1. **Performance of Consultancy Services**

1.1 Both parties will use all reasonable endeavours to co-operate in the performance of the Consultancy Services.

1.2 UQ warrants that the Consultancy Services will be performed with reasonable care and skill. All other warranties, either express or implied, including without limitation warranties of merchantability, non-infringement, interoperability and fitness for a particular purposes, are disclaimed.

2. **Ownership**

2.1 The title to and ownership of all IPR in all Contract Material and the Deliverables vests upon its creation in UQ. UQ hereby grants a licence of the IPR in the Deliverables to the Principal, to be used by the Principal solely for its own internal business purposes. UQ will not be liable for any reliance by a third party on the Contract Material or Deliverables.

2.2 The title to and ownership of all IPR in the Pre-existing Material remains vested in the party who provides such Pre-existing Material.

2.3 Neither party will use the other party’s Pre-existing Material for any purpose other than performance of the Consultancy Services.

3. **Confidential Information**

3.1 Each party must not:

(a) disclose any information about this Agreement or any Confidential Information received from the other party; and

(b) make any use of the other party’s Confidential Information other than for the purposes of performance of this Agreement.

3.2 Each party may disclose Confidential Information to its employees, consultants, sub-contractors and its professional advisers who need to receive the information in the course of performance of this Agreement and who have agreed not to disclose such Confidential Information.

3.3 The confidentiality obligations in this clause do not apply to any information which:

(a) is or subsequently becomes available to the general public other than through a breach by the receiving party;

(b) is already known to the receiving party before disclosure by the disclosing party;

(c) is developed through the independent documented efforts of the receiving party;

(d) the receiving party rightfully receives from a third party without restrictions as to use; or

(e) is required to be disclosed pursuant to an order or requirement by a Court or other government body.

4. **Invoice Procedure**

4.1 The Principal agrees to pay UQ’s fees as set out in the Engagement Letter. The Principal agrees to pay UQ’s reasonable expenses, including travel and subsistence expenses, incurred in the performance of the Consultancy Services.

4.2 The Principal agrees to pay UQ’s fees and expenses within 14 days of receipt of a correctly rendered invoice by the Principal. Expenses will be invoiced on a quarterly basis. Fees for the Consultancy Services will, at UQ’s discretion, be invoiced either quarterly or upon completion of the Consultancy Services.

4.3 The parties acknowledge that GST may be payable on the Consultancy Services supplied pursuant to this Agreement. If GST...
is payable, the relevant amounts payable by the Principal will be increased by the amount equal to that which UQ is obliged to remit as GST on the supply of the Consultancy Services.

5. Assignment

5.1 This Agreement may not be assigned or any obligations sub-contracted by either party without the other party’s prior written consent, which must not be unreasonably withheld.

6. Negation of Employment and Agency

6.1 UQ will not:
(a) represent itself as being an employee or agent of the Principal; or
(b) by virtue of this Agreement become an employee or agent of the Principal.

7. Termination of Agreement

7.1 UQ may terminate this Agreement or suspend its operation by giving 30 days’ prior notice in writing to the other party. Termination or suspension under this clause will be without prejudice to any rights that may have accrued for either party before termination or suspension and all sums due to UQ will become payable in full when termination or suspension takes effect.

7.2 The following clauses of these General Conditions will survive expiry or termination of this Agreement: 2, 3, 8, 9 and 10.

8. Limitation of Liability and Insurance

8.1 To the extent permitted by law each party excludes any terms, conditions or warranties that might otherwise be implied into this Agreement.

8.2 Notwithstanding anything to the contrary in this Agreement, UQ’s entire liability under this Agreement, regardless of the basis on which the Principal is entitled to claim damages (including fundamental breach, negligence, misrepresentation or other contract or tort claim), will be limited in the aggregate for all claims and causes of action to actual direct damages in an amount not exceeding three times the amount of fees paid by the Principal to UQ under this Agreement.

8.3 In no event will UQ be liable for any damages if and to the extent caused by the Principal’s failure to perform its responsibilities, or for any of the following even if informed of their possibility:
(a) loss of, or damage to data;
(b) special, incidental, or indirect damages or for any economic consequential damages;
(c) loss of profits, business, revenue, goodwill or anticipated saving; or
(d) loss or liability incurred by the Principal as a result of a third party claim.

8.4 UQ must take out and maintain for the duration of the Consultancy Services and in relation to Professional Indemnity Insurance for a period of 7 years after the conclusion of the Consultancy Services the following insurance at least to the level set out in the table below, based on the total of the fees payable for the Consultancy Services:

<table>
<thead>
<tr>
<th>Fees</th>
<th>Public Liability Insurance</th>
<th>Professional Indemnity Insurance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under $30,000.00</td>
<td>$10 million per event</td>
<td>$2 million per event</td>
</tr>
<tr>
<td>$30,000.00 - $50,000.00</td>
<td>$10 million per event</td>
<td>$5 million per event</td>
</tr>
<tr>
<td>$50,000.00 - $2 million</td>
<td>$10 million per event</td>
<td>$10 million per event</td>
</tr>
<tr>
<td>Over $2 million</td>
<td>$20 million per event</td>
<td>$20 million per event</td>
</tr>
</tbody>
</table>

8.5 UQ will produce a certificate of currency in relation to the above insurances on the request of the Consultant.

9. Privacy

9.1 This clause applies only where UQ deals with Personal Information when, and for the purpose of, providing Consultancy Services under the Agreement.

9.2 UQ acknowledges that it is a “contracted service provider” within the meaning of section 34 of the Privacy Act.

9.3 The Principal acknowledges that it is a “contracting agency” within the meaning of section 34 of the Privacy Act.
9.4 UQ and the Principal acknowledge that this Agreement is a “service arrangement” within the meaning of section 34 of the Privacy Act.

9.5 UQ undertakes in respect of the provision of Consultancy Services under the Agreement:

(a) to use or disclose Personal Information however obtained during the course of providing the Consultancy Services under the Agreement, only for the purposes of the Agreement;

(b) not to do any act or engage in any practice that would breach an Information Privacy Principle;

(c) to carry out and discharge the obligations contained in the Information Privacy Principles;

(d) to notify individuals whose Personal Information is in the possession or under the control of UQ for the purpose of the Agreement, that complaints about acts or practices of UQ may be adjudicated by the Qld Civil and Administration Tribunal which has power to award compensation against UQ in appropriate circumstances;

(e) to immediately notify the Principal if UQ becomes aware of a breach or possible breach of any of the obligations contained in, or referred to in, this clause 9, whether by UQ or any contractor or subcontractor to UQ;

(f) to comply as far as practicable with any reasonable inquiries, directions, guidelines, determinations or recommendations by the Principal or the Information Commissioner concerning the discharge by UQ of its obligations under this clause 9, to the extent that such inquiries, directions, guidelines, determinations or recommendations are not inconsistent with the requirements of the Agreement;

(g) to ensure that any employee of UQ who is required to deal with Personal Information for the purposes of the Agreement is made aware of, and undertakes in writing to comply with, UQ’s obligations under this clause 9.

9.6 UQ shall ensure that any contract entered into for the purpose of fulfilling UQ’s obligations under the Agreement contains provisions to ensure that the contractor has the same awareness and obligations as UQ has under this clause 9 including the requirement in relation to subcontracts.

9.7 The Principal acknowledges that UQ may transfer Personal Information to fulfil its obligations under this Agreement.

9.8 UQ agrees to indemnify the Principal in respect of any loss, liability or expense suffered or incurred by the Principal which arises directly or indirectly from a breach of any of the obligations of UQ under this clause 9, or a subcontractor under the subcontract provisions referred to in subclause 9.6.


10. Law and Jurisdiction

10.1 This Agreement is governed by, and construed in accordance with, the laws of Queensland.

10.2 The parties agree that the Courts of Queensland have jurisdiction to entertain any action in respect of, or arising out of, this Agreement and hereby irrevocably submit themselves to the jurisdiction of the Courts of Queensland.

11. Variation of Agreement

11.1 No agreement or understanding that varies or extends this Agreement (including extending the scope of the Consultancy Services) will bind either party unless in writing and signed by both parties.
12. **Interpretation**

12.1 In these Conditions -

‘Agreement’ means the Engagement Letter (including any attachments) and these General Conditions which form the Agreement under which the Consultancy Services are to be provided to the Principal;

‘Confidential Information’ means in relation to a party, information that: (a) is by its nature confidential; (b) is designated by that party as confidential; (c) the other party knows or ought to know is confidential; and includes without limitation Pre-existing Material, Contract Material and Deliverables.

‘Consultancy Services’ means the Services and Deliverables as set out in the Engagement Letter;

‘Contract Material’ means all material, including, but not limited to, documents, computer software, equipment, information and data stored by any means which is created in connection with or for the purpose of performing the Consultancy Services;

‘Deliverables’ means the final version of an item or items of work which are to be delivered by UQ to the Principal as set out in the Engagement Letter and which may incorporate some or all of the Contract Material and Pre-existing Material;

‘Engagement Letter’ means the letter for delivery of the Consultancy Services by UQ to the Principal;

‘GST’ means the goods and services tax which results from the enactment of *A New Tax System (Goods and Services Tax) Act 1999* and related Acts;

‘Information Commissioner’ means the Information Commissioner under the *Right to Information Act 2009* (Qld);

‘Information Privacy Principle’ means an information privacy principle stated as a section of Schedule 3 of the Privacy Act;

‘IPP’ means Information Privacy Principle;

‘IPR’ includes, without limitation, all copyright and neighbouring rights, all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trade marks (including service marks), registered designs, Confidential Information (including trade secrets and know-how) and all necessary consents in relation to moral rights, semiconductor or circuit layout rights, trade, business or company names, or other proprietary rights, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields or any rights to registration of such rights existing in Australia or elsewhere, whether created before on or after the date of this Agreement;

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

‘Pre-existing Material’ means material including, but not limited to, documents, computer software, equipment, information and data stored by any means which is created prior to the performance of the Consultancy Services by either party and is used in the performance of the Consultancy Services;

‘Principal’ means the party set out in the Engagement Letter who has engaged UQ to perform the Consultancy Services;

‘Privacy Act’ means the *Information Privacy Act 2009* (Qld);

‘UQ’ means The University of Queensland and includes the officers, employees and agents and authorised sub-contractors (and their employees and agents) of The University of Queensland.

12.2 In the event of any conflict between the terms of the Engagement Letter and these General Conditions, the Engagement Letter will prevail.