Recruitment X Terms of Use

# Welcome to Recruitment X!

These Recruitment X Terms of Use (“Terms of Use”) govern Client’s use of all Recruitment X Services, as provided by RecruitmentX.AI Pty Ltd (“Recruitment X”). These Terms of Use are entered into between Recruitment X and Client on the earlier of: (a) the date the Client purchases, accesses or uses an Recruitment X Service; and (b) the date a Client executes a Quote with Recruitment X for the use of an Recruitment X Service.

If, at any time, a Client or its User do not agree to comply with or be bound by these Terms of Use, the relevant Client or User must not use the Recruitment X Service.

# Interpretation

## General Interpretation

Unless it is inappropriate in the context:

1. a provision of this Agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this Agreement or the inclusion of the provision in this Agreement;
2. the singular includes the plural and vice versa;
3. a reference to an individual or person includes a partnership, joint venture,

unincorporated association, corporation, firm and government body and vice versa;

1. a reference to a clause is to a clause of this Agreement;
2. a reference to a party includes that party’s executors, administrators, substitutes, successors, permitted assigns or persons subject to a novation;
3. any covenant, agreement or warranty on the part of or in favour of two or more persons is deemed to bind or be in favour of them jointly as well as each of them severally;
4. an obligation includes a warranty or representation;
5. any reference to “$” or “dollars’ is a reference to Australian currency (AUD);
6. the meaning of general words is not limited by specific examples introduced by ‘including’, ‘such as’, ‘for example’ or ‘even if’, or other similar expressions;
7. a reference to a document (including these Terms of Use) includes the document as modified from time to time and any document replacing it;
8. where any word or phrase is given a defined meaning, any other part of speech or other grammatical forms in respect of that word or phrase has a corresponding meaning; and
9. headings are included for convenience and do not affect interpretation.

## Order of Precedence

To the extent of any inconsistency between any Special Conditions expressly included in the Quote, the Quote and these Terms of Use, the order of precedence from highest to lowest shall be as follows: (a) Special Conditions; (b) Quote; and (c) these Terms of Use.

# Definitions

**Agreement** means these Terms of Use, together with the applicable Quote.

**AI** means artificial intelligence.

**Australian Consumer Law** means the Australian consumer laws in the Competition and Consumer Act 2010 (Cth) and other equivalent legislation.

**Recruitment X** means Recruitment X Pty Ltd (ACN 677 701 914) and its Related Body Corporates.

**Recruitment X Service** means each and every proprietary software-as-a-service developed by Recruitment X, the subject matter of which is specified in a Quote executed with the Client. For the avoidance of any doubt, Recruitment X Services include any automated AI agent designed to handle customer interactions and support, automated voice assistants capable of handling tasks via natural language processing, or other comprehensive platforms that facilitate customer engagement through various digital channels.

**Business Day** means a day on which banks are open for general banking business in New South Wales.

**Client** means the entity, business or organisation (specifically identified on a Quote) that has purchased access to, or otherwise has the ability to access and use, the Recruitment X Service. For the avoidance of any doubt, Client includes its Users.

**Confidential Information** means any non-public information of or relating to a party (or any third party information that a party must also keep confidential), including but not limited to data, systems, software (including any features, functionality and performance information) and information technology systems, finances, operations, customers, fees or pricing, properties, assets or affairs of a party which is or has been disclosed by a party to the other party or learnt or acquired by the other party.

**Credentials** means information regarding a User or the Client to enable registration of an

account for use of the Recruitment X Service, including name, email address, phone number, legal entity, and billing details.

**Customer** means any customers of Client.

**Documentation** means any written documentation provided by Recruitment X to Client regarding how to use the Recruitment X Service, and the specifications and functionality of the Recruitment X Service.

**Effective Date** means the date specified on the Quote.

**Fee** means the fee to access and use the applicable Recruitment X Service as specified in the Quote.

**High Risk Activities** means any activities or purposes where the use or failure of Recruitment X Services could result in death, personal injury, environmental or property damage, creation or operation or weaponry, discrimination, lack of employment, inability to access basic public or private services including education or health services, or interference with human rights. For clarity, High Risk Activities shall also include activities connected with law enforcement, migration and border control management, administration of justice or legal processes, automated determination of employment, housing or financing eligibility decisions, social scoring, surveillance of individuals or political campaigning and lobbying.

**Intellectual Property Rights** means in Australia and throughout the world and for the duration of such rights, any rights, title and interest in any: (a) business names, patents, utility models, copyrights, eligible layout rights and registered designs registered or unregistered trade marks or service marks, trade names, brand names, domain names, indications of source or appellations of origin, plant variety rights, and commercial names and designations; (b)

invention, discovery, trade secret, know how, computer software and confidential, scientific, technical and product information; (c) other rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields whether industrial, commercial, agricultural or extractive and whether dealing with manufactured or natural products; and (d) letters patent, deed of grant, certificate or document of title for any thing referred to in paragraphs (a) to (c) of this definition and any medium in which any thing referred to in those paragraphs is stored or embodied.

**Implementation Services** means any specific set-up or implementation services that are expressly included in any Quote executed between the parties.

**Input** means any prompts, submissions, disclosures, enquires or similar inputs, whether verbal or via text, which are placed into the Recruitment X Service through Client’s, User’s or Customer’s usage.

**New IP** means any Intellectual Property Rights created in the provision of the Recruitment X Service, Implementation Services or arising in connection with the any usage by a Client, User or Customer of the Recruitment X Service or Implementation Service. For the avoidance of any doubt, New IP includes Inputs and Outputs.

**Notified Downtime** means any downtime or maintenance of the Recruitment X Service, including any fully reduced or partly reduced capacity, that was notified to Clients in advance.

**Operator** means the venue in one location that is specifically named in writing by the Client that is permitted to use an instance of the Recruitment X Service.

**Output** means any responses generated by the Recruitment X Service in connection with any Input.

**Personal Information** is as defined under the *Privacy Act 1988* (Cth).

**Related Body Corporate** is as defined under the *Corporations Act 2001* (Cth).

**Quote** means a document or invoice issued by Recruitment X for the purchase or use by Client of the Recruitment X Services.

**Term** means the period of the Agreement described in clause 3.

**Terms of Use** means these terms and conditions.

**Third-Party Providers** means a supplier of data, information, software, services or other items that are part of or otherwise used in connection with the Recruitment X Service.

**Third-Party Services** means third-party websites, products, services, or software linked from the Recruitment X Service.

**Updates** means bug fixes, features, updates, upgrades, improvements, corrections, patches or augmentation of the Recruitment X Service.

**User** means the individual or natural person accessing or using the Platform, as authorised in writing by the applicable Client, in accordance with the Agreement.

# Term

The Term of this Agreement shall commence from the Effective Date and continue on a month- to-month basis until it is terminated in accordance with the Agreement or either party provides 60 days’ written notice of termination.

# Recruitment X Service and Intellectual Property

## Grant of Licence

Subject to the Client’s ongoing compliance with the Agreement, Recruitment X grants to Client a limited, non-exclusive, non-transferable, non-sublicensable, and revocable licence, solely during the Term, to:

1. allow a User and Customers to access and use the Recruitment X Service (and any New IP) solely for the purpose of permitting Customers to make bookings and enquiries regarding the Client’s services; and
2. use any Documentation solely for the purpose of enabling use of the Recruitment X Service.

## No Transfer of Intellectual Property Rights

1. Except for the limited licence expressly stated in clause 4.1 above, Client will not acquire any Intellectual Property Rights, express or implied, in or relating to the Recruitment X Service or

New IP, Documentation, or any brands and logos or other Intellectual Property Rights of Recruitment X.

1. Recruitment X (and any of its licensors) reserves all title, ownership and all other Intellectual Property Rights associated with the Recruitment X Service and any New IP shall solely vest in and remain the property of Recruitment X.
2. To the extent that Recruitment X includes any copyright or proprietary rights notices or information, logos, trademarks or similar content on the Recruitment X Service or on any Documentation, Client and its User must not do anything to remove, alter, obscure or modify such notices, logos or information.

# Service Levels

## Availability Commitment

1. Recruitment X will take all reasonable steps to ensure the Recruitment X Service is available to Client at least 99.5% of the time in any calendar year, excluding any periods of Notified Downtime (“Availability Commitment”).
2. The Availability Commitment does not apply to any unavailability of the Recruitment X Service that was caused by factors outside of Recruitment X’s reasonable control, including a force majeure event or any acts or omissions of a Client, its User or Customers.

## Performance Credits

1. To the extent that Recruitment X does not meet this Availability Commitment, the Client will be eligible to receive an extension to the Client’s subscription term, at no additional cost, by

the applicable number of days that the Recruitment X Service was unable to meet the Availability Commitment.

1. The performance credit may be claimed by a Client, only where it notifies Recruitment X in writing within thirty (30) days from the last day of the calendar year for which the Client seeks to receive the credit. Such credits may not be exchanged or converted into money or a refund of Fees.

## Compliance with Documentation

1. During the Term, Recruitment X will take reasonable steps to ensure that the applicable Recruitment X Service will meet the functionality stated in any Documentation (“Functionality Commitment”).
2. This Functionality Commitment does not apply if the Recruitment X Service is not used in

accordance with this Agreement and any Documentation, or if any issues are caused by acts and omissions of Client, its Users or Customers.

## Rectification of Defects

To the extent that Recruitment X does not meet the Functionality Commitment, upon written notice from the Client, Recruitment X will, in its sole and absolute discretion correct the defect until the Recruitment X Service meets the Functionality Commitment, replace the Recruitment X Service with a substantially similar product, or terminate the Agreement and provide a pro-rata refund of any Fees, calculated from the date of written notice from the Client until the end of the paid Term.

## Sole and Exclusive Remedy

Clauses 5.2 and 5.3 state a Client’s sole and exclusive remedy for any failure by Recruitment X to meet the Availability Commitment and Functionality Commitment respectively.

# Client Obligations and Restrictions

## Account Information

Before using or accessing the Recruitment X Service, the Client must register for an account and provide Credentials, which it agrees must be complete, current and accurate. The Client will notify Recruitment X in writing where Credentials become incorrect. Recruitment X may request addition information to verify Credentials, which Client agrees to provide within the timeframe requested.

## Client Responsibilities

The Client acknowledges and agrees:

1. Client is required to identify in writing the specific User and Operator that will be utilising the Recruitment X Service;
2. it is responsible for all acts and omissions of its User, including any breach of the terms of this Agreement, and any use and activity carried out under User accounts;
3. each User account granted to a Client is for a single individual only under one Operator and for not multiple individuals or Operators;
4. it must provide all necessary and reasonable cooperation to enable Recruitment X to perform its obligations under the Agreement;
5. it is responsible for providing sufficient bandwidth, network connectivity, or other channels of connection (including phone connection) to ensure User and Customers can access and use the Recruitment X Service
6. all login and password details must be kept confidential and such login details must not be shared with any other individuals;
7. it must notify Recruitment X where it has reasonable suspicions of unauthorised access and user of an User account;
8. Recruitment X has the right to suspend or cancel any of Client’s User accounts where Recruitment X has reasonable concerns that:
	1. a breach of this Agreement has occurred;
	2. unauthorised access and use of the Recruitment X Service has occurred;
	3. a fault, service outage or other technical issue has occurred; or
	4. a legal requirement has arisen, such as an injunction or due to an investigation by police or other law enforcement agency;
9. it must comply, and ensure its User complies, with all applicable laws.

## Restrictions

Client must not, and must ensure that its Users must not:

1. use the Recruitment X Service in any way that is not described in Documentation or is otherwise prohibited by the Agreement, or for any High Risk Activities;
2. use any New IP (including any Inputs or Outputs provided by Recruitment X to Client) for any purpose other than to supply the services, specifically requested or enquired about in the Inputs, to the Customer;
3. reverse engineer, disassemble, decipher, translate, decompile, prepare derivative works of the Recruitment X Service or otherwise attempt to access, imitate, derive or discover the source code thereof;
4. transmit or submit any content, data or information that is unlawful, harmful, abusive, defamatory, tortious, obscene, libelous, invasive of another person’s privacy right, in breach of applicable privacy laws, or discriminatory;
5. infringe the Intellectual Property Rights or privacy rights of any third party, including any Customers, in connection with the use of the Recruitment X Servces;
6. do anything that would interfere with or disrupt the Recruitment X Service, including any systems used to host the Recruitment X Service;
7. fail to comply with any reasonable requirements or policies specifically notified in writing to the Client or the User;
8. licence, sublicence, sell, rent, lend, outsource, or otherwise provide access to the Recruitment X Service except to the authorised User, Operator or Customers;
9. circumvent or disrupt the User authentication process or any security processes

associated with the Recruitment X Service, including by data theft, unauthorized data modification, and attempts to introduce malicious software or vulnerabilities into Recruitment X’s network;

1. allow any individuals, other than the User, to use that relevant User’s login or password details;
2. use the Recruitment X Service in any manner to compete with Recruitment X, whether by itself or in connection with a third party;
3. use the Recruitment X Service in a manner which brings Recruitment X or its Third-Party Providers into public disrepute, contempt, scandal or ridicule, adversely affects the reputation or goodwill of Recruitment X or its Third-Party Providers; and
4. use automated systems, software or processes to extract, scrape or compile data from the Recruitment X Service.

## Multiple Operators

To the extent that Client is purchasing access on behalf of its Related Body Corporate, or on behalf of multiple Operators, Client guarantees, and will be responsible and liable for, the

compliance of each Related Body Corporate or Operators with the Agreement.

## Client Feedback

Client is not required to provide Recruitment X with any feedback, comments or suggestions about the Recruitment X Service (“Feedback”). However, if Client provides Feedback, Client agrees that the

Feedback will not be subject to any compensation, is not confidential and Recruitment X is free to use, disclose, publish or otherwise distribute the Feedback without any obligations or restrictions of any kind. Any personal information attached to be Feedback will be removed before being publicly published.

# Data Security and Privacy

## Privacy Obligations

1. Each party shall comply with all applicable privacy laws in performing their obligations or exercising their rights under this Agreement and must not do anything that would cause the other party to be in breach of applicable privacy laws.
2. Recruitment X will take reasonable security measures with respect to the storage and transmission of Personal Information contained in Credentials, Input and Outputs. Recruitment X shall further

comply with its Privacy Policy in the collection and handling of Personal Information arising from the provision of the Recruitment X Service.

1. Each party shall promptly notify the other party of any actual or reasonably suspected unauthorized access, disclosure, or loss of Personal Information.

## Use of Customer Information

1. Any Personal Information that is disclosed by Recruitment X to Client shall be used solely for the Client to provide the relevant service to the Customer that made the booking or enquiry through the Recruitment X Service.
2. Any further use, disclosure or processing of Personal Information beyond the scope of clause 7.2(a) must be subject to the Client separately obtaining the necessary consent from the Customer, or such other legal basis that is applicable in the circumstances.

# Fees and Payment

## Payment of Fees

1. In consideration for the provision of the Recruitment X Service, Client will pay the Fees specified in the Quote in accordance with the terms of this clause 8.1. Unless otherwise specified in writing, all Fees are to be paid monthly in advance using one of the payment methods supported by Recruitment X. This may include an invoice issued by Recruitment X, which must be paid by the

Client within seven (7) days of date of invoice. Client must provide accurate and complete billing information, including a valid payment method, and promptly update any account details with any changes.

1. Without prejudice to any other rights or remedies of Recruitment X, where the Client pays to pay any amounts due, Recruitment X may charge the lower of: (i) 1.5% per month finance charge; or (ii) the highest rate permitted by applicable law. Further, Client shall reimburse Recruitment X for any costs incurred (including legal fees) in the collection of due amounts.
2. If any fees owing by Client are thirty (30) days or more overdue, Recruitment X may, without limiting its other rights and remedies, suspend access to the Recruitment X Service until such amounts are paid in full, provided Recruitment X has given Client at least seven (7) days’ prior notice that its

account is overdue.

1. Client will be responsible for all reasonable expenses incurred that was pre-approved in writing. Such expenses will be invoiced at actual cost only.
2. Client must not withhold any amounts payable, except to the extent of a genuine dispute, which must be notified to Recruitment X within thirty (30) days of payment to Recruitment X.

## Fee Review

Recruitment X may revise pricing at any time by giving sixty (60) days’ written notice of the new pricing (“Fee Review Period”) to Client and the pricing will apply after the Fee Review Period. If the Client disagrees with the price increase, the Client may provide written notice to terminate, which shall take place on the day immediately after the Fee Review Period.

## Pro-Rata Refund

In the event that Recruitment X terminates or suspends this Agreement or Client’s subscription for any reason that is other than:

1. for the Client’s election to terminate in accordance with this Agreement;
2. Client’s breach of these Terms of Use;
3. Client’s breach of any restrictions under Documentation;
4. to fulfil any legal requirement, including a change in law prohibiting AI, an injunction or court order;
5. an actual or reasonably suspected threat or attack on any of the Recruitment X Services; or
6. due to service restrictions, suspensions, terminations or cancellations arising from Third- Party Providers or Third-Party Services;

then Client may be eligible for a pro-rated refund of the prepaid but unused portion of the Fees. For the avoidance of doubt, where Recruitment X terminates or suspends this Agreement or Client’s subscription for the aforementioned reasons, Recruitment X shall not have any liability.

## Tax and GST

1. Unless expressly stated otherwise, all consideration to be provided under this Agreement is expressed exclusive of GST. If GST is payable on any supply made under this Agreement, for consideration that is not expressly stated to include GST, Client will, upon

receiving a tax invoice from Recruitment X, pay to Recruitment X an amount equal to the GST payable on the supply.

1. In addition, Client is responsible for payment of any and all applicable value-added, sales, use, licencing, withholding or transaction-based taxes, and any export or import fees, customs duties or similar fees, which are imposed due to the transaction engaged under this Agreement. If any such fees apply, Client shall be responsible for grossing up any payments to Recruitment X so that Recruitment X receives the original amount specified on the Quote.

## Payment Processing Terms

By using the Recruitment X Service, Client agrees to comply with [insert third party name here]’s terms found at [link], which governs the use of [product name] and describes the terms for how Client will use [third party name] to process payments to Recruitment X via credit card or debit card. Please

review and agree to these terms before using this product.

Client acknowledges and agrees that Recruitment X may, from time to time, change its payment provider.

# Confidentiality

1. Each party shall keep confidential and not disclose to any other party or use Confidential Information obtained from the other party except to comply with the obligations, or

exercise any rights, under this Agreement. However, neither party shall be in breach of the above for disclosing or using information:

* 1. that at the time of disclosure, is publicly available or becomes publicly available through no act or omission of the party having a confidentiality obligation under this clause;
	2. that is or has been disclosed to such party by a third party who is not under (and to whom such party does not owe) an obligation of confidentiality;
	3. that is or has been independently acquired or developed by such party; or
	4. to the minimum extent, use or disclosure is required by court order or as otherwise required by law, on condition that notice of such requirement by law for such disclosure is given to the other parties prior to making any such use or disclosure.
1. Each party will take reasonable steps, and in no event will those steps be any less secure than the steps it uses to protect its own similar information, to ensure that the other party’s Confidential Information is protected.
2. Each party is responsible for the actions or inactions of its employees and advisors with respect to the use and disclosure of the other party’s Confidential Information. Each party shall further notify the other party where it becomes aware that Confidential Information of the other party has been disclosed or accessed in an unauthorised manner.
3. The parties agree that any violation or threatened violation of this clause will cause irreparable injury to the disclosing party for which money damages would be an

insufficient remedy, therefore the disclosing party will be entitled to seek injunctive relief, in addition to other appropriate legal remedies.

# Indemnities, Limitation of Liability and Disclaimers

## Indemnities

1. Recruitment X will indemnify Client against any third party claim that the Recruitment X Service infringes the Intellectual Property Rights of a third party. Recruitment X’s obligations under this clause are

conditioned upon Client:

* 1. giving Recruitment X prompt written notice of the claim;
	2. permitting Recruitment X to control the defence of the claim;
	3. retaining and providing sufficient records to the extent necessary to evaluate eligibility for the defence of claims and indemnity set forth in this clause; and
	4. reasonably cooperate with Recruitment X (at Recruitment X’s expense) in the defense and settlement of the claim.
1. Recruitment X has no obligation under this clause for any third-party claim arising from: (i) Inputs, Outputs, or Recruitment X’s compliance with Client’s, User’s or its representatives’ specifications, instructions, or technical information; (ii) modifications to the Recruitment X Service not made by Recruitment X; (iii) use of the Recruitment X Service that is in breach of the Agreement or any Documentation or policy provided by Recruitment X; and (iv) any combination of the Recruitment X Service with any other software, hardware, or services that was not consented to in writing by Recruitment X. To the maximum extent permitted by applicable law, this clause states Recruitment X’s liability and Client’s sole and exclusive remedy for claims of third party infringement.
2. Client agrees to indemnify Recruitment X and its officers, directors, and employees against any claim or demand, including reasonable legal fees: (a) made by any third party arising out of any violation of any applicable laws or the rights of a third-party, including privacy rights and intellectual property rights; (b) for any breach of intellectual property rights of Recruitment X; and (c) breach of any agreements for Third-Party Services.

## Limitation of Liability

* + 1. Subject to clause 11(e) below, to the maximum extent permitted by law, in no event shall either party be liable for any special, incidental, punitive, indirect or consequential loss, damage or expense (including lost profits, loss of use of data, lost sales or business or anticipated savings, lost data, business interruption, lost goodwill, property damage) or any other such similar loss or damage incurred in connection with this Agreement or the use of the Recruitment X Service, whether caused by breach of contract or tort (including negligence) or breach of statutory duty, in equity or arising in any other way).
		2. To the maximum extent permitted by law, the disclaimer in clause 11(a) will apply even if a party has been advised of the possibility of the damages and the limited remedies set forth in this Agreement fail of their essential purpose.
		3. Nothing in this Agreement limits in any way Recruitment X’s liability for any matter for which it would be illegal for Recruitment X to exclude, or attempt to exclude, Recruitment X’s liability, including under the Competition and Consumer Act 2010 (Cth), the statutory consumer guarantees under the Australian Consumer Law, or similar applicable laws in the states and territories of

Australia.

* + 1. If any warranties are implied by law that cannot be excluded, then to the maximum extent permitted by law, Recruitment X’s liability for breach of such warranties is limited to, at Recruitment X’s option: (a) the supply of the services again; or (b) the payment of the cost of having the services supplied again.
		2. Nothing in this Agreement excludes the liability of either party for: (a) fraud or wilful misconduct; (b) fees due under the Agreement; (c) a party’s express indemnification under this Agreement; or (d) anything that cannot be excluded by law.
		3. Subject to clauses 11(a) to (e) directly above, and to the maximum extent permitted by law, the total aggregate liability of each party (to the extent not disclaimed under this Agreement) arising out of or in connection with this Agreement, whether caused by breach of contract, tort (including negligence), breach of statutory duty, in equity or arising in any other way, exceed the total fees paid or payable to Recruitment X by the Client under the Agreement in the 12 month period prior to the claim or damage arising.

## Disclaimers

1. As the Recruitment X Service is based on AI, Client acknowledges and agrees that:
	1. Inputs and Outputs may not be unique across different Customers and the Recruitment X Service may generate the same or similar results for other Clients and their

customers;

* 1. Recruitment X may share information regarding Client’s use of Recruitment X Services with third parties, including any potential or actual breaches of these terms and conditions;
	2. the Recruitment X Service is based on AI, and it is not intended to be, and cannot be, relied upon without independent verification;
	3. Outputs that appear accurate because of their detail or specificity may still contain material inaccuracies; and
	4. it is not Recruitment X’s or any Third-Party Provider’s responsibility to validate and instruct Client or its User to validate the results of the Recruitment X Service, including all Outputs.
1. Except as specifically provided in this Agreement and otherwise to the maximum extent permitted by applicable law, Recruitment X disclaims all warranties, representations, conditions, guarantees and all other terms, whether express, implied or statutory:
	1. including terms of quality, merchantability, fitness for a particular purpose, veracity, or compatibility;
	2. that the Recruitment X Service or any data (including Outputs) accessed or received within will meet Client’s or Customer’s requirements or be accurate, complete, error-free, reliable or available.
2. Except as otherwise provided for in this Agreement, and to the maximum extent pemitted by law, the Recruitment X Service is provided on an “as is” basis and Client’s use of the Recruitment X

Service is at Client’s own risk. Client understands and agrees that any decisions it makes on the basis of any information provided by Recruitment X Services under this Agreement are made solely at its own risk and Recruitment X or the Third-Party Providers have no responsibility or liability arising from such decisions.

# Implementation Services

1. The provisions of this clause 11 shall apply solely to Implementation Services.
2. Subject to clause 6.2(d) below, Recruitment X shall use all due care and professional skill to perform the Implementation Services in accordance with this Agreement and any terms specified in the Quote. To the extent of any breach of this clause 11(b), Recruitment X shall reperform the Implementation Services or terminate the portion of the Agreement related to the Implementation Services and provide a refund of Fees related to the Implementation Services.
3. To the maximum extent permitted by law, clause 11(b) states Recruitment X’s entire liability and Client’s sole and exclusive remedy for Recruitment X’s breach of 11(b).

# Third Party Services and Terms

1. The Recruitment X Services will contain links or otherwise allow Client and its User to connect and use other Third-Party Services in conjunction with Client’s use of the Recruitment X Service. Client acknowledges and agrees that any use of such Third-Party Service is governed solely by third party terms and conditions, and privacy policy, and Recruitment X does not endorse, make representations and is not liable for those Third-Party Services (including how such Third- Party Services collects, stores or processes any data).
2. Certain features of the Recruitment X Service may change without notice to Recruitment X or Client where Third-Party Services become unavailable or cease providing any and all of the features or functionality originally in place. Recruitment X will not be liable to Client for any refunds or for any loss or damage arising in connection with any changes made by a Third-Party Service or the consequential changes in the Recruitment X Service. Client and its Users irrevocably waive any claims against Recruitment X with respect to any Third-Party Services.
3. Client acknowledges and agrees that Recruitment X is permitted to transfer and disclose usage data, including Inputs and Outputs, to these Third-Party Services for the purposes of providing the Recruitment X Service to Client.

# Termination

## Termination Rights

1. This Agreement may be terminated by either party:
	1. if the other party is in breach of any of these Terms of Use, by giving written notice of the relevant breach, if the breach has not been remedied within 14 days of such notice;
	2. immediately on notice by Recruitment X to Client for any breach of clauses 4, 6, and 9; and
	3. to the extent permitted by law, immediately on notice in the event that the other party ceases business, becomes insolvent, takes steps to wind up, or upon the appointment of any insolvency practitioner, trustee or custodian to all or part of the

other party’s assets or business, or if the other party attempts to assign or purport to assign rights otherwise than as permitted by this Agreement.

## Consequences of Termination

If this Agreement expires or is terminated for any reason, immediately upon expiry or termination, the licences granted under the terms of this Agreement shall ceases and Client’s access will be cancelled to all related systems, software and materials, including the Recruitment X Services.

## Survival

1. Termination of this Agreement will not affect any accrued rights that exist before termination or any surviving obligations that would reasonably be expected to continue beyond, or be performed after, termination (including any obligation to pay).
2. The following clauses shall survive any termination of this Agreement: 4.2, 8, 9, 10, 13, 14

and 16.

# Dispute Resolution

1. In the event of any dispute, controversy, or claim arising out of or relating to this Agreement, or the breach, termination, or invalidity thereof (the "Dispute"), the parties shall comply with the process specified in this clause 14. The parties shall first seek to resolve the Dispute through good faith negotiation within thirty (30) days from the date of written notification of the Dispute by one party to the other.
2. Mediation: If the Dispute cannot be resolved through negotiation within the aforementioned timeframe, the parties agree to submit the Dispute to mediation. The mediation shall be conducted by a single mediator jointly selected by the parties. If the parties cannot agree on a mediator within ten (10) days of initiating the mediation

process, the mediator shall be appointed by Australian Centre for International Commercial Arbitration or its successor entity (ACICA). The mediation shall take place in Sydney, under ACICA’s mediation rules and the language of the mediation shall be English. The costs of the mediation shall be shared equally by the parties, unless otherwise agreed. Mediation may take place remotely over teleconferencing or similar tools.

1. Arbitration: To the extent that a party is located outside Australia, then if the Dispute is not resolved through mediation within sixty (60) days of the commencement of the mediation, the Dispute shall be finally resolved by arbitration administered by the ACICA. The arbitration shall be conducted in accordance with the ACICA Arbitration Rules in effect at the time of the arbitration, except as they may be modified herein or by mutual agreement of the parties. The arbitration shall be conducted by one arbitrator appointed in

accordance with the said rules. The place of arbitration shall be Sydney, and the language of the arbitration shall be English. The decision of the arbitrator shall be final and binding upon the parties.

1. Costs: The costs of arbitration, including administrative and arbitrator fees, shall be shared equally by the parties, unless the arbitrator decides otherwise based on the

circumstances of the case. Each party shall bear its own costs and expenses of legal representation.

1. Continuation of Performance: The parties agree that pending the resolution of any Dispute through mediation or arbitration, they shall continue to perform their respective obligations under this Agreement.
2. Notwithstanding the above, either party may seek injunctive or other equitable relief from a court of competent jurisdiction to prevent or restrain a breach of this Agreement without first undergoing the dispute resolution process outlined herein.

# Force Majeure

1. Except for any payment of applicable fees, neither party is liable for any failure or delay in performing its obligations if such failure or delay is due to circumstances beyond its reasonable control, including: acts of any government authority, war, sabotage, terrorist activity or threat, fire, flood, strike or other labour disturbance, interruption of or delay in transportation, unavailability of or delay in telecommunications or third party services, failure of third party software or inability to obtain raw materials, supplies, or power used in or equipment needed for provision of the Recruitment X Services (“Force Majeure Event”).
2. Each party will notify the other party in writing as soon as reasonably possible of the

occurrence of a Force Majeure Event and its anticipated impact on the performance of its obligations. Each party will use commercially reasonable efforts to mitigate the effects of the Force Majeure Event and to resume performance of its obligations as soon as reasonably possible.

1. If the Force Majeure Event continues for a period of more than thirty (30) days, either party may terminate the Agreement providing written notice to the other party. Where the Force Majeure Event impacted Recruitment X, a pro-rata refund for unused periods of the Recruitment X Service shall be provided to the Client.

# General Provisions

## Amendments

Any amendments to this Agreement must be agreed in writing between the parties.

## Governing Law

This Agreement is governed by and interpreted under the laws of the state of New South Wales,

Australia. Each party irrevocably submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in the state of New South Wales, including its federal and appellate courts.

## Assignment and Subcontracting

1. Client must not assign or transfer, whether in whole or part, any rights or obligations in this Agreement without our prior written consent. To the extent of a change of control event impacting Client, including through a merger, acquisition, or sale of substantially all assets, Client must notify Recruitment X in writing within thirty (30) days of the change of control.

Recruitment X reserves the right to terminate the Agreement or renegotiate the terms of the Agreement following a change of control.

1. Recruitment X may assign, subcontract, or otherwise transfer or delegate or deal in any other manner with any or all of its rights under this Agreement without Client’s consent. In the event of an assignment, Recruitment X will notify Client in writing.

## No Waiver

A right created under this Agreement may not be waived except in writing signed by the party granting the waiver. The failure of either party to enforce a term of this Agreement will not be interpreted as a waiver of that term.

## Severability

If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, such provision shall be modified by the court and interpreted so as to best accomplish the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

## Costs

Each party shall bear its own costs and expenses in relation to the execution of this Agreement.

## No Partnership

Nothing in this Agreement creates or is intended to create any relationship of agency, partnership, joint venture, employment or similar between the parties. Neither party shall have any authority to enter into any agreement for, or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other party.

## Cooperation

Each party must (at its own cost) promptly execute all documents and do all other things reasonably necessary to give effect to this Agreement and the transactions contemplated by it.

## Counterparts

This Agreement may be executed in any number of counterparts.

## Entire Agreement

The Agreement contains the entire understanding and agreement between Recruitment X and Client with respect to the subject matter of the Agreement, and supersedes all other prior and

contemporaneous proposals, representations, agreements, understandings, and commitments between Recruitment X and Client with respect to the subject matter of the Agreement.

## Cumulative Rights

The rights, powers and remedies arising under this Agreement are cumulative and do not exclude any other rights, powers or remedies provided by law.

## Notices

Legal notices must be sent to the email addresses nominated on the Quote. Each party will be treated as having received any email sent by the other party on the date of delivery, if received

before 5pm. If received after 5pm, it will be taken to be received on the next business day. For the avoidance of any doubt, legal notices sent to Recruitment X must be sent to