

RELIE SERVICES AGREEMENT

AGREEMENT Dated : ____ / ____ / ____

BETWEEN :

Name **Opica Group Pty Ltd** ACN 616 471 008
ABN 23 616 471 008
Short form name **Opica**
Notice details Brett Spencer
C/- 58 Alexandra Avenue, Canterbury, VIC, 3000

AND

Name

ABN

Short form name **Customer**

Notice details

The Customer agrees to acquire from Opica, and Opica agrees to provide to the Customer, services on the terms set out in the attached terms and conditions, including any schedules and annexes thereto.

EXECUTED as an agreement.

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

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

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

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TERMS AND CONDITIONS

PART A: DEFINITIONS AND INTERPRETATION

1. DEFINITIONS

1.1 In this Agreement, unless the contrary intention appears:

'**Additional Charge**' means a charge in accordance with Opica's standard rates in effect from time to time.

'**Agreement**' means the terms and conditions set out in this document and the Schedules.

'**Applicant**' means prospective borrowers, guarantors and any other entities who receive services from the Customer or a User.

'**Applicant Data**' means data in relation to an Applicant.

'**Commencement Date**' means the date of execution of this document.

'**Confidential Information**' means the confidential information of a Party which relates to the subject matter of the agreement and includes:

- (a) confidential information relating to the technology and design of the System;
- (b) information relating to the personnel, policies or business strategies of a Party; and
- (c) information relating to the terms on which the Services are provided to the Customer pursuant to the Agreement;

'**Customer**' means the customer named on the front page of this Agreement.

'**Developed IP**' means the intellectual property in any material or product developed by Opica in providing the Services under this Agreement.

'**Fees**' means the:

- (a) Set-Up Fees;
- (b) Transaction Fees;
- (c) User Access Fees;
- (d) Training Fees;
- (e) License Fees;

'**Force Majeure**' means a circumstance beyond the reasonable control of the Parties which results in a Party being unable to observe or perform on time an obligation under the agreement. Such circumstances will include but are not limited to:

- (a) acts of God, lightning strikes, earthquakes, floods, storms, explosions, fires, and any natural disaster;
- (b) acts of war, acts of public enemies, terrorism, riots, civil commotion, malicious damage, sabotage and revolution;
- (c) strikes;

'**GST Exclusive Amount**' is defined in clause 11.1.

'**GST Inclusive Amount**' is defined in clause 11.2.

'**Initial Term**' means 12 months from the Commencement Date;

'**Intellectual Property Rights**' means all industrial and intellectual property rights of any kind including copyright (including rights in computer software), trade mark, service mark, design, patent, trade

secret, semi-conductor or circuit layout rights, trade, business, domain or company names, moral rights, rights in confidential information, know how or other proprietary rights (whether or not any of these are registered and including any application for registration) and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world. **Intellectual Property** has a corresponding meaning.

'**Party**' means either Opica or the Customer as the context requires.

'**Renewal Period**' is defined in clause 3.2.

'**Service Terms**' means these terms and conditions and includes the Schedules;

'**Services**' means:

- (a) Set-Up Services;
- (b) Subscription Services;
- (c) Training Services; and
- (d) Optional Services.

'**Set-Up Fee**' means the fee payable to Opica by the Customer for the Set-Up Services, calculated in accordance with Schedule 1.

'**Set-Up Services**' means the:

- (a) Creation of business structure & hierarchy;
- (b) Provision of Training;
- (c) User setup - Create new Users and establish details, provide and encrypt access codes; and
- (d) Assign Users to their correct "branch" and setup "sharing" permissions across Users.

'**Opica**' means Opica Group Pty Ltd ABN 23 616 471 008.

'**Opica IP**' means any intellectual property rights owned by or licensed to Opica existing prior to the commencement of, or developed independently of, this Agreement, any Developed IP and rights subsisting in any ideas, concepts, tools, methodologies or know-how of Opica, and any developments or modifications to any of the foregoing rights.

'**Subscription Services**' means the online, web-based applications and platforms provided by Opica to the Customer.

'**Supplier**' means a prospective third-party supplier of services to the Customer, Users and/or Applicants.

'**System**' means Opica's computer facilities to be accessed on-line by the Customer pursuant to this Agreement, including all User interfaces provided by Opica.

'**Term**' means the Initial Term and any Renewal Periods.

'**Third Party Services**' means services procured by the Customer or a User from a Supplier through the System.

'**Training Fees**' means Opica's prevailing fee for training as published by Opica from time to time.

'**Training Services**' are described in Schedule 2.

'**Transaction Fee**' A fee as outlined in Schedule 1 is incurred for each Applicant that a Customer or User enters into the System

'**User**' means any person who Opica permits to access the System and use the Services, as advised by the Customer to Opica in accordance with clause 9.

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'User Access Fees' means the aggregate monthly access fees for all Users for the Subscription Services, payable to Opica by the Customer, calculated in accordance with Schedule 1.

'User Termination Notice' is defined in clause 8.2

2. INTERPRETATION

2.1 In the Agreement, unless the contrary intention appears:

- (a) the clause headings are for ease of reference only and are not relevant to interpretation of a clause;
- (b) words in the singular number include the plural and vice versa;
- (c) words importing a gender include any other gender;
- (d) a reference to a person includes bodies corporate and unincorporated associations and partnerships;
- (e) a reference to a clause or schedule is a reference to a clause or schedule of the Service Terms;
- (f) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (g) a reference to a Schedule includes a reference to any part of that Schedule which is incorporated by reference or by the operation of this Agreement;
- (h) the recitals to the Agreement do not form part of the Agreement;
- (i) monetary references are references to Australian currency.

PART B: TERM AND RENEWAL

3. TERM

- 3.1 This Agreement commences on the Commencement Date and, unless terminated earlier in accordance with clause 22, will continue for the Initial Term.
- 3.2 Unless a party provides notice in writing to the other party at least one month prior to end of the Initial Term (or the then-current Renewal Period) that it does not wish to renew this Agreement, this Agreement will automatically renew for a further period equal to the length in time of the Initial Term ('Renewal Period') on the expiration of the Initial Term and each Renewal Period.

PART C: SERVICES

4. PROVISION OF SERVICES

- 4.1 Subject to the terms of this Agreement, Opica will provide the Services to the Customer.
- 4.2 Opica is not responsible for any failure to provide the Services if such failure is caused by factors beyond Opica's reasonable control including, but not limited to, telecommunications failure or fault, defective equipment utilised by the Customer or incorrect operation by the Customer of its own access facilities. Each Party will at all times:
 - (a) act in a professional manner in carrying out its obligations under the Agreement; and
 - (b) co-operate with the other Party to enhance the provision of Services and, where appropriate, to develop new services, in connection with the Agreement.

5. TRAINING

5.1 Opica will provide Training Services in the use of the System from time to time as required or requested by the Customer, and the Customer will pay the Training Fees for those Training Services.

5.2 Notwithstanding any Training Services provided pursuant to this clause, Opica accepts no responsibility for any errors made by the Customer or Users or their personnel or for any deficiencies in the Customer's or Users' access facilities or procedures.

6. THE SYSTEM

6.1 Opica will use reasonable endeavours to ensure that the System functions in accordance with its specifications.

6.2 Opica will endeavour to plan any maintenance in relation to the System so as to cause as little inconvenience as reasonably practicable to the Customer and to minimise any unscheduled delays.

6.3 The Customer must not introduce into the System any computer virus or in any other manner whatsoever corrupt, degrade or disrupt the System.

6.4 The Customer must not attempt to obtain any access to or interfere with any programs or data of Opica or any other customer of Opica or any other part of the System and the Customer agrees to indemnify Opica against any loss, damage, costs or expenses which Opica may suffer or incur as a consequence of the Customer failing to comply with this obligation.

6.5 If the Customer becomes aware or suspects that any unauthorised person has obtained or attempted to obtain access to the System then the Customer must promptly notify Opica and Opica will, if necessary, change the Customer's security password.

6.6 Opica must use reasonable endeavours to notify the Customer in advance of any variation in the System if such variation will have a materially adverse effect on the Customer.

7. SYSTEM FAILURE

7.1 If a System failure adversely affects or may adversely affect the ability of Opica to provide the Services, Opica will notify the Customer as soon as practicable.

7.2 In the event of failure of the System, Opica will endeavour to restore the System to a fully operational state with the minimum practicable delay. Opica's obligation to endeavour to do so is Opica's sole and exclusive liability in the event of a System failure. If the System's failure is due to the fault or negligence of the Customer, Opica may recover from the Customer its reasonable costs of restoring the System.

8. USER ACCESS

8.1 In consideration of and subject to the payment of the User Access Fees by the Customer, Opica will permit each User to access the System and use the Services in accordance with Opica's user access policies (as notified by Opica to the Customer from time to time) and Opica will provide the Customer with login details for each User.

8.2 The Customer:

- (a) must pay the User Access Fees in relation to each User;
- (b) must notify Opica in writing:
 - (i) of the identity of its Users at the Effective Date;
 - (ii) of the identity of any person it wishes to add as a User; and
 - (iii) if it wishes to remove a User ('User Termination Notice');

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- (c) must not permit access to the System and Services by any person who is not a User;
- (d) will be fully responsible for the access to the System or use of the Services made by any person that has been identified as a User by the Customer.

8.3 Notwithstanding the provision of a User Termination Notice by the Customer in respect of a User, the Customer continues to be liable for the User Access Fees for that User.

9. UNLAWFUL USE

9.1 The Customer must not (and must ensure each User does not) use the System or Services:

- (a) to engage in any activity which breaches any law, infringes a third party's rights, or in a manner which interferes with the rights of any other person;
- (b) to infringe the intellectual property rights (including trademarks and copyright) of any third party; or
- (c) in any way that is defamatory, obscene, misleading or deceptive or otherwise illegal.

9.2 The Customer must (and procure that each User does) use the System and Services in good faith and must at all times comply with this Agreement and all applicable laws, statutes and regulations in all jurisdictions regarding the Customer's use of the System and Services.

PART D: FEES AND PAYMENT

10. FEES

- 10.1 The Customer must pay the Fees to Opica in accordance with the terms of this Agreement.
- 10.2 Invoice periods are monthly in arrears. Opica will invoice the Customer monthly and the Customer must pay invoices within 7 (seven) days of the date of the invoice.
- 10.3 Should payment not be effected within the agreed time frame, the Customer will be deemed to be in default and Opica retains the right to restrict access to the site.
- 10.4 The Parties will mutually agree on the fees to be payable for any additional facilities or services requested or used by the Customer, prior to the use of those additional facilities or services by the Customer. If the Customer uses any additional facility or service offered by Opica, the Customer will be deemed to have agreed to pay for that additional facility or service at the rates and on the terms currently offered by Opica.
- 10.5 Notwithstanding clause 10.11 Opica may vary the Fees at any time, provided it gives notice to the Customer of those changes at least fourteen (14) days prior to the date from which those revised Fees are to apply.
- 10.6 The Customer must pay Opica interest on any amount due and not paid by the Customer within the time required by the Agreement at a rate of 12.00% per annum, calculated daily.
- 10.7 The Customer must pay Opica any late payment fees on any amount due and not paid by the Customer within the time required by the Agreement.
- 10.8 Subject to clause 11, the Customer is liable for any taxes, duties or fees imposed or levied by any government authority in connection with the supply of the Services.
- 10.9 If the Customer disputes the whole or any portion of the amount claimed in an invoice submitted by Opica, the Customer must pay the

portion of the amount stated in the invoice which is not in dispute and notify Opica in writing within seven (7) days of receipt of invoice of the reasons for disputing the remainder of the invoice.

- 10.10 If it is resolved that some or all of the amount in dispute ought properly to have been paid at the time it was first invoiced, then the Customer must pay the amount finally resolved together with interest on that amount in accordance with clause 10.6.
- 10.11 Opica will undertake annual reviews of the Fees on the first day of January in each calendar year.
- 10.12 The Customer will be liable for the prevailing fees outlined in this Agreement or as published by Opica at www.opicagroup.com.au; www.relie.com.au; www.reliecheck.com.au or www.reliecheck.com
- 10.13 New Users added are charged any applicable Set-Up Fees.

11. GST

- 11.1 To the extent that any supply to be made by Opica to the Customer under or in connection with this Agreement is a taxable supply, the Parties acknowledge and agree that:
 - (a) any amount expressed as payable;
 - (b) anything else to be provided,
 by the Customer for that taxable supply has been determined and agreed upon on the basis that it is the value of that taxable supply ('**GST Exclusive Amount**').
- 11.2 The consideration for each taxable supply made by Opica to the Customer under or in connection with this Agreement must be the '**GST Inclusive Amount**' (calculated in accordance with clause 11.3).
- 11.3 The GST Inclusive Amount for any taxable supply made by Opica to the Customer under this Agreement will be:
 - (a) the amount determined by multiplying the GST Exclusive Amount by the GST rate (expressed as a decimal) current at the date of making the taxable supply and adding the resultant product to the GST Exclusive Amount; or
 - (b) such lesser amount as Opica may in its discretion determine.
- 11.4 The Customer must, without any deduction or set-off, pay the GST Inclusive Amount in substitution for the GST Exclusive Amount for any taxable supply made under this Agreement and must pay the GST Inclusive Amount at the time and in the manner the GST Exclusive Amount would otherwise have been payable.
- 11.5 Except where repugnant to the context:
 - (a) the expression '**GST rate**' means the percentage of the value of the taxable supply that is the amount of GST (being 10% at the date of this Agreement);
 - (b) the expression 'GST law' has the meaning given to it in A New Tax System (Goods and Services Tax) Act 1999 (Cth); and
 - (c) the expressions 'value', 'supply', 'taxable supply', 'GST', 'tax invoice' and other expressions defined in GST law have the meanings given to those expressions in GST law.

PART E: INFORMATION PROTECTION

12. APPLICANT DATA

- 12.1 Opica acknowledges and agrees that:
 - (a) Applicant Data entered onto the System is confidential; and

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- (b) Applicant Data remains the property of the Customer.
- 12.2 The Customer acknowledges and agrees that:
- (a) Applicant Data entered onto the System may be stored, processed, used, reproduced, distributed and disclosed as necessary for the performance of the Services;
- (b) without limitation, this may include disclosure of the Applicant Data to lenders, mortgage insurers, credit reporting agencies, third party service providers and any other relevant persons; and
- (c) Financial remuneration may be provided to Opica or the Customer for the use of the Applicant Data associated with this Clause 12.2.
- 12.3 The Customer is responsible for obtaining all necessary consents in relation to the Applicant Data, including without limitation consents to the storage, processing, use, reproducing, distribution and disclosure of the Applicant Data as outlined in clause 12.2.
- 12.4 The Customer must obtain Opica's prior written approval to the form of consents that it will use. Further, on request by Opica, the Customer must provide to Opica copies of consents it has obtained or permit Opica to inspect those consents.
- 12.5 The Customer indemnifies Opica for any liabilities, costs, damages and expenses that Opica may suffer or incur (including without limitation loss of profits, loss of revenue or loss of business reputation) as a direct or indirect result of the Customer's failure to obtain all necessary consents.
- 12.6 Opica agrees that the Applicant Data will only be used by Opica for the purposes contemplated by this Agreement.

13. PRIVACY

- 13.1 In clause 13:
- (a) Act means the Privacy Act 1988 (Cth)
- (b) Privacy Law means:
- (i) the Act;
- (ii) the National Privacy Principles contained in Schedule 2 to the Act or any approved privacy code (as defined in the Act) that applies to Customer, Opica or both; and
- (iii) any other statute, regulation or law in Australia or elsewhere which relates to the protection of Personal Information and which Customer or Opica must observe.
- (c) Personal Information means all information about a person that is 'personal information' as defined in the Act which is collected or held by either Party in connection with this Agreement.
- 13.2 The Customer must procure (and ensure that Users procure) all necessary consents from Applicants for the storing, processing and use of any Personnel Information comprised in the Applicant Data.
- 13.3 Each Party must use reasonable endeavours to:
- (a) observe the Privacy Law and any privacy protocol provided to that Party or person by the other Party in respect of all Personal Information;
- (b) promptly follow any reasonable direction of the other Party in relation to Personal Information;

- (c) only use Personal Information for the purpose of this Agreement and not for the Party's own purposes;
- (d) ensure that only authorised personnel have access to Personal Information and all relevant personnel are properly trained to meet the requirements of this clause;
- (e) provide reasonable assistance to the other Party to enable it to resolve any inquiry or complaint relating to Personal Information; and
- (f) immediately notify the other Party if:
- (i) it knows of or suspects unauthorised use, copying or disclosure of Personal Information;
- (ii) it becomes aware that a disclosure of that Personal Information may be required by law; or
- (iii) any law prevents or may prevent it from performing its obligations under this clause.

14. CONFIDENTIALITY

- 14.1 A Party must not without the prior written approval of the other Party, disclose or use the other Party's Confidential Information other than for the purposes of the Agreement.
- 14.2 A Party will not be in breach of clause 14.1 in circumstances where:
- (a) it is legally compelled to disclose the other Party's Confidential Information;
- (b) the information was rightfully in the possession of the receiving Party prior to the commencement of negotiations leading to the Agreement; or
- (c) the information was already public knowledge or became so at a future date (otherwise than as a result of a breach of the Agreement).
- 14.3 Each Party must take all reasonable steps to ensure that its employees and agents, and any sub-contractors engaged for the purposes of the Agreement, do not make public or disclose the other Party's Confidential Information.
- 14.4 Notwithstanding any other provision of this clause, Opica may disclose the terms of the Agreement (other than Confidential Information of a technical nature) to its related companies, solicitors, auditors, insurers or accountants, and must use reasonable endeavours to ensure that every person to whom that disclosure is made uses that information solely for the purposes of advising or reporting to Opica.
- 14.5 This clause survives the termination of the Agreement.
- ### 15. INTELLECTUAL PROPERTY RIGHTS
- 15.1 The Parties acknowledge and agree that Opica is the owner of all present and future Intellectual Property Rights in the System and the Opica IP.
- 15.2 The Customer is the owner of all present and future Intellectual Property Rights in Applicant Data, or any other trademarks, trade names, logos, copyright, confidential information or other materials provided by the Customer for input into, or display on, the System.
- 15.3 Nothing in this Agreement is intended to be an assignment of any of the Intellectual Property Rights specified in paragraphs 15.1 or 15.2, nor any part of them.
- 15.4 Opica grants to the Customer a non-exclusive, non-transferable, royalty-free licence to use (and to permit Users to use) the Opica Intellectual Property, for the Term, for the purposes of and to the extent necessary to receive and obtain the full benefit of the Services.

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Such licence shall terminate with immediate effect upon termination or expiry of the Agreement.

15.5 The Customer acknowledges and agrees that the Customer has no rights in or title to any of the intellectual property contained on the System including, but not limited to, trademarks and trade names, logos, copyright, designs, confidential information or any other intellectual property rights that may exist in the information contained on the System.

15.6 The System or any portion of the System may not be reproduced, duplicated, copied, sold, re-sold or otherwise exploited for any commercial purpose that is not expressly permitted by Opica.

15.7 The Customer indemnifies Opica against all losses, liabilities, expenses and taxes that Opica suffers in connection with a claim or proceeding alleging that the whole or part of any Applicant Data provided by the Customer to Opica under the Agreement or its use in accordance with this Agreement, infringes (or would infringe) any person's Intellectual Property Rights or other rights of that third party.

16. NON-OPICA MATERIAL

The Customer acknowledges and agrees that neither Opica nor any Related Body Corporate of Opica is responsible for any internet related infrastructure, software or middleware that is not provided by Opica or a Related Body Corporate of Opica, for use with the Services.

17. UNAUTHORISED MATERIALS OR USE OF SYSTEM

Without limiting clause 16, Opica excludes all liability, to the extent permitted by law, for any failure of the System or the Services caused or contributed to by:

- (a) a telecommunications network, facilities, equipment or infrastructure of the Customer or a third party;
- (b) use of the System or the Services by unauthorised persons (other than Opica's employees, agents or contractors).

PART F: THIRD PARTIES

18. THIRD PARTY INFORMATION

The Opica Website and the System may contain information provided by third parties or links to third party websites. As Opica exercises no editorial control on any such information or materials in third party websites, Opica makes no representation and excludes any warranty express or implied and any liability as to the accuracy of that information or the content of third party websites, to the extent allowed by law. The Customer's access and use of that information and third party websites is solely at the Customer's own risk.

19. THIRD PARTY SERVICES

19.1 The Customer may access Third Party Services through the System and the Services. Where the Customer elects to engage a Supplier to provide Third Party Services:

- (a) the Customer will form its own contractual arrangements with that Supplier in respect of the Third Party Services;
- (b) Opica will have no liability for the Third Party Services; and
- (c) the Customer indemnifies Opica in accordance with clause 20.1(f).

PART G: LIABILITY AND INDEMNITY

20. INDEMNITY

20.1 The Customer indemnifies, defends and holds Opica and all its subsidiaries, employees and officers, harmless and will keep Opica indemnified against all loss, actions, proceedings, cost and expenses (including legal fees), claims and damages arising directly or indirectly from:

- (a) any breach of the Customer's obligations, representations and warranties under this Agreement;
- (b) the Customer's or any User's access to or use of the System or Services;
- (c) the provision of any incomplete or inaccurate Applicant Data;
- (d) any act or omission of any User or Applicant;
- (e) any claim by any third party or any User directly or indirectly arising out of or in connection with the Customer's or any User's access to or use of the System or Services; and
- (f) any claim directly or indirectly arising out of or in connection with any Third Party Services.

20.2 The Customer waives, releases and relinquishes any and all claims that the Customer now has or may have against Opica, its related bodies corporate, directors, employees, agents and representatives which are connected with, arise out of, relate to or are incidental to any transaction arising out of the Customer's or any User's access to or use of the System or Services.

21. LIMITATION OF LIABILITY

21.1 To the extent permitted by law, Opica (and any of its subsidiaries, employees, contractors, agents and officers) arising in contract, tort (including negligence) or otherwise from the access to or use of (or inability to access or use) the System or Services or from any action taken (or refrained from being taken) by the Customer or any User is limited to \$1,000 (Excluding GST).

21.2 To the extent permitted by law, Opica excludes all liability (including liability for negligence) for any loss of profits, loss of income, loss of reputation, loss of business or any consequential, indirect or special damages of any kind which may result from the Customer's or any User's access to or use of the System or Services.

21.3 To the extent permitted by law, Opica excludes all warranties and representations, express and implied, in relation to the System and Services. Where such liability cannot be excluded, Opica limits its liability:

- (a) if the breach or liability relates to goods:
 - (i) the replacement of the goods or supply of equivalent goods;
 - (ii) the repair of such goods;
 - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - (iv) the payment of the cost of having the goods repaired; and
- (b) if the breach or liability relates to services:
 - (i) the supplying of the services again; or
 - (ii) the payment of the cost of having the services supplied again.

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- 21.4 The Opica Website may contain third party advertisements, information or links to third party websites. As Opica exercises no editorial control on any such advertisements or materials in third party websites, Opica makes no representation and excludes any warranty express or implied and any liability as to the accuracy of information contained therein, to the extent allowed by law. The Customer's access to these sites and their products and services are solely at the Customer's own risk.
- 21.5 The Customer warrants that it has not relied on any representation made by Opica which has not been stated expressly in the Agreement, or on any descriptions, illustrations or specifications contained in any document including catalogues or publicity material produced by Opica.

PART H: TERMINATION

22. TERMINATION

- 22.1 Without limiting the generality of any other clause in the Agreement, Opica may terminate the Agreement immediately by notice in writing if:
- (a) the Customer is in breach of the Agreement and such breach is not remedied within fourteen (14) days of Opica notifying the Customer of the breach;
 - (b) the Customer becomes, threatens or resolves to become or is in jeopardy of becoming subject to any form of insolvency administration;
 - (c) the Customer, being a partnership, dissolves, threatens or resolves to dissolve or is in jeopardy of dissolving;
 - (d) the Customer, being a natural person, dies;
 - (e) the Customer ceases or threatens to cease conducting its business in the normal manner; or
 - (f) there is any change in the direct or indirect ownership or control of the Customer.
- 22.2 Opica may terminate the Agreement at any time by giving the Customer three (3) months' notice in writing
- 22.3 The Customer may terminate the Agreement at any time by giving Opica three (3) months' notice in writing.
- 22.4 Either Party may terminate the Agreement in accordance with clause 24.3

23. CONSEQUENCES OF TERMINATION

- 23.1 On termination or expiry of this Agreement, Opica may:
- (a) retain any moneys paid;
 - (b) charge a reasonable sum for work performed in respect of which work no sum has been previously charged;
 - (c) be regarded as discharged from any further obligations under the Agreement;
 - (d) pursue any additional or alternative remedies provided by law; and
- 23.2 On termination or expiry of this Agreement, the Customer must pay Early Termination Fees to Opica for any User that has received Services from Opica.

PART I: GENERAL TERMS

24. FORCE MAJEURE

- 24.1 Neither Party will be liable for any delay or failure to perform its obligations pursuant to the Agreement if such delay is due to Force Majeure.
- 24.2 If a delay or failure of a Party to perform its obligations is caused or anticipated due to Force Majeure, the performance of that Party's obligations will be suspended.
- 24.3 If a delay or failure by a Party to perform its obligations due to Force Majeure exceeds sixty (60) days, either Party may immediately terminate the Agreement on providing notice in writing to the other Party.
- 24.4 If the Agreement is terminated pursuant to clause 24.3, Opica must refund moneys previously paid by the Customer pursuant to the agreement for goods or services not provided by Opica to the Customer.

25. ENTIRE AGREEMENT

The Agreement constitutes the entire agreement between the Parties and supersedes all prior representations, agreements, statements and understandings, whether verbal or in writing.

26. ASSIGNMENT AND NOVATION

- 26.1 The benefit of the Agreement must not be assigned by the Customer without Opica's written consent, which may be granted or withheld at Opica's sole discretion.
- 26.2 Opica may consent to the assignment or novation of the Agreement by the Customer subject to such conditions as it chooses to impose.

27. WAIVER

- 27.1 No right under the agreement will be deemed to be waived except by notice in writing signed by each Party.
- 27.2 A waiver by Opica pursuant to clause 27.1 will not prejudice its rights in respect of any subsequent breach of the Agreement by the Customer.
- 27.3 Subject to clause 27.1, any failure by Opica to enforce any clause of the Agreement, or any forbearance, delay or indulgence granted by Opica to the Customer, will not be construed as a waiver of Opica's rights under the Agreement.

28. VARIATION

The provisions of the Agreement can only be varied by agreement in writing signed by the Parties.

29. SURVIVAL OF AGREEMENT

- (a) Subject to any provision to the contrary, the Agreement will enure to the benefit of and be binding on the Parties and their successors, trustees, permitted assigns or receivers but will not enure to the benefit of any other persons.
- (b) The covenants, conditions and provision of the Agreement which are capable of having effect after the expiration of the Agreement remain in full force and effect following the expiration of the Agreement.

30. SEVERABILITY

If any provision of the Agreement is held invalid, unenforceable or illegal for any reason, the Agreement will remain otherwise in full force apart from such provisions which will be deemed deleted.

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31. GOVERNING LAW

The Agreement is governed by, and is to be construed according to, the law in force in Victoria, Australia.

32. NOTICES

32.1 Notices under the Agreement may be delivered by hand, by mail or by facsimile to the addresses specified .

32.2 Notice will be deemed given:

- (a) in the case of hand delivery - on written acknowledgment of receipt by an officer or other duly authorised employee, agent or representative of the receiving Party;
- (b) in the case of posting - 3 days after despatch; and
- (c) in the case of facsimile - on receipt of transmission if received on a business day or otherwise at the commencement of the first business day following transmission.

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SCHEDULE 1 – FEES

1. SET-UP FEE

The Set-Up Fee is \$20.00 (Excluding GST) per User.

2. MONTHLY TRANSACTION FEES

The Monthly Transaction Fee consists of a monthly fee payable in arrears for each Month during the Term, being the

The aggregate of the Transaction Fee accruing during the month;
Where the **Per Transaction Charge** as at the date of this agreement is a fee of \$15.00 (Excluding GST) for each Applicant received by Opica from the Customer via the System.

3. DEVELOPMENT FEES

The development Fee consists of the following fixed amounts for the development of the System

- (a) Business Requirements, Project Scoping and Development Work : \$165.00(Excluding GST)per hour with a rate capped at \$1,320(Excluding GST) per day per resource assigned to the development of the System
- (b) The Customer agrees to pay a fixed price as determined (Excluding GST)for the Development of the System API Integration

4. TRAINING FEES

Training Fees are calculated based on:

- (a) the level of training requested by the Customer and as described in Schedule 2; and
- (b) the charges for Training Services as published by Opica from time to time.

5. OPTIONAL SERVICE FEES

As set out in the applicable Optional Services Proposal

SCHEDULE 2- TRAINING

Opica Training

- (a) Opica will provide the Customer with initial customer, User and administration setup.
- (b) Opica will provide the Customer with access to support staff to assist in the resolution of technical issues with the operation of the system.
- (c) Opica can provide the customer with onsite, offsite and customised training programs subject to the availability of Opica resources.
- (d) Training services provided as part of the initial setup are dependent upon the number of Users created upon set-up and may consist of the either;
 - (i) 2 Hours Free Online Training (remote access only)
 - (ii) ½ Day Session in home state (on-site training)
 - (iii) 1 Day Session in home state (on site training)

- (iv) Train the Trainer program. The customer is required to send a nominated employee to a Opica facility to undertake training education.

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