



## **REFERRAL AGREEMENT**

**between**

**ACE IT Multiservices Pty Ltd ACN 166 764 101**

**and**

**Your Company details as entered on  
the Affiliate form**

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**THIS AGREEMENT** made on the date the Affiliate form is submitted

**BETWEEN:**

**PARTIES**

The Company Specified in Schedule 1, Item 1; and

The Referrer specified in Schedule 1, Item 2; and

**BACKGROUND**

- A. The Company wishes to be introduced to the Referrer’s contacts and is willing to pay the Referrer a commission on the terms of this agreement if any of these contacts purchase services from the Company.
- B. The Referrer is willing to introduce contacts to the Company in return for commission as specified in this agreement.
- C. The Referrer and Referee have agreed on the Referral Agreement on the terms contained in the Agreement.

**OPERATIVE PROVISIONS**

**1 DEFINITIONS AND INTERPRETATION**

1.1 Dictionary

In this Agreement the words set out in Column A have the meaning given to them in Column B:

A	B
<b>Agreement</b>	The Agreement and includes all schedules, annexures and attachments to this Agreement.
<b>Agreement Date</b>	The date on which this Agreement is signed by all parties.
<b>App</b>	an Australian Privacy Principle as defined in the Privacy Act.
<b>APP Entity</b>	has the meaning given in the Privacy Act
<b>Authority</b>	any Federal, State or local government, governmental or semi-governmental, statutory, judicial, administrative or public person, instrumentality, department, commission or body established under a statute or charged with the administration of a Law.
<b>Business Day</b>	a day that is not a Saturday, Sunday or any other day which is a public holiday or bank holiday in the place where an act is to be performed or a payment is to be made.
<b>Change of Control:</b>	in relation to a party, the occurrence of any of the following:

A	B
	<p>(a) the sale of all or substantially all of that party's assets;</p> <p>(b) a change in the shareholding of the party (provided that the party is not listed on a recognised securities exchange) that results in [a different person or group of persons having control of the composition of the board of directors or more than [50]% of the shares giving a right to vote at general meetings OR the person or group of persons who at the date of this agreement control the composition of the board of directors or more than [50]% of the shares giving a right to vote at general meetings ceasing to have control of the composition of the board of directors or more than [50]% of the shares giving a right to vote at general meetings]; or</p> <p>(c) a change in the shareholding of the party's holding company (provided that the holding company is not listed on a recognised securities exchange) that results in [a different person or group of persons having control of the composition of the board of directors or more than [50]% of the shares giving a right to vote at general meetings OR the person or group of persons who at the date of this agreement control the composition of the board of directors or more than [50]% of the shares giving a right to vote at general meetings ceasing to have control of the composition of the board of directors or more than [50]% of the shares giving a right to vote at general meetings]</p>
<b>Claim</b>	Any claim or cause of action of whatever nature in contract, tort, under statute or otherwise.
<b>Commencement Date</b>	
<b>Commission:</b>	has the meaning given in Clause 6.3
<b>Corporations Act:</b>	the <i>Corporations Act 2001</i> (Cth).
<b>Data Breach Investigation</b>	an investigation as required to be carried out in accordance with Clause 12.4(c)
<b>Data Incident</b>	an Eligible Data Breach that has, or is reasonably suspected to have, occurred in respect of any Personal Information collected, held, used or disclosed in the course of or relating to this agreement.]

A	B
<b>Electronic Signature</b>	a digital signature or a visual representation of a person's handwritten signature or mark which is placed on a physical or electronic copy of this agreement by electronic means and Electronically Signed has a corresponding meaning.
<b>Expiry Date:</b>	
<b>GST</b>	Any tax imposed by the GST Law.
<b>GST Law</b>	<i>A New Tax System (Goods and Services Tax) Act 1999.</i>
<b>Insolvency Event</b>	<p>the occurrence of any one or more of the following events in relation to a party:</p> <ul style="list-style-type: none"> <li>(a) it is insolvent as defined by section 95A of the Corporations Act;</li> <li>(b) is presumed to be insolvent under an applicable law (including under section 459C(2) or section 585 of the Corporations Act or otherwise is, or states that it is, unable to pay all its debts as and when they become due and payable;</li> <li>(c) any step is taken to appoint a receiver, a receiver and manager, a liquidator or a provisional liquidator or other like person to it or any of its assets, operations or business;</li> <li>(d) an administrator is appointed to it under section 436A, section 436B or section 436C of the Corporations Act;</li> <li>(e) a controller (as defined in section 9 of the Corporations Act) is appointed to it or any of its assets;</li> <li>(f) an application is made to a court for an order, or an order is made, that it be wound up or that a provisional liquidator, receiver or receiver and manager be appointed;</li> <li>(g) any step is taken to enter into an arrangement or composition with one or more of its creditors, or an assignment for the benefit of one or more of its creditors[, in each case other than to carry out a reconstruction or amalgamation while solvent];</li> </ul>
<b>Intellectual Property Rights</b>	all intellectual property rights of any kind, in any jurisdiction, subsisting now or in the future (including, without limitation, business, company or trade names, domain names, patents, inventions, copyright, design rights, know-how, trademarks, the right to sue for passing off and rights to use, and protect the confidentiality of, confidential information), whether registered or

A	B
	unregistered, and including the rights to apply for or renew the registration of any such rights and any rights the subject of any lapsed application or registration.
<b>Interest Rate</b>	10% per annum, charged monthly.
<b>Item</b>	A numbered item in Schedule 1.
<b>Net Income</b>	the payments made to the Company for the Services under a Relevant Contract less any GST or other sales tax on them , any out of pocket expenses incurred by the Company in providing the Services] and any discounts or rebates granted by the Company.
<b>Notice</b>	Has the meaning as described in Clause 25 of this Agreement.
<b>Party's Address</b>	Has the meaning given in Clause 25.1 of this Agreement.
<b>Personal Information:</b>	has the meaning given in the Privacy Act
<b>Privacy Act</b>	the Privacy Act 1988 (Cth)
<b>Prospective Client</b>	a person [resident or having its principal place of business in the Territory to whom the Company has not at any time previously provided the Services [or any other goods or services][and with whom the Company has not been in bona fide negotiations to provide the Services in the [six] months before the Referral Date].
<b>Prospective Client Quarter</b>	each period of three calendar months ending on 31 March, 30 June, 30 September and 31 December
<b>Referral:</b>	the provision to the Company of the contact details of a Prospective Client [or employee thereof] who is known by one or more individuals at the Referrer [and is of sufficient seniority to authorise or recommend the purchase of the Services from the Company.]
<b>Refer, Refers and Referred</b>	are to be interpreted accordingly.
<b>Referral Date:</b>	for each Prospective Client, the date during the term of this agreement on which the Referrer first Refers such Prospective Client to the Company.
<b>Referral Period</b>	for each Prospective Client, the time from the Referral Date, irrespective of whether such period ends before or after the date of termination of this agreement
<b>Relevant Contract</b>	a contract for the supply of Services entered into during the Referral Period

A	B
	between the Company and a Prospective Client who was Referred by the Referrer.
<b>Sensitive Information</b>	has the meaning given in the Privacy Act.
<b>Services:</b>	the services as further described in Schedule provided by the Company together with any other services from time to time offered by the Company and which the Company, by express written notice to the Referrer, includes within the scope of this agreement
<b>Term</b>	has the meaning given in Clause 2
<b>Territory:</b>	Australian Capital Territory

## 1.2 Interpretation

- (a) Reference to:
- (i) any tense or gender includes any other tense or gender;
  - (ii) the singular includes the plural and the plural includes the singular;
  - (iii) a person includes a body corporate and a Governmental Body;
  - (iv) a party includes the party's executors, administrators, successors and permitted assigns;
  - (v) a party includes a reference to their solicitor (if any).
- (b) All monetary amounts are in Australian dollars, unless otherwise stated.
- (c) If a party consists of more than one person, this Agreement binds them jointly and each of them separately.
- (d) A reference to a group of persons includes a reference to all of them jointly, any 2 or more of them jointly and each of them separately.
- (e) Headings and the table of contents are for convenience only and do not affect the interpretation, or form part of, this Agreement.
- (f) "Including", "particularly" and "such as" and similar expressions are not words of limitation.
- (g) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (h) If an act must be done on a specified day, which is not a Business Day, the act must be done instead on the next Business Day.
- (i) A reference to a document such as this Agreement includes all amendments or supplements to, or replacements or novations of, that document.

- (j) All payments to be made under this Agreement must be made by electronic funds transfer.

## **2 COMMENCEMENT AND TERM**

- 2.1 This agreement starts on the Commencement Date and ends when either party gives to the other party 30 days' written notice to terminate, unless terminated earlier in accordance with Clause 15.

## **3 REFERRALS**

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- 3.1 The Company appoints the Referrer [on a non-exclusive basis] to identify Prospective Clients for the Company in the Territory and to make Referrals of such persons on the terms of this agreement.
- 3.2 The Referrer must serve the Company faithfully and diligently and not to allow its interests to conflict with its duties under this agreement.
- 3.3 The Referrer must comply with all reasonable and lawful instructions of the Company.
- 3.4 The Company and the Referrer must, at a time or times as agreed between the parties, [meet to] jointly agree in writing the Prospective Clients (including any class or group of Prospective Clients) in respect of whom the Referrer will seek to make Referrals. The Referrer must not approach those Prospective Clients, or make any Referrals in respect of them, unless the Company has provided its prior written approval.
- 3.5 The Referrer must use its best endeavours to make Referrals of Prospective Clients agreed pursuant to Clause 3.4.
- 3.6 Where a Prospective Client is Referred by the Referrer and that Prospective Client later introduces the Company to a third party who purchases Services from the Company, the Referrer is not, by virtue of the initial Referral, deemed to have Referred the third party to the Company.

## **4 LIMITED SCOPE OF AUTHORITY**

- 4.1 The Company does not grant authority to the Referrer, and the Referrer must not hold itself out as having authority, or permit any person to hold itself out, as being authorised to bind the Company in any way. The Referrer must not do any act which might reasonably create the impression that the Referrer is so authorised.
- 4.2 The Referrer must:
  - (a) disclose to each Prospective Client that it is a referral agent for the Company and that it has no authority or ability to negotiate or vary the Services or the terms of the Services or enter into any contract on behalf of the Company;
  - (b) not negotiate with Prospective Clients any terms for the provision of Services by the Company
  - (c) not make or enter into any contracts or commitments or incur any liability for or on behalf of the Company, including for the provision of the Services or the price for them; and



- (d) not, without the prior written approval of the Company:
  - (i) produce any marketing material for the Company's services or use the Company's name, logo or trademarks on any marketing material for the Services; or
  - (ii) make or give any representations, warranties or other promises concerning the Services.

## 5 RESTRICTION ON COMPETING ACTIVITIES

- 5.1 The Referrer must not, without the prior written consent of the Company, during the term of this agreement perform duties similar to making Referrals, in the Territory, on behalf of any person who provides services similar to the Services.

## 6 CALCULATION OF COMMISSION

- 6.1 The Referrer is entitled to Commission if a Prospective Client Referred by the Referrer enters into a Relevant Contract.
- 6.2 Commission payable is \$10.00 (excluding GST) per referral made to the Company by the Referrer.
- 6.3 The Commission to be paid by the Company on to be calculated at the rate of [NUMBER]% of the Company's Net Income received under each Relevant Contract (as it may be renewed, extended or amended) during a period of [NUMBER] months from its commencement date
- 6.4 No Commission or other compensation is payable
  - (a) in relation to a contract entered into between the Company and a third party in the circumstances described in Clause 3.7.
- 6.5 The Company must, on the first day of each month:
  - (a) send to the Referrer a written statement setting out, in respect of the preceding month:
    - (i) the number of Relevant Contracts entered into by the Company;
    - (ii) the **Commission** payable to the Referrer; and
    - (iii) how the **Commission** has been calculated, including details of all deductions made in determining Net Income.
  - (b) Make payment of the Commission to the Referrer for all Referrals made by the Referrer during the preceding month.

## 7 PAYMENT OF COMMISSION

- 7.1 The Referrer must invoice the Company for the Commission payable in accordance with the Company's statement submitted pursuant to Clause 6.5, together with any applicable GST.
- 7.2 The due date for payment by the Company of such Commission is [30] days from date of [receipt of] invoice.
- 7.3 Commission is payable to the Referrer in Australian dollars.

7.4 Termination or expiry of this agreement (for whatever reason) does not affect the Company's obligation to pay Commission to the Referrer in relation to Relevant Contracts entered into during the Term.

## 8 RECORDS AND DISPUTES

8.1 The Company must keep separate accounts and records giving correct and adequate details of all:

- (a) relevant Contracts entered into by the Company;
- (b) payments received under any Relevant Contract; and
- (c) deductions made in the calculation of Net Income.

8.2 The parties must refer to the Company's auditors for settlement any dispute as to the amount of **Commission** payable by the Company to the Referrer. The decision of the Company's auditors will be final and binding on both parties, except in the case of manifest error.

## 9 COMPANY'S OBLIGATIONS TOWARDS THE REFERRER

9.1 The Company must:

- (a) act in good faith towards the Referrer at all material times; and
- (b) provide to the Referrer any information the Referrer reasonably requires to carry out its duties, including marketing information for and details of the Services, and information about the Company.

9.2 The Company is not responsible for any expenses incurred by the Referrer unless such expenses have been agreed by the Company in writing, in advance.

9.3 The Company is not under any obligation to:

- (a) follow up any Referral made by the Referrer;
- (b) enter into a Relevant Contract; or
- (c) continue to provide any of the Services (in whole or in part).

9.4 The Company must inform the Referrer immediately if the Company suspends or ceases to perform any of the Services.

## 10 COMPLIANCE

10.1 In performing its obligations under the agreement, each party must, and must procure that all of its officers, directors, employees, agents, contractors and Related Bodies Corporate, comply with all Applicable Laws.

## 11 ANTI-BRIBERY

11.1 In performing its obligations under the agreement, the Referrer must, and must procure that all of its officers, directors, employees, agents, contractors and Related Bodies Corporate (each an **Associate**):

- (a) comply with all applicable anti-bribery and anti-corruption laws, statutes, regulations regulatory policies [guidelines and industry codes] from time to time in force, including but not limited to the:
    - (i) *Criminal Code Act 1995* (Cth) (and any amendments to it currently in force);
    - (ii) *Criminal Code 2002* (ACT)
  - (b) keep, in paper and electronic form, at its normal place of business, detailed, accurate and up-to-date records that describe in reasonable detail all expenditures incurred by it in connection with this agreement, or that may be required by any Applicable Anti-Bribery Laws.
- 11.2 If, acting reasonably and in good faith, the Company determines or becomes aware that the Referrer or any of its Associates have violated any Applicable Anti-bribery Laws or the Anti-Bribery Policy, the Company has the right to terminate this agreement with immediate effect and without payment due of any kind except for **Commission** already invoiced in accordance with Clause 7.1.
- 12 DATA PROTECTION AND PRIVACY**
- 12.1 Each party warrants that it complies with and will continue to comply with the Privacy Act and all other applicable privacy laws.
- 12.2 If either party collects, holds, uses or discloses Personal Information in the course of or relating to this agreement, that party must:
- (a) handle all Personal Information in accordance with that party's privacy policy;
  - (b) only use Personal Information for the purpose of performing its obligations under this agreement; and
  - (c) not disclose Personal Information to any third party (including any subcontractor) without the other party's prior written consent or as required by law.
- 12.3 Each party warrants that it:
- (a) will not provide any Sensitive Information to the other party unless that information is necessary for the other party to perform its obligations under the agreement and then only with the other party's specific written consent; and
  - (b) has:
    - (i) made all necessary notifications required by APP 5 to; and
    - (ii) obtained all necessary consents required by APP 6 from,
    - (iii) the individuals whose Personal Information it is disclosing to the other party in the course of this agreement to enable the other party to lawfully use the Personal Information and perform its obligations in accordance with this agreement.
- 12.4 If either party becomes aware, or there are reasonable grounds to suspect, that a Data Incident has occurred, that party must:

*immediately take reasonable steps to contain the Data Incident and prevent any further serious harm to affected individuals;  
immediately notify the other party in writing stating the:*

- (i) nature and details of the Data Incident;
- (ii) specific Personal Information affected; and
- (iii) actions taken by the relevant party at Clause 12.4(a).  
*identify whether the Data Incident is an Eligible Data Breach by conducting a thorough investigation of the Data Incident within 20 days of becoming aware of the Data Incident;  
provide a copy of the report of the Data Breach Investigation in Clause 12.4 to the other party on completion;  
engage in discussions with the other party regarding:  
the conduct and outcomes of the Data Breach Investigation; and  
in the case of an Eligible Data Breach, which party will make the relevant notifications under the Privacy Act; and*

12.5 where it is agreed by the parties that the other party will make the relevant notifications, approve the notifications before they are made (such approval to be given promptly and not to be unreasonably withheld).

12.6 Each party will ensure that its employees, contractors or advisors who are required to handle Personal Information in the course of this agreement are made aware of the obligations of that party in this clause 12.

12.7 Each party is responsible for the acts and omissions of its respective personnel (including subcontractors and advisors), and a breach by any such personnel is a breach by that party.

12.8 The Referrer:

- (a) acknowledges that the Company is reliant on the Referrer for direction as to the extent to which the Company is entitled to use Personal Information disclosed to it in the course of and for the purpose of this agreement; and
- (b) indemnifies the Company for any claim brought by any third party in connection with any act or omission by the Company in relation to a third party's Personal Information to the extent that such act or omission resulted directly from the Referrer's instructions or the Referrer's breach of this agreement.

### **13 REPRESENTATIONS AND WARRANTIES**

13.1 Each party represents and warrants to the other that:

- (a) it has full authority to enter into this agreement and is not bound by any agreement with any third party that adversely affects this agreement; and
- (b) it has and will maintain throughout the Term, all necessary powers, authority and consents to enter into and fully perform its obligations under this agreement.

### **14 LIMITATION OF LIABILITY**

14.1 Nothing in this agreement limits or excludes a party's liability:

- (a) for death or personal injury caused by its negligence or wilful misconduct or that of its employees, agents or subcontractors as applicable;
  - (b) for fraud or fraudulent misrepresentation by it or its employees, agents or subcontractors as applicable; or
  - (c) which cannot be limited or excluded under any Applicable Law.
- 14.2 Subject to Clause 14.1, each party excludes any liability to the other, whether in contract, tort (including negligence) or otherwise, for any special, indirect or consequential loss arising under or in connection with this agreement, including any:
- (a) loss of profits;
  - (b) loss of sales or business;
  - (c) loss of production;
  - (d) where the disclosure is expressly permitted under this agreement;
  - (e) loss of business opportunity;
  - (f) loss of agreements or contracts;
  - (g) loss of or damage to goodwill;
  - (h) loss of reputation; or
  - (i) loss of use or corruption of software, data or information.
- 14.3 Subject to Clause 14.1, each party's maximum aggregate liability to the other party for any loss or damage or injury arising out of or in connection with the performance or non-performance of this agreement, including any breach of this agreement however arising, in tort (including negligence), under any statute, custom, law or any other basis, shall not exceed \$10,000.00.

## **15 TERMINATION**

- 15.1 Without affecting any other right or remedy available to it, either party (the non-defaulting party) may terminate this agreement with immediate effect by giving written notice to the other party if:
- (a) the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 90 days after being notified in writing to make such payment;
  - (b) the other party commits a material breach of any term of this agreement and either:
    - (i) the breach is irremediable; or
    - (ii) the breach is remediable and the other party fails to remedy that breach within a period of 90 days after the other party has, or is deemed to have, received written notice requesting it to do so;
  - (c) the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;

- (d) an Insolvency Event occurs in relation to the other party;
- (e) there is a Change of Control of the other party without the consent of the non-defaulting party, such consent not to be unreasonably withheld or delayed; or
- (f) any warranty given by the other party in Clause 13 of this agreement is found to be untrue or misleading

15.2 For the purposes of Clause 15.1(b), material breach means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from:

- (a) a substantial portion of this agreement; or
- (b) any of the obligations set out in Clause 4 or Clause 5.

over the term of the agreement. In deciding whether any breach is material no regard will be had to whether it occurs by some accident, mishap, mistake or misunderstanding.

## 16 CONSEQUENCES OF TERMINATION

16.1 On termination or expiry of this agreement, Clause 1 (Definitions and interpretation), Clause 5 (Restriction on competing activities), Clause 6 (Calculation of **Commission**), Clause 7 (Payment of **Commission**), Clause 8 (Records and disputes), Clause 14 (Limitation of liability), this Clause 16 (Consequences of termination), Clause 17 (Confidentiality) to Clause 29 (Governing law and jurisdiction) survive termination or expiry of this agreement together with any other term which by its nature is intended to do so.

16.2 Termination or expiry of this agreement does not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

## 17 CONFIDENTIALITY

17.1 Each party (Recipient) must keep secret and confidential and not disclose any information relating to another party or its business (which is or has been disclosed to the Recipient by the other party, its representatives or advisers) or the terms of this agreement, except:

- (a) where the information is in the public domain as at the date of this agreement (or subsequently becomes in the public domain other than by breach of any obligation of confidentiality binding on the Recipient);
- (b) if the Recipient is required to disclose the information under any Applicable Law or the rules of any recognised securities exchange, provided that the Recipient has to the extent practicable having regard to those obligations and the required timing of the disclosure consulted with the provider of the information as to the form and content of the disclosure;
- (c) if disclosure is made to its officers, employees and professional advisers to the extent necessary to enable the Recipient to properly perform its obligations under this agreement or to conduct their business generally], in which case the Recipient must

ensure that such persons keep the information secret and confidential and do not disclose the information to any other persons.

- (d) where the disclosure is required for use in legal proceedings regarding this agreement; or
- (e) if the party to whom the information relates has consented in writing before the disclosure.

17.2 Each Recipient must ensure that its directors, officers, employees, agents, representatives and Related Bodies Corporate comply in all respects with the Recipient's obligations under this Clause 17.

## 18 ANNOUNCEMENTS

18.1 Subject to Clause 18.2, no party may make, or permit any person to make, any public announcement, communication or circular (**announcement**) concerning this agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed). The parties must consult together on the timing, contents and manner of release of any announcement.

18.2 Where an announcement is required under any Applicable Law or the rules of any recognised securities exchange, or by any court or other authority of competent jurisdiction, the party required to make the announcement must promptly notify the other parties. The party concerned must make all reasonable attempts to agree the contents of the announcement before making it.

## 19 GST

19.1 Words used in this Clause 19 that have a defined meaning in the GST Law have the same meaning as in the GST Law unless the context indicates otherwise.

19.2 Unless expressly stated otherwise, the consideration for any supply under or in connection with this agreement is exclusive of GST.

19.3 To the extent that any supply made under or in connection with this agreement is a taxable supply (other than any supply made under another agreement that contains a specific provision dealing with GST), the amount payable by the recipient is the consideration provided under this agreement for that supply (unless it expressly includes GST) plus an amount (**additional amount**) equal to the amount of that consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply.

19.4 The recipient must pay the additional amount at the same time as the consideration to which it is referable, and on the issue of an invoice relating to the supply.

19.5 Whenever an adjustment event occurs in relation to any taxable supply to which Clause 19.3 applies:

- (a) the supplier must determine the amount of the GST component of the consideration payable; and

- (b) if the GST component of that consideration differs from the amount previously paid, the amount of the difference must be paid by, refunded to or credited to the recipient, as applicable.

19.6 If either party is entitled under this agreement to be reimbursed or indemnified by the other party for a cost or expense incurred in connection with this agreement, the reimbursement or indemnity payment must not include any GST component of the cost or expense to the extent that the cost or expense is the consideration for a creditable acquisition made by the party being reimbursed or indemnified, or by its representative member.

## **20 DEFAULT INTEREST**

20.1 If any sum due for payment under this agreement is not paid on the due date, the party in default must pay interest on the amount unpaid at the Interest Rate.

## **21 SET-OFF**

21.1 Each party to this agreement is authorised to deduct any amount due and payable by another party from amounts otherwise due and payable to that other party under or in connection with this agreement.

21.2 Any exercise by a party of its rights under Clause 21.1 does not limit or affect any other rights or remedies available to it under this agreement or otherwise.

## **22 RELATIONSHIP OF THE PARTIES**

22.1 Nothing in this agreement gives a party authority to bind the other party in any way.

22.2 Nothing in this agreement imposes any fiduciary duties on a party in relation to the other party.

## **23 VARIATION**

23.1 An amendment or variation of any term of this agreement must be in writing and signed by each party.

## **24 ASSIGNMENT AND OTHER DEALINGS**

24.1 No party may assign, novate, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under this agreement without the prior written consent of the other party except where this agreement provides otherwise.

24.2 A breach of Clause 24.1 by a party entitles the other party to terminate this agreement.

24.3 Clause 24.2 does not affect the construction of any other part of this agreement.

## **25 NOTICES**

25.1 A notice or other communication to a party under this agreement (Notice) must be:

- (a) in writing and in English;
- (b) signed by the sender or a person authorised to sign on behalf of the sender; and



- (c) addressed to that party in accordance with the details shown below (or any alternative details given in writing to the sending party):
- (d)

25.2 A Notice must be given by one of the methods set out in the table below.

25.3 A Notice is regarded as given and received at the time set out in the table below. However, if this means the Notice would be regarded as given and received outside the period between 9.00 am and 5.00 pm (addressee’s time) on a Business Day (Business Hours Period), then the Notice will instead be regarded as given and received at the start of the following Business Hours Period.

Notice delivery method	When Notice is regarded as given and received
By hand to the nominated address	When delivered to the nominated address.
By pre-paid post to the nominated address	At 9.00 am (addressee’s time) on the second Business Day after the date of posting.
By email to the nominated email address	At the time sent (as recorded on the device from which the sender sent the email) or, if sent outside business hours (addressee’s time), at 9am on the first business day after being sent, unless the sender receives an automated message that the email has not been delivered.

25.4 A Notice must not be given by electronic means of communication (other than email as permitted).

**26 GENERAL PROVISIONS**

26.1 Jurisdiction

- (a) The Agreement is governed by and is to be construed under the laws in force in the Territory
- (b) Each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in the Territory
- (c) Each party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

26.2 Severance

If at any time any provision of the Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of the Agreement; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of the Agreement.

26.3 Entire Agreement

To the extent permitted by law, in relation to the subject matter of the Agreement, the Agreement:

- (a) embodies the entire understanding of the parties;
- (b) constitutes the entire terms agreed by the parties; and
- (c) supersedes any prior written or other agreement of the parties.

26.4 Amendments

The Agreement may only be varied by an Agreement signed by or on behalf of each party.

26.5 Waiver

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under the Agreement by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under the Agreement.
- (b) A waiver or consent given by a party under the Agreement is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of a term of the Agreement operates as a waiver of another breach of that term or of a breach of any other term of the Agreement.

26.6 Counterparts

- (a) The Agreement may be executed in any number of counterparts and by the parties on separate counterparts.
- (b) Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart.

26.7 Execution

- (a) If permitted by legislation, the parties consent to the Agreement being signed by or on behalf of a party by an Electronic Signature.
- (b) Where a document referred to in subclause (a) is Electronically Signed by or on behalf of a party, the party warrants that the Electronic Signature has been used to identify the person signing and to indicate that the party intends to be bound by the Electronic Signature.

- (c) The parties acknowledge and agree that the Agreement may also be executed using original wet signature.

**27 COSTS**

- 27.1 Except as otherwise provided in the Agreement, each party must pay their own costs and expenses of and incidental to the Agreement.

**SCHEDULE 1. AGREEMENT DETAILS**

Item 1. Company	ACE IT Multiservices Pty Ltd ACN 166 764 101 12 Hazelwood Street, Karabar NSW 2620 Email: cheyne@aceitmulti.com
Item 2. Referrer	You Company as entered on the Affiliate form

DEED OF AGREEMENT

[enter details]

**EXECUTED AS AN AGREEMENT**

BY THE Company

BY )  
**ACE IT Multiservices Pty Ltd** )  
in accordance with section 127 of the  
Corporations Act 2001:

\_\_\_\_\_  
[ENTER POSITION OR NAME]

\_\_\_\_\_  
[ENTER POSITION OR NAME]

\_\_\_\_\_  
**[full name]**

Name (please print)

\_\_\_\_\_  
**[full name]**

Name (please print)

BY THE Refferer

BY )  
 )  
in accordance with section 127 of the  
Corporations Act 2001:

\_\_\_\_\_  
[ENTER POSITION OR NAME]

\_\_\_\_\_  
[ENTER POSITION OR NAME]

\_\_\_\_\_  
**[full name]**

Name (please print)

\_\_\_\_\_  
**[full name]**

Name (please print)