or Services**

6.1 Delivery ("Delivery") of the Goods and/or Services is taken to occur at the time that RES-Q IT (or RES-Q IT's nominated carrier) delivers the Goods and/or Services to the Client's nominated address even if the Client is not present at the address.

6.2 Failing any notice to the contrary, the cost of delivery is included in the Price.

6.3 The Client must take delivery by receipt or collection of the Goods and/or Services whenever they are tendered for delivery. In the event that the Client is unable to take delivery of the Goods and/or Services as arranged then RES-Q IT shall be entitled to charge a reasonable fee for redelivery and/or storage.

6.4 RES-Q IT may deliver the Goods and/or Services in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.

6.5 Any time or date given by RES-Q IT to the Client is an estimate only. The Client must still accept delivery of the Goods and/or Services even if late and RES-Q IT will not be liable for any loss or damage incurred by the Client as a result of the delivery being late.

## **7. Risk**

7.1 Risk of damage to or loss of the Goods and/or Services passes to the Client on Delivery and the Client must insure the Goods and/or Services on or before Delivery.

7.2 If any of the Goods and/or Services are damaged or destroyed following delivery but prior to ownership passing to the Client, RES-Q IT is entitled to receive all insurance

proceeds payable for the Goods and/or Services. The production of these terms and conditions by RES-Q IT is sufficient evidence of RES-Q IT's rights to receive the insurance proceeds without the need for any person dealing with RES-Q IT to make further enquiries.

7.3 If the Client requests RES-Q IT to deliver the Goods and/or Services to an unattended location then such Goods and/or Services shall be left at the Client's sole risk.

7.4 RES-Q IT shall not be held liable for any loss, corruption, or deletion of files or data (including, but not limited to software programmes) resulting from the Goods and/or Services supplied by RES-Q IT. It is the sole responsibility of the Client to back-up any data which they believe to be important, valuable, or irreplaceable prior to RES-Q IT supplying the Goods and/or Services. The Client accepts full responsibility for the Client's software and data and RES-Q IT is not required to advise or remind the Client of appropriate backup procedures.

7.5 All third-party software is provided at the Client's own risk and is not in any way warranted by RES-Q IT nor shall RES-Q IT be in any way responsible for the implementation or effects of any "patches", "updates", or "fixes" offered by the manufacturer of the software.

## **8. Title**

8.1 RES-Q IT and the Client agree that ownership of the Goods and/or Services shall not pass until: (a) the Client has paid RES-Q IT all amounts owing to RES-Q IT; and (b) the Client has met all of its other obligations to RES-Q IT.

8.2 Receipt by RES-Q IT of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.

8.3 It is further agreed that: (a) until ownership of the Goods and/or Services passes to the Client in accordance with clause 8.1 that the Client is only a bailee of the Goods and/or Services and must return the Goods and/or Services to RES-Q IT on request; (b) the Client holds the benefit of the Client's insurance of the Goods and/or Services on trust for RES-Q IT and must pay to RES-Q IT the proceeds of any insurance in the event of the Goods and/or Services being lost, damaged or destroyed; (c) the Client must not sell, dispose, or otherwise part with possession of the Goods and/or Services other than in the ordinary course of business and for market value. If the Client sells, disposes or parts with possession of the Goods and/or Services then the Client must hold the proceeds of any such act on trust for RES-Q IT and must pay or deliver the proceeds to RES-Q IT on demand; (d) the Client should not convert or process the Goods and/or Services or intermix them with other Goods and/or Services but if the Client does so then the Client holds the resulting product on trust for the benefit of RES-Q IT and must sell, dispose of or return the resulting product to RES-Q IT as it so directs; (e) the Client irrevocably authorises RES-Q IT to enter any premises where RES-Q IT believes the Goods and/or Services are kept and recover possession of the Goods and/or Services; (f) RES-Q IT may recover possession of any Goods and/or Services in transit whether or not delivery has occurred; (g) the Client shall not charge or grant an encumbrance over the Goods and/or Services nor grant nor otherwise give away any

interest in the Goods and/or Services while they remain the property of RES-Q IT; (h) RES-Q IT may commence proceedings to recover the Price of the Goods and/or Services sold notwithstanding that ownership of the Goods and/or Services has not passed to the Client.

8.3 Additionally, the following terms apply: (a) Until ownership of the Goods and/or Services transfers to the Client as outlined in clause 8.1, the Client acts solely as a bailee and must return the Goods and/or Services to RES-Q IT upon request; (b) The Client holds the benefit of any insurance over the Goods and/or Services on trust for RES-Q IT and is required to pay any insurance proceeds to RES-Q IT if the Goods and/or Services are lost, damaged, or destroyed; (c) The Client is not permitted to sell, dispose of, or otherwise part with the Goods and/or Services except in the ordinary course of business and at market value. Should such a transaction occur, the Client must hold the proceeds on trust for RES-Q IT and deliver them on demand; (d) The Client should not alter, process, or combine the Goods and/or Services with others, but if this does happen, any resulting product is held in trust for RES-Q IT and must be sold, disposed of, or returned as RES-Q IT directs; (e) The Client gives RES-Q IT irrevocable permission to enter any premises where the Goods and/or Services are believed to be located, in order to reclaim possession; (f) RES-Q IT can recover Goods and/or Services that are in transit regardless of whether delivery has occurred; (g) The Client must not charge, encumber, or transfer any interest in the Goods and/or Services while they remain the property of RES-Q IT; (h) RES-Q IT reserves the right to pursue legal action to recover the price of the Goods and/or Services, even if ownership has not yet transferred to the Client.

## **9. Personal Property Securities Act 2009 (PPSA)**

9.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.

9.2 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Goods and/or Services that have previously been supplied and that will be supplied in the future by RES-Q IT to the Client.

## **Personal Property Securities Act Requirements**

9.3 The Client agrees to the following obligations:

- Sign all necessary documents and promptly provide any additional information that RES-Q IT may reasonably require in order to:
- (i) Register or update a financing statement or financing change statement regarding a security interest on the Personal Property Securities Register (PPSR);
- (ii) Register any other document required by the Personal Property Securities Act (PPSA);
- (iii) Correct a defect in any registration mentioned in clauses 9.3(a)(i) or 9.3(a)(ii).

(b) Indemnify and reimburse RES-Q IT, upon request, for any expenses incurred in registering a financing statement or financing change statement.

(c) Not register a financing change statement relating to a security interest without prior written consent from RES-Q IT.

(d) Not register, or allow to be registered, a financing statement or financing change statement regarding the Goods and/or Services in favour of any third party without the prior written consent of RES-Q IT.

(e) Immediately notify RES-Q IT of any significant change in business practices involving the sale of the Goods and/or Services, especially if such change would affect the nature of the proceeds from those sales.

9.4 RES-Q IT and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.

9.5 The Client waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.

9.6 The Client waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.

9.7 Unless otherwise agreed to in writing by RES-Q IT, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.

9.8 The Client must unconditionally ratify any actions taken by RES-Q IT under clauses 9.3 to 9.5.

9.9 Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

## **10. Security and Charge**

10.1 In consideration of RES-Q IT agreeing to supply the Goods and/or Services, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).

10.2 The Client indemnifies RES-Q IT from and against all RES-Q IT's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising RES-Q IT's rights under this clause.

10.3 The Client irrevocably appoints RES-Q IT and each director of RES-Q IT as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 10 including, but not limited to, signing any document on the Client's behalf.

## **11. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)**

11.1 The Client must inspect the Goods and/or Services on delivery and must within five (5) days of delivery notify RES-Q IT in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Client must notify any other alleged defect in the Goods and/or Services as soon as reasonably possible after any such defect becomes evident. Upon such notification the Client must allow RES-Q IT to inspect the Goods and/or Services.

11.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties may be implied into these terms and conditions (Non-Excluded Guarantees).

11.3 RES-Q IT acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.

11.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, RES-Q IT makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods and/or Services. RES-Q IT's liability in respect of these warranties is limited to the fullest extent permitted by law.

11.5 If the Client is a consumer within the meaning of the CCA, RES-Q IT's liability is limited to the extent permitted by section 64A of Schedule 2.

11.6 If RES-Q IT is required to replace the Goods and/or Services under this clause or the CCA, but is unable to do so, RES-Q IT may refund any money the Client has paid for the Goods and/or Services.

11.7 If the Client is not a consumer within the meaning of the CCA, RES-Q IT's liability for any defect or damage in the Goods and/or Services is limited to: (a) the value of any express warranty or warranty card provided to the Client; (b) any warranty to which RES-Q IT is entitled if RES-Q IT did not manufacture the Goods and/or Services; (c) otherwise negated absolutely.

11.8 Subject to this clause 11, returns will only be accepted provided that: (a) the Client has complied with the provisions of clause 11.1; (b) RES-Q IT has agreed that the Goods and/or Services are defective; (c) the Goods and/or Services are returned within a reasonable time at the Client's cost; and (d) the Goods and/or Services are returned in as close a condition to that in which they were delivered as is possible.

11.9 Notwithstanding clauses 11.1 to 11.8 but subject to the CCA, RES-Q IT shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of: (a) the Client failing to properly maintain or store any Goods and/or Services; (b) the Client using the Goods and/or Services for any purpose other than that for which they were

designed; (c) the Client continuing the use of any Goods and/or Services after any defect became apparent; (d) the Client failing to follow any instructions or guidelines provided by RES-Q IT; (e) fair wear and tear, accident, or act of God.

11.10 RES-Q IT may in its absolute discretion accept non-defective Goods and/or Services for return in which case RES-Q IT may require the Client to pay handling fees of up to fifteen percent (15%) of the value of the returned Goods and/or Services plus any freight costs.

## **12. Intellectual Property**

12.1 Where RES-Q IT has designed, drawn or developed Goods and/or Services for the Client, then the copyright in any designs and drawings and documents shall remain the property of RES-Q IT, and shall only be used by the Client at RES-Q IT's discretion.

12.2 The Client warrants that all designs, specifications or instructions given to RES-Q IT will not cause RES-Q IT to infringe any patent, registered design or trademark. The Client agrees to indemnify RES-Q IT against any action taken by a third party against RES-Q IT in respect of any such infringement.

12.3 Where RES-Q IT has designed and/or provided computer software and documentation, RES-Q IT retains ownership but grants the Client a non-exclusive, non-transferable licence for its use.

12.4 The Client further agrees not to: (a) use the software for any purpose other than that for which it was designed; (b) combine it with other software; (c) copy, reproduce, translate, adapt, vary, merge, modify, or create any derivative work; (d) reverse engineer, decompile, disassemble, reconfigure or otherwise attempt to discover the source code; (e) sell, market, transfer, lease, or otherwise distribute; (f) use the software to commit a crime, and indemnify RES-Q IT against any action taken as a result.

12.5 If during the course of supplying the Goods and/or Services, RES-Q IT develops, discovers, or puts into operation a new concept, product or process which is capable of being patented, then such shall remain the property of RES-Q IT.

12.6 Where RES-Q IT has designed Goods and/or Services for the Client to use, then the Client undertakes to acknowledge RES-Q IT's intellectual property in those Goods and/or Services in the event that images are used in advertising or marketing material. Further, the Client agrees that RES-Q IT may use such designs for marketing or competition entry purposes.

## **13. Confidentiality**

13.1 Both parties agree that, unless they have the prior written consent of the other, they will not use or disclose to any third party (other than for the purpose of performing this agreement) the terms and conditions of this agreement or any information confidential to the other party.

13.2 The Client agrees to protect all authorisation details, including usernames and passwords and agrees not to store them insecurely.

13.3 In the event that RES-Q IT requests the Client to change any password or identifier, the Client acknowledges that RES-Q IT recommends not using commonly known details such as birthdays or names.

#### **14. Default and Consequences of Default**

14.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at RES-Q IT's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.

14.2 If the Client owes RES-Q IT any money the Client shall indemnify RES-Q IT from and against all costs and disbursements incurred by RES-Q IT in recovering the debt.

14.3 Without prejudice to any other remedies RES-Q IT may have, if the Client is in breach of any obligation under these terms and conditions RES-Q IT may suspend or terminate the supply of Goods and/or Services. RES-Q IT will not be liable to the Client for any loss or damage incurred as a result.

14.4 Without prejudice to RES-Q IT's other remedies at law RES-Q IT shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to RES-Q IT shall become immediately payable if: (a) any money payable becomes overdue, or in RES-Q IT's opinion the Client will be unable to make payment when it falls due; (b) the Client becomes insolvent; (c) a receiver, manager, liquidator or similar person is appointed.

#### **15. Cancellation**

15.1 RES-Q IT may cancel any contract to which these terms and conditions apply or cancel delivery of Goods and/or Services at any time before the Goods and/or Services are delivered by giving written notice to the Client.

15.2 In the event that the Client cancels delivery of Goods and/or Services the Client shall be liable for any and all loss incurred (whether direct or indirect) by RES-Q IT as a direct result of the cancellation.

15.3 Cancellation of orders for Goods and/or Services made to the Client's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

#### **15A.1 Termination Notice**

15A.2 Either party may terminate this Agreement for convenience by giving not less than sixty (60) days' prior written notice.

15A.3 The Client shall remain liable for payment of all Fees during the notice period, regardless of whether the Client continues to utilise the Services.

15A.4 Where the Client provides less than sixty (60) days' notice, Res-Q IT reserves the right to invoice the Client for the balance of the notice period in lieu of notice.

### **15B.1 Early Termination Fee**

15B.2 If the Client terminates this Agreement prior to the expiry of any fixed term, the Client must pay an early termination fee equal to fifty percent (50%) of the Fees payable for the remainder of the term, in addition to all outstanding Fees accrued to the date of termination.

## **16. Privacy Act 1988**

16.1 The Client agrees for RES-Q IT to obtain from a credit reporting agency a credit report containing personal credit information about the Client in relation to credit provided by RES-Q IT.

16.2 The Client agrees that RES-Q IT may exchange information about the Client with those credit providers either named as trade referees by the Client or named in a consumer credit report issued by a credit reporting agency for the following purposes: (a) to assess an application by the Client; and/or

(b) to notify other credit providers of a default by the Client; and/or

(c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or

(d) to assess the creditworthiness of the Client.

16.3 The Client consents to RES-Q IT being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).

16.4 The Client agrees that personal credit information provided may be used and retained by RES-Q IT for the following purposes (and for other purposes as shall be agreed between the Client and RES-Q IT or required by law from time to time): (a) the provision of Goods and/or Services; and/or

(b) the marketing of Goods and/or Services by RES-Q IT, its agents or distributors; and/or

(c) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Goods and/or Services; and/or

(d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or

(e) enabling the daily operation of Client's account and/or the collection of amounts outstanding in the Client's account in relation to the Goods and/or Services.

16.5 RES-Q IT may give information about the Client to a credit reporting agency for the following purposes: (a) to obtain a consumer credit report about the Client;

(b) allow the credit reporting agency to create or maintain a credit information file containing information about the Client.

16.6 The information given to the credit reporting agency may include:

(a) personal particulars (the Client's name, sex, address, previous addresses, date of birth, name of employer and driver's licence number);

(b) details concerning the Client's application for credit or commercial credit and the amount requested;

(c) advice that RES-Q IT is a current credit provider to the Client;

(d) advice of any overdue accounts, loan repayments, and/or any outstanding monies owing which are overdue by more than sixty (60) days, and for which debt collection action has been started;

(e) that the Client's overdue accounts, loan repayments and/or any outstanding monies are no longer overdue in respect of any default that has been listed;

(f) information that, in the opinion of RES-Q IT, the Client has committed a serious credit infringement (that is, fraudulently or shown an intention not to comply with the Client's credit obligations);

(g) advice that cheques drawn by the Client for one hundred dollars (\$100) or more, have been dishonoured more than once;

(h) that credit provided to the Client by RES-Q IT has been paid or otherwise discharged.

## **17. Unpaid RES-Q IT's Rights**

17.1 Where the Client has left any item with RES-Q IT for repair, modification, exchange or for RES-Q IT to perform any other service in relation to the item and RES-Q IT has not received or been tendered the whole of any moneys owing to it by the Client, RES-Q IT shall have, until all moneys owing to RES-Q IT are paid: (a) a lien on the item; and

(b) the right to retain or sell the item, such sale to be undertaken in accordance with any legislation applicable to the sale or disposal of uncollected Goods and/or Services.

17.2 The lien of RES-Q IT shall continue despite the commencement of proceedings, or judgment for any moneys owing to RES-Q IT having been obtained against the Client.

## **18. General**

18.1 The failure by RES-Q IT to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect RES-Q IT's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

18.2 These terms and conditions and any contract to which they apply shall be governed by the laws of Western Australia and are subject to the jurisdiction of the Perth Court.

18.3 Subject to clause 11 RES-Q IT shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by RES-Q IT of these terms and conditions (alternatively RES-Q IT's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods and/or Services).

18.4 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by RES-Q IT nor to withhold payment of any invoice because part of that invoice is in dispute.

18.5 RES-Q IT may license or sub-contract all or any part of its rights and obligations without the Client's consent.

18.6 The Client agrees that RES-Q IT may amend these terms and conditions at any time. If RES-Q IT makes a change to these terms and conditions, then that change will take effect from the date on which RES-Q IT notifies the Client of such change. The Client will be taken to have accepted such changes if the Client makes a further request for RES-Q IT to provide Goods and/or Services to the Client.

18.7 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

18.8 The Client warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations on it.

The Client understands that the information exchanged can include anything about the Client's creditworthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the Privacy Act 1988.

### 19.1 Third-Party Providers and Services

19.2 The Client acknowledges that certain Services provided by Res-Q IT incorporate, rely upon, or are delivered through third-party vendors, including but not limited to Microsoft, Telstra, internet service providers, cybersecurity/monitoring vendors, and cloud hosting providers.

19.3 The Client agrees that its use of such third-party services is subject to the end-user license agreements, terms of service, and acceptable use policies of those providers, which are incorporated by reference into this Agreement.

19.4 Res-Q IT makes no representations or warranties in respect of third-party services and shall not be liable for any outage, delay, data loss, service degradation, or other failure caused by a third-party provider.

19.5 The Client's sole recourse for any defect, outage, or failure in third-party services shall be against the third-party provider, and the Client waives any right to pursue claims against Res-Q IT in respect of such matters.

19.6 The Client shall indemnify and hold harmless Res-Q IT against any claim, cost, or liability imposed on Res-Q IT by a third-party vendor arising out of the Client's breach of that vendor's terms of service.

19.7 Where a third-party vendor alters its terms, scope of services, or pricing, Res-Q IT may amend its Fees or service descriptions on thirty (30) days' written notice to the Client.

### 19A. Non-Solicitation of Employees

19A.1 The Client shall not, without the prior written consent of RES-Q IT, directly or indirectly solicit, entice, employ, engage, or attempt to employ or engage any person who is, or has been within the previous twelve (12) months, an employee, contractor, or agent of RES-Q IT and who was involved in providing the Goods and/or Services to the Client.

19A.2 If the Client breaches this clause, the Client agrees to pay RES-Q IT a placement fee equal to **50% of the employee's total annual remuneration package** (including salary, superannuation, and any other benefits) as liquidated damages, which the parties acknowledge to be a genuine pre-estimate of the loss that RES-Q IT would suffer.

19A.3 This clause shall survive termination of this Agreement for a period of twelve (12) months.