

THIS AGREEMENT is made between Bin Manager Pty Ltd ACN 601 525 884 and the Client.

1. **Definitions**

- 1.1. **Additional Support** means any support services provided by Bin Manager to the Client outside of the Software maintenance, and any support provided in accordance with the Service Levels and excluding any work performed by Bin Manager in accordance with **clause 21**.
- 1.2. **Additional Support Fees** means Bin Manager's expenses and fees payable by the Client to Bin Manager for Additional Support charged at Bin Manager's Hourly Rates.
- 1.3. **Aggregate Data** means aggregate, statistical and operational information or analysis relating to the Client's use of the Software.
- 1.4. **Agreement** means these terms and conditions, the Client Onboard Form, and any Work Orders (once signed by both parties).
- 1.5. **Associated Entity** has the meaning given to it in section 50AAA of the *Corporations Act 2001* (Cth).
- 1.6. **Bin Manager** means Bin Manager Pty Ltd ACN 601 525 884 and shall include Bin Manager's legal representatives, successors and assigns.
- 1.7. **Client** shall be as defined in the Client Onboard Form, or the entity that originally engaged Bin Manager or its predecessor, Symbiotic Software ABN 41 252 004 865 to supply the Software. It does not include any Related Body Corporate or Associated Entity of the Client.
- 1.8. **Client Onboard Form** means the Bin Manager form of the same name or any other document signed by both parties in which the Client's order-specific information such as description of licence scope, use and fees are specified.
- 1.9. **Designated Equipment** means:
- 1.9.1. the Client's computer equipment upon which the Software is to be installed; and
 - 1.9.2. any temporary or permanent substitutes for such computer equipment (and the Client has notified Bin Manager in writing prior to such a temporary or permanent substitution of the Client's computer equipment).
- 1.10. **Documentation** means any manual (in any media) supplied with, contained within or in connection with the Software, as well as any online help files, release notes or other user instructions.
- 1.11. **End Date** means the later of 12 months after the Start Date or a date agreed to in writing by the Client and Bin Manager in accordance with **clause 3.2** of this Agreement.
- 1.12. **Harmful Code** means any computer program or virus or other code that is harmful, destructive, disabling, or which assists in or enables theft, alternation, denial of service, unauthorised access to, or disclosure, destruction or corruption of, information or data.
- 1.13. **Hourly Rates** means the hourly rates quoted on the Client Onboard Form, or otherwise advised to the Client by Bin Manager from time to time.
- 1.14. **Insolvent** has the meaning given in section 9 of the *Corporations Act 2001* (Cth).
- 1.15. **Installation Costs** means the installation costs specified in the Client Onboard Form or otherwise agreed by the parties in writing.
- 1.16. **Installation Date(s)** means the date(s) specified in the Client Onboard Form.
- 1.17. **Licence** or **Licensed** means the licence granted by Bin Manager to the Client under **clause 2** of this Agreement.
- 1.18. **Licence Fee** means the annual or monthly fee payable by the Client to Bin Manager for use of the Software, as specified in the Client Onboard Form or as otherwise agreed by the Client and Bin Manager.
- 1.19. **Minimum Specifications** means the technical specifications given by Bin Manager to the Client in writing to which the Designated Equipment must conform in order to run the Software and to which the Client must conform in order to receive support at the agreed Service Level.
- 1.20. **Number of Permitted Users** means the number specified in the Client Onboard Form, or in other documentation agreed by Bin Manager, being the number of users which Bin Manager authorises the Client to allow to use the Software.
- 1.21. **Personal Information** includes names, address, contact telephone numbers, email address and credit card details (should the Client elect to store its customer's credit card details in the Software).
- 1.22. **Related Body Corporate** has the meaning given to it in section 50 of the *Corporations Act 2001* (Cth).
- 1.23. **Service Levels** means the service levels stated in the Support Services Policy.
- 1.24. **Site** means the Client's site or region identified in the Client Onboard Form, or the site at which the Software was initially installed, or the site or region otherwise agreed by Bin Manager in which the Software may be used and **Sites** means many of these.
- 1.25. **Software** means the object code version of the software currently known as Bin Manager consisting of a set of instructions or statements in machine readable medium only and shall include any replacements, modification or additions to the object code version of that software licensed or supplied under this Agreement.

- 1.26. **Software Maintenance** means such services as Bin Manager considers are reasonably required to ensure the Software remains in substantial conformity with the Documentation. It includes:
- 1.26.1.bug fixes;
 - 1.26.2.patches,
- and any other updates Bin Manager may install from time to time to ensure the efficient operation of the Software during the Term.
- 1.27. **Start Date** means the later of the Start Date stated on the Client Onboarding Form or the date the Software is installed, configured and made available for use by the Client.
- 1.28. **Support Services Policy** means Bin Manager's support services policy made available to the Client, which may include by listing on Bin Manager's website (as updated from time to time).
- 1.29. **Term** has the meaning given in **clause 3**.
- 1.30. **Training** has the meaning given to it in **clause 8.1**.
- 1.31. **Training Costs** means fees payable by the Client to Bin Manager to provide training services to the Client's personnel as well as all expenses incurred by Bin Manager including but not limited to travel expenses calculated on the basis of the cost of travel between the business office of Bin Manager and the location at which the training is provided.
- 1.32. **Update** means any update or version release of the Software.
- 1.33. **Work Order** means an agreed order for Additional Services, or for any other work in accordance with **clause 21** and signed by both parties.
2. **Licence**
- 2.1. In consideration for payment of the Licence Fee, Bin Manager grants to the Client a revocable, exclusive, non-transferable licence to access and use the Software on the terms and conditions contained herein for the Term of this Agreement.
- 2.2. Subject to this Agreement, the Client grants to Bin Manager an exclusive, transferrable, sub-licensable, irrevocable and royalty-free licence during the Term to access, reproduce and display the Client's data.
3. **Term and Renewal**
- 3.1. This Agreement commences on the Start Date and will continue until the End Date or until terminated by either party pursuant to this Agreement.
- 3.2. This agreement will automatically be renewed for a period of 12 months unless otherwise agreed to in writing at least 30 days before the End Date.
- 3.3. At least 30 days before the End Date the Client and Bin Manager may agree in writing to either:
- 3.3.1.extend this Agreement for a period of time agreed to by the Client and Bin Manager; or
 - 3.3.2.terminate this Agreement effective from the End Date.
- 3.4. In consideration for the renewal or extension of this Agreement the Client agrees to pay the Licence Fee upon receipt of an invoice by Bin Manager and on such terms as stated in that invoice.
4. **Use of Software**
- 4.1. The Client may only use the Software:
- 4.1.1.for the Client's own data processing;
 - 4.1.2.on the Designated Equipment; and
 - 4.1.3.at the Site.
- 4.2. The Client shall not use the Software:
- 4.2.1.to provide a data processing service to or for any third party whether by way of trade or otherwise; or
 - 4.2.2.on any equipment except the Designated Equipment without prior written consent of Bin Manager which consent shall not be unreasonably withheld.
- 4.3. The Client shall follow all reasonable instructions given by Bin Manager from time to time with regard to the use of the Software.
- 4.4. The Client shall permit Bin Manager, at all reasonable times, to verify that the use of the Software is within the terms of this Agreement. If any audit reveals any underpayment of Fees, the Client shall pay the shortfall in the Licence Fee for the time period that in which the shortfall existed and the reasonable costs of such audit.
5. **Licence Fee and User Access**
- 5.1. The Client shall pay to Bin Manager, the Licence Fee as invoiced by Bin Manager from time to time.
- 5.2. For the avoidance of doubt, it is agreed that no Licence to use the Software shall be granted to the Client until either the total Licence Fee has been received by Bin Manager (where the Licence Fee is paid annually or monthly) or where the Licence Fee is continued to be paid (if the Licence Fee is paid in instalments).
- 5.3. Where the Licence Fee, or an instalment, is not paid, the Licence may be suspended until payment of the Licence Fee or the instalment is received.
- 5.4. The Client must not allow a number greater than the Number of Permitted Users to use the Software without prior written consent of Bin Manager.
- 5.5. Where the Client at any time seeks the consent of Bin Manager for a number greater than the Number of Permitted Users to use the Software the Client acknowledges that as a condition of such consent the Client shall be required to pay to Bin Manager a further fee which will be agreed between Bin Manager and the

- Client. Any use of the Software by users in excess of the Number of Permitted Users, if consented to by Bin Manager, shall otherwise be upon the terms and conditions of this Agreement.
6. **Access to Sites**
- 6.1. The Client must grant and facilitate Bin Manager to have access to the Sites at such times and on such notice as Bin Manager reasonably requires in connection with the installation, maintenance and removal of the Software and to audit permitted use of the Software from time to time.
- 6.2. The Client must co-operate with Bin Manager or with any third party nominated by Bin Manager to perform the installation, maintenance and removal of the Software in relation to any workplace health and safety obligations, issues or incidents including by ensuring a safe place of work. In particular, any notifiable health and safety incidents that occur in relation to the installation, maintenance or removal of the Software must be notified to Bin Manager immediately.
- 6.3. The Client agrees that at the request of Bin Manager it will provide any further assistance as required by Bin Manager in connection with the installation, maintenance or removal of the Software and the audit of permitted use of the Software.
- 6.4. The Client indemnifies Bin Manager against all claims, losses, damages, liabilities or costs suffered or incurred by Bin Manager or its Personnel as a result of or in connection with Bin Manager's access to and/or occupation of the Client's premises or property, except to the extent that such claims, losses, damages, liabilities and costs are solely and directly caused by the negligence or wilful misconduct of Bin Manager.
7. **Software Delivery and Installation**
- 7.1. This **clause 7** applies where the Software is to be installed at the Sites.
- 7.2. Bin Manager will, at its sole discretion, install the Software remotely.
- 7.3. Bin Manager will use its best endeavours to deliver and install the Software:
- 7.3.1. on the Designated Equipment; and
- 7.3.2. on the Installation Date(s) during Business Hours (being 8.30 am to 5pm for installation by Bin Manager at the Site and 8.30am to 5pm Western Australia time, if the Software is installed remotely and on a day that is not a weekend or public holiday in Western Australia).
- 7.4. In consideration for installing the Software in accordance with this **clause 7.2**, the Client must pay Bin Manager the Installation Costs as and when such costs are invoiced by Bin Manager from time to time.
- 7.5. Subject to **clause 7.8** the Client must secure and maintain access to an internet connection which will provide uninterrupted access to the internet for the time Bin Manager performs the Software installation.
- 7.6. Subject to **clause 7.8**, the Client must provide remote access to the Designated Equipment with appropriate security to enable Bin Manager to install the Software in accordance with this **clause 7**.
- 7.7. If Bin Manager cannot install the software remotely for any reason it may, at its sole discretion, decide to attend the Sites to install the software.
- 7.8. The Client may not comply with **clauses 7.5** and **7.6** if Bin Manager elects to attend the Sites to install the Software under **clause 7.7** of this Agreement.
- 7.9. If Bin Manager attends the Sites to install the Software the Client must pay Bin Manager any additional costs and expenses incurred as a result of attending the Sites and invoiced by Bin Manager to the Client from time to time.
- 7.10. The Client shall, upon request in writing by Bin Manager, provide a written acknowledgement to Bin Manager that:
- 7.10.1. the Software has been installed by Bin Manager in accordance with this **clause 7**; and
- 7.10.2. the installation is accepted by the Client.
8. **Training**
- 8.1. Bin Manager shall provide such training, as may be agreed, to the Client in the use of the Software ('**Training**').
- 8.2. In consideration for providing training under **Clause 8.1**, the Client must pay Bin Manager the Training Costs as and when they are invoiced by Bin Manager from time to time.
9. **Ownership**
- 9.1. The Client acknowledges that all rights of property, title, copyright and all other proprietary rights in the Software and Documentation and all copies thereof shall remain vested in Bin Manager or such other persons, firms or companies, as Bin Manager may nominate from time to time.
- 9.2. Title to and ownership of all Aggregate Data collected in relation to the Client from the Client's use of the Software will remain with Bin Manager. Bin Manager will not grant the Client use of or access to the Aggregate Data except as stated in this Agreement or as agreed to by Bin Manager and the Client in writing.
- 9.3. The Client shall not dispute the validity or ownership of title, copyright or other proprietary rights or entitlement to other intellectual protection of or available to Bin Manager or of such other persons, firms or companies as may from time to time be

- nominated by Bin Manager with respect to the Software and Documentation.
- 9.4. The Client shall follow all reasonable instructions given by Bin Manager from time to time with regard to the use of trade marks owned by Bin Manager and/or indications of ownership of property and rights of Bin Manager in the Software and Documentation.
- 9.5. Nothing in this Agreement affects the ownership of moral rights in the Software and Documentation.
10. **Copying**
- 10.1. The Client shall not copy, alter, modify or reproduce the whole or any part of the Software, or Documentation by any means or in any form without the prior written consent of Bin Manager.
- 10.2. If the Software is installed on Client Sites, the Client may copy the Software for the purpose of backup and security. The Client acknowledges that such copies, if made, are the property of Bin Manager and that the terms of this Agreement shall apply to such copies.
11. **Documentation**
- 11.1. Bin Manager may give the Client electronic copies of the Documentation.
- 11.2. The Documentation is subject to the same restrictions on copying and modification as are imposed in respect of the Software and shall not be used by the Client except to assist in the normal use of the Software.
- 11.3. No copies (in any media) of the Documentation shall be supplied by the Client to any third party without prior written consent of Bin Manager.
12. **Modification of the Software by the Client**
- 12.1. The Client shall not modify or alter the whole or any part of the Software or Documentation or merge all or any part of the Software or Documentation with programs or information not provided by Bin Manager without the prior written consent of Bin Manager and in accordance with such terms and conditions as Bin Manager may in its absolute discretion attach to such prior consent.
- 12.2. All costs associated with any such modification or alteration requested by the Client and permitted by Bin Manager shall be borne solely by the Client.
- 12.3. The modified or altered Software or Documentation shall remain the property of Bin Manager and the terms of this Agreement shall apply to the modified or altered Software, or Documentation.
- 12.4. The Client shall fully indemnify and hold harmless Bin Manager against all liability which may be incurred by Bin Manager if such requested and permitted modification or alteration infringes any intellectual or industrial property rights of a third person or otherwise causes Bin Manager to suffer loss, damage or expense.
13. **Modification of the Software by Bin Manager**
- 13.1. The Client may ask Bin Manager to modify the Software in a manner specifically for the Client's use of the Software (**'Specific Variations'**).
- 13.2. Bin Manager and the Client will use their reasonable efforts to agree the terms on which Bin Manager will develop any Specific Variation.
- 13.3. Bin Manager will perform the Specific Variations as mutually agreed in any one or more Work Orders.
- 13.4. Any Specific Variation to the Software will be owned by Bin Manager.
- 13.5. If any Specific Variation uses information which is confidential to the Client, Bin Manager must not licence that Specific Variation to any other Client of Bin Manager or user of the Software. Otherwise, Bin Manager may offer that Specific Variation to any person.
14. **Reverse Engineering**
- The Client shall not reverse assemble or reverse compile or directly suffer or indirectly allow or cause a third party to reverse assemble or reverse compile the whole or any part of the Software.
15. **No Obligation to Maintain**
- Unless specified in this Agreement, nothing shall oblige Bin Manager to maintain the Software or Documentation whether by providing upgrades, modifications or enhancement or otherwise.
16. **Security**
- 16.1. The use, access to, supervision, control, management and security of the Software and Documentation shall be the sole responsibility of the Client.
- 16.2. The Client shall use their best endeavours at all times to ensure that the Software and Documentation are protected from use or misuse, access, damage or destruction by any person not authorised by Bin Manager for that purpose.
- 16.3. Risk of loss of or damage to the Software or Documentation passes to the Client upon delivery and installation of the Software in accordance with **clause 7** of this Agreement.
17. **Personal Information**
- 17.1. Bin Manager may need to collect Personal Information from a Client to ensure the correct and efficient running of the Software.
- 17.2. Bin Manager will not disclose Personal Information without the Client's consent, unless required or permitted by law.
- 17.3. Bin Manager will take, and where appropriate ensure that its sub-contractors take, commercially reasonable measures to secure the Personal Information from malicious attacks, viruses, or physical theft

- or other unauthorised access, modification or disclosure, however Bin Manager cannot guarantee the absolute security and integrity of data held in the Software.
- 17.4. The Client acknowledges that the Client stores Personal Information (including credit card details of the Client's customers) on the Software at the Client's own risk.
18. **New Releases**
- 18.1. Bin Manager may from time to time install updated versions of the Software ('**New Release**'). The Client shall comply with a direction by Bin Manager to destroy all copies of the Software in the Client's possession or control (including all copies installed on the Designated Equipment) upon installation of a New Release.
- 18.2. Nothing in this **clause 18** shall require or oblige Bin Manager to substitute the Software for a New Release.
19. **Copyright Infringement**
- 19.1. The Client will:
- 19.1.1. promptly notify Bin Manager in writing of any alleged or potential infringement of the copyright of Bin Manager of which the Client is aware or suspects;
- 19.1.2. make no admission in any way relating to the said infringement or the validity or ownership of title, copyright or other proprietary rights in the Software and Documentation without Bin Manager's prior written consent, give Bin Manager the option, at Bin Manager's expense, to conduct any defence of such a claim of infringement of copyright by use of the Software and Documentation including negotiations for settlement of the claim prior to the institution of legal proceedings;
- 19.1.3. provide Bin Manager, if and when required, with reasonable assistance in conducting the defence of such a claim; and
- 19.1.4. permit Bin Manager to modify, alter or replace the Software and Documentation at Bin Manager's sole discretion, so as to avoid any infringement or alleged infringement. Such modification, alteration or replacement of the Software or Documentation shall not detract from its overall intended use and any loss suffered by the Client during modification, alteration or replacement shall be borne by Bin Manager.
20. **Maintenance and Support Services**
- 20.1. For the Term:
- 20.1.1. Bin Manager will provide the Client with Software Maintenance including Updates as they become available; and
- 20.1.2. Bin Manager will use its reasonable efforts to resolve any problems with the Software and Documentation in accordance with the Service Levels agreed to by the Client and Bin Manager and specified in the Client Onboard Form.
- 20.2. If the Client refuses to accept one or more Updates that represent a material change to the Software, Bin Manager may:
- 20.2.1. decline to continue to provide support in accordance with the Service Levels; or
- 20.2.2. charge fees to provide Software Maintenance for outdated versions of the Software.
- 20.3. If the Client accepts any Update:
- 20.3.1. this Agreement applies in all respects to that Update to the extent that it is incorporated in or replaces the Software; and
- 20.3.2. the Documentation shall be deemed to be amended to the extent that the specifications for the Update supersede the existing specifications.
- 20.4. Bin Manager is not responsible for any delay or deficiency in the provision of Software Maintenance or support in accordance with the Service Levels which are caused by factors beyond Bin Manager's reasonable control, including but not limited to telecommunications failure or fault, defective equipment used by the Client, use of Designated Equipment which does not meet the Minimum Specifications or failure by the Client to maintain adequate backups.
21. **Additional Support**
- 21.1. Bin Manager will provide Additional Support to the Client, at the Client's request, where requested by any person authorised by the Client.
- 21.2. Otherwise, Bin Manager will perform the Additional Support as agreed in any one or more Work Orders.
- 21.3. In consideration for the Additional Support, the Client must pay Bin Manager the Additional Support Fees as and when they are invoiced by Bin Manager from time to time.
- 21.4. Either party may propose a change in writing to add to, reduce or change the work ordered in the Work Order ('**Change Order**').
- 21.5. Each Change Order shall specify the change(s) to the services or deliverables and the effect on the time of performance and on the fees owed to Bin Manager, due to the change.
- 21.6. Once executed by both parties, a Change Order shall become part of the Work Order.

22. **Warranties**

- 22.1. Bin Manager does not warrant that it will be able to provide support services in accordance with the Service Levels if the Designated Equipment does not meet the Minimum Specifications.
- 22.2. Bin Manager does not warrant that it will be able to restore any Client data backed up by the Client regardless of whether the Client meets the Minimum Specifications.
- 22.3. Bin Manager warrants and represents to the Client that:
- 22.3.1. Bin Manager owns or licences the Software and Documentation;
- 22.3.2. Bin Manager has the authority to grant the Licence; and
- 22.3.3. the installation of the Software under this Agreement will be conducted by appropriately qualified personnel in accordance with any applicable industry standards.
- 22.4. Bin Manager does not warrant that the Software will perform bug or error free or uninterrupted, or that Bin Manager will correct all program errors, or that the Software is merchantable or fit for the purpose for which the Client will use the Software.
- 22.5. Bin Manager does not warrant that the Software will be free from Harmful Code.
- 22.6. To the extent permitted by law, Bin Manager excludes all terms, conditions, warranties and representations in connection with the Software and Documentation implied by custom, the general law or statute.
- 22.7. This **clause 22** does not exclude or limit the application of any mandatory conditions and warranties implied into this Agreement by operation of the *Competition and Consumer Act 2010* (Cth) and corresponding legislation in other jurisdictions or other warranties where to do so:
- 22.7.1. would contravene the law of the relevant jurisdiction; or
- 22.7.2. cause any part of this **clause 22** to be void.
- 22.8. Bin Manager's liability for any breach of a warranty will be limited, at Bin Manager's option, to:
- 22.8.1. the replacement of the Software or the resupply of equivalent programs;
- 22.8.2. the repair of the Software; or
- 22.8.3. the payment of the cost of replacing the Software, acquiring equivalent programs or repairing the Software.
23. **Liability of Bin Manager**
- 23.1. The Client acknowledges that it exercises its rights to use the Software and Documentation at its own risk.
- 23.2. Except to the extent caused directly by Bin Manager's negligence or breach of this Agreement, the Client assumes all risk for any liabilities, expenses, losses, damages

and costs (including legal costs on a full indemnity basis and whether incurred by or awarded against a party) resulting from or in connection with the Client's use of the Software and Documentation.

- 23.3. In addition to the events listed in **clause 31**, Bin Manager will not be liable to the Client for any loss of data, non-supply of Software or other goods or services in accordance with this Agreement or any security intrusion relating to the Client's data or Confidential Information caused by any interruptions of internet connection or any other event, unless such event is solely caused by the negligent act or omission by Bin Manager.
- 23.4. Bin Manager will not be liable for any consequential and incidental damages or economic loss (including loss of profit) resulting from the Client's use of the Software and Documentation.
- 23.5. The maximum aggregate liability of Bin Manager for all claims made by the Client in connection with this Agreement is an amount equal to the Licence Fee. The Client releases Bin Manager from that portion of any such claim that would cause the maximum aggregate liability of Bin Manager for such claims to exceed an amount equal to the Licence Fee.

24. **Special conditions**

This Agreement is subject to the special conditions (if any) set out in the Client Onboard Form. Those special conditions prevail over any other provision of this Agreement to the extent of any inconsistency.

25. **Termination**

- 25.1. Without limiting the generality of any other clauses in this Agreement, Bin Manager shall be entitled (but is not bound) to treat this Agreement as repudiated by the Client and may terminate this Agreement forthwith without notice upon the happening of the following events:
- 25.1.1. the Client breaches any clause of this Agreement and such breach is either incapable of being remedied or is not remedied within fourteen (14) days of written notice by Bin Manager requiring remedy; or
- 25.1.2. any payment due from the Client to Bin Manager pursuant to this Agreement remains unpaid for a period of thirty (30) days from the day on which payment is due.
- 25.2. Either party may terminate this Agreement forthwith on written notice to the other party ('defaulting party') if:
- 25.2.1. the defaulting party becomes Insolvent; or
- 25.2.2. the defaulting party ceases or threatens to cease to conduct business in the ordinary course.

- 25.3. Subject to clause of this Agreement, the Client may terminate this Agreement by providing a minimum of sixty (60) days written notice to Bin Manager, provided that a Work Order is not outstanding.
- 25.4. Where the Client terminates the Agreement in accordance with clause 25.3, the Client will be required to pay the remainder of the Licence Fee for the remainder of the Term at Bin Manager's sole discretion.
- 25.5. Termination of this Agreement shall not prejudice any rights of either party which have arisen on or before the date of termination.
26. **Removal of Software**
- 26.1. This clause 26 applies upon termination or repudiation of this Agreement by either party for any reason ('**Termination**').
- 26.2. Upon Termination:
- 26.2.1. Bin Manager revokes the Licence and will remove access to the Software and any Client data 14 days after the End Date ('**Removal Date**').
- 26.2.2. The Client shall, at the option of Bin Manager and before the Removal Date either return or destroy the Software and Documentation, all copies thereof and in any media, and all other documentation in connection with the Software to Bin Manager. The Client shall, upon request, furnish to Bin Manager a written certification that this **clause 26.2.2** has been duly observed.
- 26.2.3. The Client shall comply with a direction by Bin Manager to destroy all copies of the Software in the Client's possession or control (including all copies installed on the Designated Equipment).
- 26.2.4. Bin Manager may, at its sole discretion, attend the Sites to remove the Software and client Data from the Designated Equipment. If Bin Manager so attends, the Client must pay Bin Manager any additional costs and expenses incurred as a result of so attending such additional costs which may be invoiced by Bin Manager to the Client from time to time.
- 26.3. It is the responsibility of the Client to ensure it has a copy of the Client's data before the Removal Date.
27. **Confidentiality**
- 27.1. The Client shall treat as confidential:
- 27.1.1. all information in connection with the Software and Documentation or any part thereof;
- 27.1.2. all information which comes into the possession or control of the Client or its employees in connection with this Agreement, including information in connection with the business, sales, marketing, technical operations or clients of Bin Manager, ('**Confidential Information**') and shall not copy, cause to be copied or disclose any details of such Confidential Information to a third party without the prior written consent of Bin Manager or unless required by law.
- 27.2. The Client may only use the Confidential Information to the extent necessary to enable the Software to be used by the Client in the manner reasonably contemplated by Bin Manager.
- 27.3. The Client shall disclose Confidential Information only to those of their employees: 27.3.1. required by the Client to use the Software, and only to the extent required to enable the Software to be used by the Client in a manner reasonably contemplated by Bin Manager; and 27.3.2. who have undertaken to comply with this **clause 27**.
- 27.4. The Client is liable to Bin Manager for any breach of those undertakings.
- 27.5. The operation of this **clause 27** shall survive the termination of this Agreement.
28. **Goods and Services Tax**
- 28.1. Unless otherwise stated all payables are exclusive of GST and the Client is responsible for payment of any GST liability in respect of the provision of the goods and services in accordance with this Agreement, which amount will be payable to Bin Manager at the same time as the GST-exclusive consideration subject to the provision by Bin Manager of a GST invoice to the Client.
- 28.2. Bin Manager will provide a valid tax invoice (in the form prescribed by *the A New Tax System (Goods & Services Tax) Act 1999* (Cth)) to the Client.
29. **Assignment**
- 29.1. The Client shall not assign any of its obligations under this Agreement whether by assignment, sublicense or otherwise without the prior written consent of Bin Manager which consent may be refused or withheld for any reason or without giving a reason.
- 29.2. In particular, upon any permitted assignment, the assignee shall be deemed to be the Client and the terms and conditions of this Agreement as they apply to the Client shall apply to the assignee.
- 29.3. If Bin Manager so directs, the Client shall obtain an acknowledgement from the assignee that the assignee agrees to be bound by the terms and conditions of this Agreement.
30. **Notice**
- 30.1. Any notice required to be given under this Agreement may be given by:
- 30.1.1. email to the address last notified to the sender; or

- 30.1.2. by any other means allowed by law.
31. **Force Majeure**
Bin Manager will not be liable for any liabilities, expenses, losses, damages and costs caused by Bin Manager's failure to supply the Software or access to the Software as a result of fire, flood, tempest, earthquake, riot, civil disturbance, theft, crime, strike, lockout, war or any other matter beyond the Bin Manager's reasonable control.
32. **Dispute resolution**
Bin Manager and the Client agree to work together to quickly settle disputes or differences that may arise. In the event that any such disputes or differences cannot be negotiated and amicably resolved between the parties within 60 days after the dispute was first raised, then the parties agree that the dispute may be referred to an independent mediation service or commencement of legal action as the case may be.
33. **General**
- 33.1. This Agreement constitutes the entire agreement between Bin Manager and the Client for the subject matter of this Agreement. Any prior or collateral arrangements, agreements or undertakings are superseded.
- 33.2. No right under this Agreement shall be deemed to be waived except by notice in writing signed by each party.
- 33.3. Failure to enforce any term or condition in this Agreement, or any forbearance or indulgence granted by either party will not be construed or deemed to be a waiver or in any way prejudice the right of either party under the Agreement.
- 33.4. Headings used in this Agreement are for convenience and reference only, and shall not affect the meaning or interpretation of this Agreement.
- 33.5. The laws in Western Australia govern this Agreement. The parties submit to the exclusive jurisdiction of the Courts of Western Australia and the Federal Court of Australia (Perth Registry).