

BETWEEN WILEY & CO PTY LTD ABN 40010 604 869
 LEVEL 3, 100 IPSWICH ROAD WOOLLOONGABBA QLD 4102 AUSTRALIA
PH 1300 385 988 / **FX** 1300 385 989 / **INT** +61 7 3859 8888 / **EMAIL** accounts@wiley.com.au
WEB www.wiley.com.au
LICENCE No: Choose an item.

AND Enter consultant’s name **AGREEMENT NO** Enter JobPac agreement no
 (consultant) **PROJECT DESCRIPTION** Enter project description
OF Consultant’s address **PROJECT LOCATION** Enter project location
 (Address) **DATE** Click here to enter a date.
ABN: Consultant’s ABN number
ACN: Consultant’s ACN number

DETAILS OF AGREEMENT

Item 1: Services (clauses 1.1 and 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: Additional requirements for documents (clauses 2.4):	
Eg; Wiley document manual. Client document requirements etc.	
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 Claims and Payments (clause 4):	
4.1: Day for making progress claim (clause 4)	Last day of each month during which services are performed.
4.2: Time for payment after reference date (clause 4.3)	30 days
Item 5: Wiley personnel rates for rectifying consultant breaches (clause 6):	
Position	Rate
Project Manager	\$235
Design Manager	\$235
Contract Administrator	\$150
Item 6: 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 7: Assignment personnel (clause 16):
 State consultant personnel who must be dedicated to the assignment

Item 8: 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 9: Applicable security of payment legislation (clause 16):
 Select Licence

Item 10: Insurance (clause 10)

Type of insurance required	Minimum limit of cover for each claim	Period of cover required
Professional Indemnity Insurance:	*Insert \$5,000,000 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)

Name: _____ Signature: _____

Title: _____ Date: _____

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)

Name: _____ Signature: _____

Title: _____ Date: _____

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 acknowledgement and agreement

- 2 The *consultant* acknowledges and agrees the following:
 - 2.1 It will deliver the *services* in accordance with the *program*.
 - 2.2 The *services* will be sufficient and adequate for the purpose for which they are required, 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 The documents produced in performing the *services* will, to the extent the general law requires of the consultant:
 - 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* whose documents *Wiley* provides to the consultant for coordination.
 - comply with the requirements stated in item 2.
 - 2.5 It will employ adequate cost control measures in performing of the *services*, that are transparent to *Wiley*.

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* set out in item 3 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* 4.1, 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* prior to the payment due date 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 costs incurred by *Wiley* under clause 6.
 - 4.3 *Wiley* will pay the consultant the amount stated in the *RCTI* within the time stated in item 4.2.
 - 4.4 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.
 - 4.5 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 5* as a debt.

Time

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

Assignment and 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 report against a quality assurance system in accordance with ISO9001.

Indemnity and insurance

- 10 The *consultant* continually indemnifies *Wiley* in respect of 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* and the *consultant's* liability under this indemnity will be reduced to the extent the damage is caused by *Wiley*:
- The *consultant's* negligent acts and omissions.
 - 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 10* in accordance with *item 10* 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 Assigns to *Wiley* all project IPR created by the *consultant* in the performance of the *services*.
- 11.2 Retains ownership of its *background IPR*.
- 11.3 Grants to *Wiley* a perpetual, royalty free, transferable licence to use the *consultant's background IPR* for any purpose associated with the purpose of the *services*.
- 11.4 Warrants that it is entitled to use, and licence to *Wiley* the *consultant's background IPR* used in relation to this agreement.
- 11.5 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.
- 11.6 Grants *Wiley* ownership of all documents the *consultant* delivers to *Wiley* in performing the *services*.
- 11.7 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* in performing the *services*.

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 acknowledgement or agreement stated in clause 2.
 - Becomes insolvent as defined in the *Corporations Act 2001* or in the *Bankruptcy Act 1966*.
- 13.1 The *consultant* may terminate this agreement by written notice to *Wiley* if *Wiley* becomes insolvent as defined in the *Corporations Act 2001*.

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 7*.
 - **ATO** means the Australian Taxation Office.
 - **Background IPR** means intellectual property rights owned by a party at the date of this agreement.
 - **Business days** as defined in the *Building Industry Fairness (Security of Payment) Act 2017*
 - **consultant** means the counterparty to *Wiley*, whose details appear on the front page of this document.
 - **contract documents** means the documents stated at *item 6*.
 - **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 8*.
- **Project IPR** means any intellectual property rights created by the consultant or Wiley specifically for the relevant project under this consultancy services agreement.
- **RCTI** means a recipient created tax invoice.
- **reference date** is defined in the *security of payment legislation* (Item 4.1).
- **services** means the services stated in *item 1*.
- **security of payment legislation** means the security of payment legislation applicable in the state or territory stated in *item 9*.
- **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.

Special Conditions prevail

SC1 These special conditions modify the general conditions to the extent stated. To the extent that any general condition is inconsistent with a special condition, the special condition prevails to the extent of the inconsistency.

Project:
 Project Number:
 Consultant:
 Consultant ABN:
 Consultant Agreement No.:
 Payment Application / Progress Claim No.:
 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
4				0.00		0.00
5				0.00		0.00
6				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		
4				0.00		
5				0.00		
6				0.00		
Subtotal – Variations and other adjustments		\$0.00	0.00%	\$0.00	\$0.00	\$0.00
Total Claim		\$0.00	0.00%	\$0.00	\$0.00	\$0.00

Notes	
1	Maximum retentions are calculated upon the original Consultancy Agreement Fee Schedule plus all approved and unapproved variations.
2	All amounts above the GST line are to exclude GST.
3	Wiley will provide a Microsoft Excel version of this claim summary upon request. It is the user’s responsibility to ensure all automatically calculating formulas (in blue) are correct.