

BETWEEN WILEY & CO PTY LTD ABN 40010 604 869
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LICENCE No: insert number for applicable state **LICENCE CLASS:** insert licence class for applicable state

AND	Enter Consultant’s Name (consultant)	AGREEMENT NO	Enter JobPac Agreement No
		COST CENTRE	Enter Cost Code (Jobpac)
OF	Consultant’s Address (Address)	PROJECT NO.	Enter Project Number
		PROJECT DESCRIPTION	Enter Project Description
ABN:	Consultant’s ABN Number	PROJECT LOCATION	Enter Project Location
ACN:	Consultant’s ACN Number	DATE	Click here to enter a date.

DETAILS OF AGREEMENT

Item 1: Services (clauses 1.1 & 16):	Describe services to be delivered and if more detail is required than can be inserted here, set out scope of services in a discrete schedule and refer to that schedule here
Item 2: Day for making progress claims (clause 4):	Payment terms: claims by last business day of month (reference date) payment insert 25 or 30 business days from reference date, or in accordance with the payment terms noted on the Consultancy Agreement
Item 3: Fee schedule excluding GST (clause 16):	Amount in \$. Set out fee schedule and if more detail is required than can be inserted here, set out fee schedule in a discrete schedule and refer to that schedule here Amount in words. Set out fee schedule and if more detail is required than can be inserted here, set out fee schedule in a discrete schedule and refer to that schedule here
Item 4: Wiley personnel rates for rectifying consultant breaches (clause 6):	
Position	Rate
Enter Position	Enter Rate
Enter Position	Enter Rate
Item 5: Contract documents (clause 16):	Set out the contract documents given to the consultant or refer to the transmittal of those documents to the consultant
Item 6: Assignment personnel (clause 16):	State consultant personnel who must be dedicated to the assignment
Item 7: Program (clause 16):	Set out critical delivery dates and if more detail is required than can be inserted here, set out scope of services in a schedule and refer to that schedule here

Item 8: Applicable security of payment legislation (clause 16):	*Insert applicable legislation
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Item 9: Insurance (clause 10)					
Type of insurance required	Insurer	Policy No:	Minimum limit of cover for each claim	Period of cover required	Expiry date
Professional Indemnity Insurance:			*Insert \$1,000,000 or other amount	From commencement of <i>services</i> to 6 years after the completion of <i>services</i>	
Public Liability/Risk Policy:			*Insert \$5,000,000 or other amount	During period in which <i>services</i> are performed.	
Statutory workers insurance:			Minimum statutory requirement.	During period in which <i>services</i> are performed.	
Personal Accident Policy (For those employees/contractors not covered by statutory workers insurance):			At least equivalent benefits to that available under the statutory workers insurance scheme	During period in which <i>services</i> are performed.	

Signed for and on behalf of **WILEY** (signatory warrants that he or she has the requisite authority to bind Wiley to this agreement)

Date: _____ Signature: _____

Signed for and on behalf of the consultant (signatory warrants that he or she has the requisite authority to bind the consultant to this agreement)

Date: _____ Signature: _____

Main obligations

1 The *consultant* must deliver the *services* stated in *item 1* in accordance with this agreement and the *contract documents*.

- 1.1 *Wiley* must pay the *consultant's* fees and disbursements incurred with *Wiley's* written consent in accordance with this agreement.

Consultant warranties

2 The *consultant* warrants to *Wiley* the following:

- 2.1 It will deliver the *services* in accordance with the *program*.
- 2.2 The sufficiency and adequacy of the *services* for the intended purpose, despite any review or approval by *Wiley*.
- 2.3 Its *assignment personnel* will perform the *services* and any additional *consultant* personnel who perform the *services* will be suitably expert, experienced and capable to perform the *services*.
- 2.4 It is conversant with *Wiley's* Consultant Drawing Manual where relevant for design services.
- 2.5 The documents produced in performing the *services* will:
- be complete and free from error, ambiguity and inconsistency.
 - be consistent with documents produced by *Wiley* and other consultants performing services relevant to the *services*.
 - be suitable for the purpose to which the *consultant* knows the documents will be used.
 - comply with *Wiley's* Consultant Drawing Manual where relevant for design services.
- 2.6 It will employ adequate and transparent cost control measures in performing of the services.

Fees

3 Subject to compliance with this agreement, and subject to any *variation* under clause 5, *Wiley* must, in accordance with clause 4, pay the *consultant* the fees stated in, or calculated in accordance with, the *fee schedule* and any disbursements incurred by the *consultant* at the invoiced cost to the consultant.

Claims and payment

4 The *consultant* must deliver to *Wiley*, on the day stated in *item 2*, in the form set out in schedule 1, monthly progress claims in respect of the services performed.

- 4.1 Each progress claim must clearly state separately:
- The services for which payment is claimed by reference to the fees to which the consultant is entitled under the fee schedule.
 - The disbursements claimed by the consultant.
 - The variations for which the *consultant* claims payment or gives *Wiley* a credit.
- 4.2 In respect of each progress payment, *Wiley* will issue to the *consultant* a *RCTI* and will pay the *consultant* the fees to which the *consultant* is entitled under this agreement as stated in the *RCTI*, accounting for *variations* and cost incurred by *Wiley* under clause 6, within the period prescribed by the applicable *security of payment legislation* or within insert 25 or 30 business days, whichever is later.
- 4.3 All payment is on account and does not constitute any acceptance by *Wiley* that the *services* have been performed or performed in accordance with this agreement.
- 4.4 If, in any month during the performance of the *services*, the *consultant* does not deliver a progress claim in strict accordance with this clause 4, then no *reference date* under the *security of payment legislation* will occur that month.

Variations

- 5 The services may only be varied by Wiley giving the consultant a written instruction to vary the services.**
- 5.1 If the *consultant* considers that any *Wiley* instruction constitutes an instruction to vary the services, but is not identified by *Wiley* as a variation instruction, the *consultant* must notify *Wiley* in writing within 5 business days that the *consultant* claims a *variation*. If the *consultant* does not, it will not be entitled to payment in respect of the relevant variation.
- 5.2 The *consultant* must comply with any *Wiley variation* instruction.
- 5.3 *Wiley* will assess and pay any additional fees payable for a *variation*, either in accordance with the additional fee agreed with the *consultant*, and failing any such agreement, by reference to the *fee schedule*.

Consultant's default

- 6 If the consultant breaches any provision of this agreement and that breach causes Wiley to incur costs it would not otherwise have incurred, the consultant will be liable to Wiley in debt for those additional costs calculated as follows**
- 6.1 For costs *Wiley* incurs to another consultant to rectify the breach, those costs as a debt.
- 6.2 For *Wiley* personnel engaged in rectify the breach, the cost of the relevant personnel at the rates stated in *item 4* as a debt.

Time

- 7 The consultant must commence, and diligently perform the services in accordance with the program.**

Assignment & subcontracting

- 8 The consultant must not assign any of its rights and obligations, or subcontract the performance of any obligations under this agreement without Wiley's written consent.**

Quality

- 9 The consultant must establish, maintain and rigorously report against a quality assurance system in accordance with ISO9001.**

Indemnity and insurance

- 10 The consultant continually indemnifies Wiley in respect of any damage or liability incurred by Wiley as a consequence of the following, to the extent Wiley's damage or liability is caused by the consultant:**
- The consultant breaching this agreement.
 - Defects in the performance of the services.
 - Damage the consultant causes to property.
 - Death or injury the *consultant* causes any person.
- 10.1 The *consultant* must establish and maintain the policies of insurance stated in *item 9* in accordance with *item 9* and, within 5 *business days* after signing this agreement, and at any other time requested by *Wiley*, give to *Wiley* a certificate of currency for each policy.

Intellectual property

- 11 The consultant:**
- 11.1 Retains ownership of the copyright in any work produced in relation to this agreement.

- 11.2 Grants to *Wiley* a perpetual, royalty free, transferable licence to use the copyright in work produced in relation to this agreement for any purpose associated with the purpose of the *services*.
- 11.3 Warrants that it is entitled to use the copyright in materials used in relation to this agreement.
- 11.4 Continually indemnifies *Wiley* in respect of any liability incurred by *Wiley* as a consequence of an infringement by the *consultant* of any other party's copyright.
- 11.5 Grants *Wiley* ownership of all documents the *consultant* delivers to *Wiley* in performing the *services*.
- 11.6 Grants to *Wiley*, on behalf of the *consultant* and the *consultant's* employees and agents, a right to use, without specific attribution, any moral rights included in any work produced by the *consultant*.

Confidentiality

12 The *consultant* must keep confidential any information given to it by *Wiley* unless:

- That information is already in the public domain and the *consultant* has not caused that information to become available in the public domain.
 - The disclosure is for the purposes of instructing legal advisors.
 - The law requires the disclosure.
- 12.1 The *consultant* agrees that damages will not be an adequate remedy for any breach of confidentiality.

Termination for default or insolvency

13 *Wiley* may terminate this agreement by giving the *consultant* a written termination notice, effective on the date stated in the notice, if the *consultant*:

- Suspends performance of the services without *Wiley's* consent.
- Breaches any warranty stated in clause 2.
- Becomes insolvent as defined in the *Corporations Act 2011* or in the *Bankruptcy Act 1966*.

Termination for redundancy

14 *Wiley* may also terminate this agreement by giving the *consultant* a written termination notice, effective on the date stated in the notice, if the purpose for which *Wiley* is purchasing the *services* dissolves or changes.

- 14.1 The *consultant*, in these circumstances, will be entitled to be paid for the *services* performed to the date of termination by reference to the *fee schedule*, but will not be entitled to anything in the nature of consequential damages or loss including, but not limited to, damages for loss of profit, loss of opportunity etc.

GST

15 The party making a supply (*Supplier*) under this agreement must pay the GST payable in respect of the consideration for that supply to the ATO. The party receiving the supply (*Recipient*) must pay the nett GST payable on any supply to the *Supplier*.

- 15.1 Each of *Wiley* and the *consultant* warrants to the other that they are each properly registered under the *GST Act* and that each is entitled to claim credits from the ATO for GST paid by either of them.
- 15.2 The *consultant* must not issue tax invoices for payments under this agreement. *Wiley* will issue to the *consultant* a *RCTI* for each progress payment made to the *consultant* under this agreement. The *RCTI* will include the GST payable by the *consultant* in respect of the consideration stated in that *RCTI* for the supply. *Wiley* will pay to the *consultant* the consideration and the GST stated in each *RCTI* in accordance with this agreement.

15.3 The terms used in this clause that are not otherwise defined in this agreement have the meaning stated in the *GST Act*.

Definitions

16 In this agreement, the following terms and expressions have the meaning ascribed:

- **assignment personnel** means the consultant's personnel stated in *item 6*.
- **ATO** means the Australian Taxation Office.
- **consultant** means the counterparty to Wiley, whose details appear on the front page of this document.
- **contract documents** means the documents stated at *item 5*.
- **fee schedule** means the details stated in *item 3* excluding GST.
- **GST Act** means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.
- **item** means an item in the details of agreement.
- **program** means the milestones, durations and sequences stated in *item 7*.
- **RCTI** means a recipient created tax invoice.
- **reference date** is defined in the *security of payment legislation* (Item 2).
- **services** means the services stated in *item 1*.
- **security of payment legislation** means the Act stated in *item 8*.
- **variation** means any of a reduction in the *services*, additional services or different or altered *services*.
- **Wiley** means Wiley & Co Pty Ltd ABN 40 010 604 869.

SCHEDULE 1 – FORM OF PROGRESS PAYMENT CLAIM

Project:

Project Number:

Consultant:

Consultant ABN:

Consultant Agreement No.:

Payment Application / Progress Claim No.:

Date:

Consultancy Agreement Payment Terms: insert 25 or 30 Business Days after the Reference Date

Item	Description	Value	% Complete	Claimed to Date	Previously Authorised	This Claim
Original Consultancy Agreement Services						
1				0.00		0.00
2				0.00		0.00
3				0.00		0.00
Subtotal – Original Consultancy Agreement Services		\$0.00	0.00%	\$0.00	\$0.00	\$0.00
Variations and Other adjustments						
1				0.00		
2				0.00		
3				0.00		
Subtotal – Variations & Other Adjustments		\$0.00	0.00%	\$0.00	\$0.00	\$0.00
Total Claim		\$0.00	0.00%	\$0.00	\$0.00	\$0.00

Less Previous Payments (Excluding GST)

Subtotal			
			\$0.00
Total of this Progress Claim (Excluding GST)			
			\$0.00
GST			10.00%
			\$0.00
Total of this Progress Claim (Including GST)			
			\$0.00
			\$0.00

Summary Of all Tax Invoices or Tax Credits Issued for this Consultancy Agreement				
Date	Invoice #	Amount Exc GST	GST	Amount Inc GST
			0.00	0.00
			0.00	0.00
			0.00	0.00
			0.00	0.00
Totals		\$0.00	\$0.00	\$0.00

- Notes**
- 1 All amounts above the line titled "Total of this Progress Claim (Excluding GST)" are exclusive of GST.
 - 2 Wiley will provide a Microsoft Excel version of this claim summary upon request.
 - 3 It is the user's responsibility to ensure all automatically calculating formulas (in blue) are correct.