

Agreement for Supply

The Date of this Agreement is the date contained in **Schedule 1** attached hereto

BETWEEN

PATRICIA GORRING trading as INGRESS ONLINE [ABN 72 750 536 704] of Post Office Box 283 GLEBE in the state of New South Wales, 2037 whose email address is:trish@ingressonline.com.au [“the Consultant”]

AND

The Client described in **Schedule 2** attached hereto

AND

The Guarantor described in **Clause 29**

WHEREAS

- A. The Client has provided to the Consultant the Proposal a copy of which is attached to this Agreement and marked “Attachment 1”
- B. At the request of the Client the Consultant agrees to perform the works described in **Schedule 3** attached hereto [“the Works”] and as varied from time to time in writing on the terms and conditions contained in this Agreement

IT IS AGREED:

COMMENCEMENT DATE

- 1. The Commencement Date is the date contained in **Schedule 4** of this Agreement and the date upon which the Consultant will commence the Works

COMPLETION DATE

- 2. The Consultant agrees to complete the Works by the date contained in **Schedule 5** [“the Completion Date”] or such other Completion Date as agreed between the parties in writing.

- 3. The Completion Date may be deemed to be varied in the following circumstances:

- a. If the Client does not provide to the Consultant all the information requested by the Consultant prior to the date of this Agreement or the Commencement Date whichever is the later; or
- b. the Client fails to deliver information requested by the Consultant in a timely manner

and the Consultant will notify the Client in writing of the changed Completion Date in the event that either of these circumstances have occurred.

- 4. The Consultant will use its best endeavors to deliver the completed Works by the Completion Date subject to the Client’s timely delivery of information or materials requested by the Consultant of the Client.

PAYMENT

- 5. The Client agrees to pay to the Consultant the Price contained in **Schedule 6** attached to this

Agreement on the terms contained in **Schedule 6**

6. In addition to the payments referred to in **Clause 5** of this Agreement the Client agrees to reimburse the Consultant for any out of pocket expenses incurred in the performance of the Works.
7. In the event that the Client does not pay the amount due within 14 days of due date as contained in **Schedule 6** then the Consultant may:
 - a. suspend the Works including shutting down the Client's live web site until such time as the Client has paid the amount due and
 - b. the Consultant will notify the Client in writing of the revised payment schedule for the completion of the Works
 - c. the Client will be liable for all costs and expenses incurred by the Consultant arising from or relating to the non compliance by the Client with the terms of this Agreement
8. In the event that the Client requests any of the following:
 - a. in excess of 5 rounds of changes to the Works; or
 - b. additional work to that described in the Works

then the Consultant may charge the Client an additional fee calculated at the rate described in **Schedule 7** of this Agreement

CONFIDENTIALITY

9. The Client and Consultant may disclose confidential information ["Confidential Information"] to each other to facilitate the work to be performed under this Agreement.
10. Confidential Information will be identified in writing as being confidential at the time of transmittal by the author of the transmittal
11. The receiving party will safeguard and not disclose the Confidential Information without the prior written consent of the disclosing party.
12. Confidential information does not include the following information:
 - a. information that is already known to the receiving party; or
 - b. information that is or becomes part of the public domain without breach of this Agreement; or
 - c. information that has been received or is able to be readily obtained from third parties by the receiver which third parties have no obligations to keep confidential the Confidential Information

THE WORK

13. The Consultant will perform the Works as described in Schedule 3 to this Agreement as varied from time to time by agreement in writing between the parties on the proviso that:
 - a. where the Client verbally requests a variation or verbally consents to a variation proposed by the Consultant then the confirmation of that variation by the Consultant to the Client in writing by email will suffice to satisfy the requirements of this clause in respect of the requisite agreement for a variation unless the Client responds to that email in writing to the contrary within a reasonable time
 - b. By consenting to the variation the Client agrees to pay the difference in the Price for the Works pursuant to this Agreement

ASSIGNMENT OF WORK

14. The Consultant reserves the right to assign or sub contract the Works or part thereof to other designers or subcontractors to ensure quality and completion on time.

COPYRIGHT AND PUBLICATION

15. Once the Works are completed and the Consultant has received payment in full for the Works then the copyright in the Works becomes the property of the Client.
16. The Consultant retains the title and copyright to all sketches, comps, or other preliminary materials other than the completed Works
17. The Client may publish or disclose information regarding the Works provided that the Client expressly acknowledges the support of the Consultant in all such publications. The Client will not publish or in any other way use the name of the Consultant in any advertising or publicity without the prior written consent of the Consultant. The Consultant may use all design material contained in and relating to the Works freely for the purpose of promoting the Consultant's business.

RELEASE AND INDEMNITY

18. The Client warrants its absolute and unconditional entitlement to use all intellectual property, names, and representations provided to the Consultant for the purpose of performing the Works and fulfilling its obligations under this Agreement
19. The Client agrees to indemnify and hold harmless the Consultant against any and all claims, demands, costs, and expenses, including legal fees, arising out of or relating to the warranties provided by the Client contained in this Agreement and this term does not merge on completion of the Works.

TERMINATION

20. Either party may terminate this Agreement by giving the other party 30 days notice in writing of such termination to the other party. The termination will be effective from that date 30 days from the notice of termination having been received by the other party or such other time as is agreed in writing between the parties [the "Termination Date"]
21. In the event that the Works are terminated at the request of the Client, the Consultant will provide a Tax Invoice for work and other amounts not invoiced up to and including the Termination Date. Termination of this Agreement by either party does not act as a waiver or release from the obligations of the Client pursuant to this Agreement.

DELAYS

22. Should the Works be delayed for any reason by the Client for more than one month a restart fee may apply. This fee will be 10% per month for the total value of the contract and will be included in the next invoice after work has re-commenced.

GENERAL

24. WAIVER

No time or other indulgence granted to one party ("the First Party") and no waiver by the other party in respect of any breach on the part of the First Party shall affect the other party's strict rights except to the extent to which the other party expressly waives such rights in writing, and no such waiver shall be deemed to be a waiver of any continuing or recurring breach on the part of the First Party.

25. NOTICES

Any notice to be given to either party hereunder may be given by any of the following:
a. by email to the email address appearing in this Agreement; or

- b. by ordinary pre-paid post addressed to that Party at the address appearing in this Agreement or the last known address of the Party; or
- c. by facsimile transmission to the last known facsimile number for the Party

and such notice shall be deemed to have been received by that party when the same would have been delivered in the normal course of sending by that means.

26. GOVERNING LAW

This Agreement is governed by the law of New South Wales, Australia and the parties submit to the jurisdiction of the Courts of that State.

27. SEVERANCE

The invalidity or unenforceability for any reason of any part of this Agreement or any other part of any Contract between the Consultant and the Client shall not prejudice or affect the validity or enforceability of any other part.

28. INTERPRETATION

In these terms and conditions unless the context otherwise requires:

- (a) Words importing the singular shall include the plural, the masculine shall include the feminine, and words importing persons shall also include corporations.
- (b) "Writing" includes printing, typing, email and other models of reproducing words in a visible form and 'written' has a corresponding meaning.

29. GUARANTEE

In the event of the Client being a Company and in consideration of the Consultant entering into this agreement with the Client the director(s) of the Client described in **Schedule 8** attached to this Agreement ("the Guarantor"), and if more than 1 director jointly and severally, hereby guarantees to the Consultant the due and punctual performance and observance by the Client of its obligations under this Agreement and hereby indemnifies and shall keep indemnified the Consultant from and against all losses, damages, liabilities, costs and expenses of whatsoever nature accruing to the Consultant resulting or arising from any failure by the Client to perform or observe any of the obligations on its part to be performed or observed. This guarantee shall be a continuing guarantee and shall not be abrogated, prejudiced or discharged by any waiver by the Consultant or by any other matter or thing whatsoever and shall be deemed to constitute a principal obligation between the Guarantor and the Consultant.