



LICENCE AGREEMENT



Flinders Partners

Flinders Partners Pty Ltd

Mark Oliphant Building

Science Park, Laffer Drive

Bedford Park SA 5042

Australia

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www.flinderspartnerspartners.com

Licence Agreement

PARTIES

Flinders Partners Pty Ltd (ACN 008 119 640) of Mark Oliphant Building, Science Park, Laffer Drive, Bedford Park, South Australia as agent for Flinders University (ABN 65 542 596 200) a body corporate established pursuant to the provisions of the *Flinders University of South Australia Act 1966* (SA) and having its principal office at Sturt Road, Bedford Park, South Australia (Flinders, we, us, our).

and

[Insert company name] ABN/ACN [Insert company registration no.] of [Insert company address] (you, your, yours).

RECITALS

- A. Flinders is the owner of and has the exclusive rights to a software product entitled 'Pre-Place' (Software) which is provided with other facilities and distributed on the internet through a website (Pre-Place Resources).
- B. You wish to obtain a non-exclusive licence to access, acquire and use the Pre-Place Resources.
- C. Flinders wishes to grant you a non-exclusive licence to access, acquire and use the Pre-Place Resources upon the terms and conditions of this Agreement.
- D. You and Flinders agree as follows.

TERMS AND CONDITIONS

1. DEFINITIONS AND INTERPRETATION

In this Agreement, unless the contrary intention appears:

- 1.1 **Agreement** means the terms and conditions of this licence agreement;
- 1.2 **Australian Consumer Law** means Schedule 2 of the CCA;
- 1.3 **Business Day** means a day (other than a Saturday, Sunday or a bank or public holiday) on which banks are open for business in Adelaide, South Australia;
- 1.4 **CCA** means the *Competition and Consumer Act 2010* (Cth) as amended from time to time;
- 1.5 **Commencement Date** means the date this Agreement commences in accordance with clause 4;
- 1.6 **Confidential Information** means:
 - (a) all information that is not in the public domain that is by its nature confidential;
 - (b) any other information that is agreed between the Parties in writing after the Commencement Date as constituting Confidential Information for any purpose under this Agreement;

- (c) any information which is identified by the disclosing Party, acting reasonably, as confidential at the time the disclosure is made to the receiving Party; and
- (d) any other information that the receiving Party knows or ought to know is treated and considered to be confidential by the disclosing Party, including trade secrets, know-how, financial information and other commercially or scientifically valuable information of whatever description and in whatever form (whether written, or oral, visible or invisible), but excluding any information that the receiving Party can establish:
 - (e) is in the public domain other than through a disclosure in breach of this Agreement;
 - (f) is independently developed by the receiving Party; or
 - (g) is received by the receiving Party from a third Party who is not bound by obligations of confidence in relation to the information;

1.7 **Force Majeure** means a circumstance beyond the reasonable control of a Party which results in a Party being unable to observe or perform on time an obligation under this Agreement. Such circumstances will include but will not be limited to:

- (a) acts of God, lightning strikes, earthquakes, floods, storms, explosions, fires and any natural disaster;
- (b) acts of war, acts of public enemies, terrorism, riots, civil commotion, malicious damage, sabotage and revolution; and
- (c) industrial disputes;

1.8 **GST** means the same as in the GST Law and includes any other goods and services tax, or any tax applying to this transaction in a similar way and any additional tax, penalty tax, fine, interest or other charge under a law of such a tax;

1.9 **GST Law** means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and *A New Tax System (Goods and Services Tax) Regulations 1999 (Cth)*, and other similar or related acts, regulations, or rulings;

1.10 **Intellectual Property** means all present and future intellectual or industrial property rights throughout the world and all associated goodwill, including without limitation: all present and future rights in relation to inventions (including patents); copyright or rights analogous to copyright (but excluding moral rights); trade marks (including service marks); domain names; designs; Confidential Information (including trade secrets); know-how, plant variety rights; eligible layouts and circuit layouts; whether unregistered; registered or registrable and for the entire life of those rights and any renewals;

1.11 **Improvements** means any modifications, additions, enhancements, developments or other improvements to the Software;

1.12 **Licence** means your licence to Use the Pre-Place Resources, as set out in clause 5 of this Agreement;

- 1.13 **Licence Fee** means the fee you must pay under clause 6 of this Agreement for your Use of the Pre-Place Resources;
- 1.14 **Party** means a party to this Agreement and Parties means each Party;
- 1.15 **Personal Information** means all information about a person which is 'personal information' as defined by the Privacy Laws;
- 1.16 **Platform Provider** means the service provider you will select to provide the software platform for your Use of the Pre-Place Resources within your institution;
- 1.17 **Privacy Laws** mean the *Privacy Act 1998* (Cth) and any other legislation, principles, industry codes and policies relating to the handling of Personal Information;
- 1.18 **Privacy Policy** means the policy which explains our Website information practices and how we collect, use and disclose your information, including your Personal Information, and this is located in the terms and conditions of the Website;
- 1.19 **Representative**, in relation to a Party, means the directors, officers, employees, agents, contractors and successors in title of that Party;
- 1.20 **Pre-Place Download Key** means the secured customer name and password which will be created for you by us to facilitate your Use of the Pre-Place Resources;
- 1.21 **Pre-Place Resources** means the secured Software and any corresponding services or facilities you are granted rights to under this Agreement;
- 1.22 **Software** means the secured software product known as Pre-Place owned by Flinders and described in Recital A of this Agreement;
- 1.23 **Use** means to download, install, launch, access or otherwise use; and
- 1.24 **Website** means the website located at www.pre-place.com.
- 1.25 In this document, unless the contrary intention appears:
- (a) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
 - (b) a reference to a person or entity includes a natural person, a partnership, corporation, trust, association, unincorporated body, authority or other entity;
 - (c) a reference to an agreement or document (including this document) is to this Agreement or document as amended, varied, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document;
 - (d) a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
 - (e) a reference to dollars and \$ is to the currency of Australia;
 - (f) the meaning of general words is not limited by specific examples introduced by including, or for example, or similar expressions;

- (g) references to agree, approve or consent are references to agreement, approval or consent (as the case may be) in writing;
- (h) nothing in this Agreement is to be interpreted against a Party solely on the ground that the Party put forward this Agreement or any part of it;
- (i) the clause headings are for ease of reference only and shall not be relevant to interpretation;
- (j) words in the singular number include the plural and vice versa;
- (k) words importing a gender include any other gender;
- (l) a reference to a clause is a reference to a clause or subclause of this Agreement;
- (m) a reference to a subclause is a reference to a subclause of the clause in which that reference is made;
- (n) the recitals to this Agreement do not form part of the Agreement; and
- (o) any term which purports to bind or benefit two or more persons binds or benefits them jointly and severally.

1.26 Any schedules and annexures form part of this Agreement.

2. **AGREEMENT**

2.1 The terms and conditions of this Agreement apply to and govern your Use of the Pre-Place Resources. Your Use of the Website is governed by the general Website terms and conditions located at www.pre-place.com.

2.2 Notwithstanding clause 2.1, the Privacy Policy located in the Website terms and conditions applies to our collection and use of your Personal Information under this Agreement.

2.3 By executing this Agreement, you will be deemed to have read and agreed to the terms and conditions of this Agreement and the Privacy Policy.

2.4 This Agreement contains the entire agreement between you and Flinders with respect to its subject matter and supersedes all prior agreements and understandings between you and Flinders in connection with it.

2.5 No amendment or variation of this Agreement is valid or binding on you or on Flinders unless it is made in writing and executed by you and by Flinders.

3. **PLATFORM PROVIDERS**

3.1 You acknowledge your Use of the Pre-Place Resources may be subject to the terms and conditions of other companies which are not parties to this Agreement.

3.2 The Software operates on both Moodle and Blackboard and, depending on the Platform Provider you choose, your Use of the Software will be subject to the applicable terms and conditions of your Platform Provider. Such terms and conditions are available from your Platform Provider and it is your responsibility to locate them and to read them.

4. **COMMENCEMENT DATE**

4.1 This Agreement is effective on and from the date we receive from you:

- (a) your executed copy of this Agreement; and
- (b) your Licence Fee paid full in accordance with clause 6.

4.2 This Agreement will remain in effect unless it is terminated in accordance with its terms and conditions.

5. **LICENCE**

5.1 Subject to clause 4.1, we hereby grant you a non-exclusive, non-transferable and world-wide Licence to Use the Pre-Place Resources in accordance with this Agreement.

5.2 Your Licence may be Used by an unlimited number of users within your institution.

5.3 You will be given access to the Pre-Place Resources pursuant to the Licence in clause 5.1 by way of a Pre-Place Download Key; this will be created for you by us. Your Pre-Place Download Key will consist of a customer name and password. You must keep your customer name and password confidential and secure until you use it. Once the Download Key is used by you, it may not be used again.

5.4 You must not sell or otherwise transfer your Licence to a third party, or assign any of your rights or obligations under this Agreement without our prior written consent.

6. **PAYMENT AND GST**

6.1 In this clause 6, words and expressions which are not defined in this Agreement but which have a defined meaning in the GST Law have the same meaning as in the GST Law.

6.2 You must pay the Licence Fee to us and this amount includes any GST or other taxes or levies arising from or in connection with this Agreement or which are required to be paid by law.

6.3 We will provide you with a valid tax invoice in a form prescribed by the GST Law.

6.4 You must pay the Licence Fee by electronic transfer of funds (or such other method of payment nominated by Flinders) within thirty (30) days of Flinders' invoice being issued. Your payment of the Licence Fee must be made into the account nominated by Flinders in writing from time to time. All amounts owing in respect of the Licence Fee must be paid in full by you without any set off, withholdings or deductions.

6.5 We may in our absolute discretion charge you an accrued interest rate of 2% per annum in excess of the current Corporate Overdraft Reference Rate (monthly) published by the Commonwealth Bank of Australia on any outstanding Licence Fee amounts or any other accrued fees owing.

6.6 We may charge you for any costs incurred in connection with any misuse, fraud or reversed transactions arising from or connected to your payment of the Licence Fee.

6.7 If we appoint a collection agency to collect any outstanding debts then you indemnify us in relation to any costs incurred in collecting any overdue or unpaid Licence Fee, or any other accrued fees owing, under this Agreement.

- 6.8 Where a Party is required under this Agreement to pay or reimburse an expense or outgoing of another Party, the amount to be paid or reimbursed by the first Party will be the sum of:
- (a) the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other Party, or to which the representative member for a GST group of which the other Party is a member, is entitled; and
 - (b) if the payment or reimbursement is subject to GST, an amount equal to that GST.

7. YOUR OBLIGATIONS

- 7.1 You must create or maintain appropriate technical and administrative measures to protect the Pre-Place Resources from any unauthorised Use. You must inform us immediately if you become aware or suspect that an unauthorised person has Used or is Using the Pre-Place Resources.
- 7.2 You must Use the Pre-Place Resources in accordance with:
- (a) the terms and conditions of this Agreement;
 - (b) any relevant legal requirements, regulations and codes; and
 - (c) any reasonable instructions we give you by notice from time to time.

8. PRIVACY

- 8.1 Flinders is committed to complying with all Privacy Laws in respect of your Personal Information and we will take all reasonable steps to ensure that your Personal Information is protected against unauthorised access, use or disclosure.
- 8.2 As stated in clause 2.2, the Privacy Policy of the Website terms and conditions applies to this Agreement. You may contact us at info@flinderspartners.com if you have any concerns.

9. CONFIDENTIAL INFORMATION

- 9.1 Each Party must:
- (a) keep the other Party's Confidential Information secret and confidential;
 - (b) use the other Party's Confidential Information solely for the purpose of performing its obligations or exercising its rights under this Agreement, or as otherwise expressly authorised in writing by the other Party;
 - (c) not directly or indirectly disclose, or allow to be disclosed, the other Party's Confidential Information to anyone;
 - (d) use at least the same degree of care to avoid disclosing the other Party's Confidential Information as it uses to protect its own Confidential Information; and
 - (e) inform the other Party immediately upon becoming aware or suspecting that an unauthorised person has become aware of any Confidential Information of that Party.
- 9.2 Each Party is permitted to disclose the other Party's Confidential Information:

- (a) to its Representatives who have a need to know the Confidential Information in order to perform the Party's obligations under this Agreement, provided that such Representatives are aware of the confidential nature of the Confidential Information and are bound by equivalent contractual obligations of confidentiality;
- (b) to such of its professional advisers as are strictly necessary for the purpose of this Agreement; and
- (c) where the Party is required by law or under the rules of any stock exchange to disclose the Confidential Information, provided that the Party gives the other Party reasonable advance notice and opportunity to object to the requirement to disclose such information or to obtain an appropriate order to protect its Confidential Information.

9.3 A Party is liable for any breach of confidentiality by any of its Representatives.

10. INTELLECTUAL PROPERTY

10.1 We own and this Agreement does not have the effect of transferring the ownership of the Intellectual Property of Flinders, which includes the Intellectual Property subsisting in the Pre-Place Resources.

10.2 You must not, and you must not permit any other person, to do any of the following things:

- (a) copy, duplicate, reproduce, adapt, modify, translate, republish, reverse assemble, reverse engineer, reverse compile, make derivative works of, make Improvements to, the Pre-Place Resources, except as expressly permitted by this Agreement or by law;
- (b) sell, resell, transfer, assign or sublicense the Pre-Place Resources;
- (c) alter, remove or tamper with any trademarks, patent or copyright notices or any other information used by or applied to the Pre-Place Resources; or
- (d) Use the Pre-Place Resources in a way that may infringe any third party's Intellectual Property rights.

10.3 Notwithstanding clause 10.2(a), you may customise the Pre-Place Resources to the extent necessary:

- (a) to personalise the Pre-Place Resources with your institution's name and logo;
- (b) to include links to your institution's information, or to other relevant information; and
- (c) to enable the Pre-Place Resources to operate within your institution's intranet.

10.4 In the event that we make or acquire any Improvements to the Pre-Place Resources, we will own all such Improvements and any Intellectual Property subsisting in them. We may grant you a right to Use the Improvements upon further terms and conditions.

10.5 You must not do any act, or assist any other person directly or indirectly to do any act, which would or may invalidate or result in a challenge to our Intellectual Property or which would in any way reduce the value of our Intellectual Property.

11. WARRANTIES, LIABILITY AND INSURANCE

- 11.1 Each Party warrants, undertakes and represents to the other Party that it has the necessary power and authority to execute, deliver and perform its obligations under this Agreement and to become bound by it and that all necessary corporate action has been taken to authorise the execution of this Agreement.
- 11.2 Flinders further warrants that the Software has been built, tested and packaged in Moodle (Version 2.3) and Blackboard Learn (Version 9.1). To the extent permitted by law, Flinders does not provide any other express warranties in relation to the Software.
- 11.3 To the extent permitted by law and except as expressly provided otherwise in this Agreement, Flinders excludes from this Agreement:
- (a) all conditions, warranties and terms implied by statute, general law, international convention or custom, except any implied condition or warranty the exclusion of which would contravene any statute, or cause this clause to be void (**Non-excludable Condition**);
 - (b) all liability to you in contract for consequential or indirect damages arising out of or in connection with this Agreement including without limitation, loss of profits and damage suffered as a result of claims by any third party;
 - (c) all liability to you for your Use or inability to Use the Pre-Place Resources for the intended purpose; and
 - (d) all liability to you in negligence for acts or omissions of Flinders or its Representatives arising out of or in connection with this Agreement.
- 11.4 Flinders liability to you or to any third party for any breach of any Non-excludable Condition is limited to (at Flinders option):
- (a) in respect of goods, repairing or replacing the goods, or refunding any amount paid for the goods; or
 - (b) in respect of services, performing the services again or refunding any amount paid for the services.
- 11.5 Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.
- 11.6 Flinders liability under this Agreement will be reduced to the extent that the loss or damage to you or to any third party was caused or contributed to by any act or omission of yours, or of any third party.
- 11.7 Notwithstanding anything to the contrary in this Agreement, and to the extent permitted by law, Flinders maximum liability for any cause of action in connection with this Agreement shall be limited to a total aggregate amount equal to the Licence Fee paid by you for the Pre-Place Resources in the twelve (12) months immediately preceding the claim.

- 11.8 Flinders will not be liable for, and any warranty under this Agreement will not apply to, any defects in or damage to the Pre-Place Resources arising from any of the following:
- (a) malicious conduct (including hacking and viruses);
 - (b) misuse, abuse or mishandling, including Use other than in accordance with any Use documentation provided by Flinders;
 - (c) any customisation by you;
 - (d) improper or faulty installation;
 - (e) improper maintenance or alteration, or maintenance or repair by anyone not expressly authorised by Flinders; and
 - (f) any Use or operation of the Pre-Place Resources by unauthorised persons.
- 11.9 You agree to indemnify and hold harmless Flinders against all expenses, losses, damages and costs (including legal costs) that Flinders may sustain or incur as a result, whether directly or indirectly, of:
- (a) any breach of this Agreement by you including, but not limited to, a breach of a warranty or a breach in respect of which Flinders exercises an express right to terminate this Agreement;
 - (b) any Use or misuse of the Pre-Place Resources by you or any of your Representatives;
 - (c) any claim by any person arising out of your Use of the Pre-Place Resources or Services; and
 - (d) any wilful, unlawful or negligent act or omission by you or your Representatives.
- 11.10 Each indemnity provided by you will be reduced to the extent the relevant liability was caused or contributed to by the wilful, unlawful or negligent acts or omissions of Flinders.
- 11.11 You must effect and maintain adequate insurance that a reasonable and prudent person or company would effect or maintain in the conduct of a business, enterprise or concern such as yours, and which will cover any liability you, Flinders or a third party may incur or suffer in connection with this Agreement.

12. **ACKNOWLEDGEMENTS**

- 12.1 Subject to any rights or remedies you may have under the CCA or any other legislation, you expressly acknowledge and agree that:
- (a) you have not relied on any representation made by Flinders which has not been stated expressly in this Agreement or upon any descriptions, illustrations or specifications contained in any document including catalogues or publicity material produced by Flinders;
 - (b) to the extent Flinders has made any representation which is not otherwise expressly stated in this Agreement, you acknowledge that you have been provided with an opportunity to independently verify the accuracy of that representation; and

- (c) any advice provided by Flinders with respect to the Use of the Pre-Place Resources is given in good faith but on the basis that Flinders assumes no obligation or liability for advice given or results obtained, and all such advice is given by Flinders and accepted at your risk.

13. SOFTWARE

13.1 You acknowledge and agree that:

- (a) the Software is provided "as is" and may have inherent defects, errors or deficiencies;
- (b) the Software is incomplete and requires further customisation by you;
- (c) where the Software operates in combination with certain third party applications, products and hardware, it is your responsibility to obtain such applications, products and hardware including all appropriate licences to use such applications, products and hardware;
- (d) Flinders does not warrant that your Use of the Software will be uninterrupted or error free (and the existence of any such errors or interruptions will not be a breach of this Agreement) or that the Software will meet your requirements;
- (e) your Use of the Software and any advice, opinions or information supplied by Flinders, its officers, employees or agents concerning the Software is solely at your own risk;
- (f) it is your responsibility to make your own assessment of the suitability of the Software for your intended purpose;
- (g) you will be solely responsible for the Use, supervision, management and control of the Software, including by conducting such virus scans that may be reasonably required from time to time to ensure that the Software is free from all known viruses, errors and defects; and
- (h) you must ensure that the Software is protected at all times from misuse, damage, destruction or any form of unauthorised Use.

13.2 Unless otherwise specified or agreed pursuant to a separate written agreement, Flinders will not be obliged to provide training, Improvements, updates, new releases or enhancements or otherwise, or to provide any hosting or other services in relation to the Use of the Software by you.

13.3 Flinders will nevertheless take reasonable commercial steps to support your initial Use of the Software, at no additional charge to you. If you require assistance in relation to your Use of the Software, please contact us at:

- (a) info@flinderspartners.com; or
- (b) +61(0)8 8201 7788, Aisha Sirop.

14. NOTICES

14.1 Any notice given by you to us under this Agreement must be in writing and signed by or for you and delivered by post, hand, fax or email to the relevant addresses specified below in clause 14.4.

14.2 Any notice given by us to you under this Agreement will be in writing and signed by or for us and delivered by post, hand, fax or email to the relevant addresses provided by you to us.

- 14.3 A notice or other communication is deemed given if:
- (a) personally delivered, upon delivery;
 - (b) mailed to an address in Australia, two (2) Business Days after the date of posting (whether received or not);
 - (c) mailed to an address outside Australia, five (5) Business Days after the date of posting (whether received or not);
 - (d) sent by facsimile, at the time of transmission provided that the sender's machine produces a transmission report confirming the successful transmission of the total number of pages of the notice; and
 - (e) sent by email, 24 hours after the email was sent, unless the Party sending the email knows or ought reasonably to suspect that the email was not delivered to the specified email address.

14.4 Addresses for notices to Flinders:

Name: Flinders Partners Pty Ltd

Postal Address: Box 9, Mark Oliphant Building, Laffer Drive,
BEDFORD PARK SA 5042

Attention: Aisha Sirop

Facsimile: +61 8 8201 7888

Email: info@flinderspartners.com

15. **TERMINATION**

- 15.1 Your Licence in clause 5.1 is conditional upon your continued compliance with this Agreement.
- 15.2 We may terminate the Licence and this Agreement and/or block, suspend or modify your Use of the Pre-Place Resources in the event:
- (a) you breach a term or condition of this Agreement and you do not remedy the breach within ten (10) Business Days of being notified by us of the breach. We will not be liable to you or to any third party if we exercise such rights; or
 - (b) you breach a term or condition of this Agreement and your breach is not capable of remedy. We will give you ten (10) Business Days' notice of such breach.
- 15.3 Notwithstanding clause 15.2, we may terminate the Licence and this Agreement and/or block, suspend or modify your Use of the Pre-Place Resources at any time and without notice in the event we form the reasonable view that you have breached clause 7.1, clause 7.2(b) or clause 10 of this Agreement.
- 15.4 You may terminate this Agreement if:
- (a) we breach a term or condition of this Agreement and we do not remedy the breach within ten (10) Business Days of being notified by you of the breach; or

(b) a Force Majeure continues for a period of sixty (60) days.

15.5 Termination of this Agreement does not affect the accrued rights and remedies of the Parties.

15.6 The rights and obligations under clauses 7, 9, 10, 11, 13, 14, 16, 18, 19 and this clause 15 survive the termination of this Agreement.

16. **DISPUTE RESOLUTION**

16.1 If any dispute or difference arises in connection with this Agreement, then the Parties shall negotiate in good faith, using their best endeavours, to resolve the dispute or difference in accordance with this clause 16 before initiating any court proceedings.

16.2 If the Parties cannot resolve a dispute within ten (10) Business Days of one Party notifying the other of the existence of the dispute, the Parties shall mediate the dispute as follows:

(a) by agreeing the appointment of a mediator within five (5) Business Days;

(b) if the Parties cannot agree on the identity of a mediator within the time frame referred to in clause 16.2(a), the mediator is to be appointed by the President of the Law Society of South Australia or the President's nominee within five (5) Business Days thereafter;

(c) the mediation is to be held within ten (10) Business Days of the appointment of the mediator; and

(d) the Parties will pay equal shares of the mediator's fees.

16.3 If the mediation does not proceed within the agreed timetable or is not successful in resolving the dispute, the Parties shall be entitled to refer the dispute to an appropriate Court or Tribunal in South Australia.

16.4 Nothing in this clause prevents a Party from seeking urgent interlocutory relief.

17. **FORCE MAJEURE**

17.1 Neither Party (**affected Party**) will be liable for any delay or failure to perform its obligations pursuant to this Agreement if such delay is due to Force Majeure.

17.2 If a delay or failure of the affected Party to perform its obligations is caused or anticipated due to Force Majeure, the performance of its obligations will be suspended.

17.3 The affected Party must use all reasonable diligence and all reasonable means to remedy, abate, mitigate or minimise the effect of the Force Majeure.

18. **GOVERNING LAW**

18.1 This Agreement is governed by the laws of South Australia.

18.2 The courts of South Australia or the Federal Court of Australia (Adelaide Registry) have non-exclusive jurisdiction in connection with this Agreement.

18.3 The Parties submit to the jurisdiction of those Courts and any Courts which have jurisdiction to hear appeals from those Courts.

18.4 Notwithstanding clause 18.1, the Parties agree to exclude the operation of the *United Nations Convention on Contracts for the International Sale of Goods* adopted at Vienna, Austria on 10 April 1980.

19. **GENERAL**

19.1 No failure to exercise nor any delay in exercising any right, power or remedy by a Party operates as a waiver. A single or partial exercise of any rights, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the Party granting that waiver unless made in writing.

19.2 If any provision of this Agreement is prohibited, invalid or unenforceable in any jurisdiction, that provision will, as to that jurisdiction, be ineffective to the extent of the prohibition, invalidity or unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of that provision in any other jurisdiction.

19.3 Each Party agrees to do all things and sign all Agreements necessary or desirable to give full effect to the provisions of this Agreement and the transactions contemplated by it.

19.4 This Agreement may be executed in any number of counterparts (including electronic and facsimile counterparts) and all counterparts when exchanged will be taken to constitute one Agreement.

19.5 The relationship between the Parties is that of independent Parties and the Parties are not partners, joint venturers or principal and agent.

EXECUTED as an AGREEMENT

Executed for and on behalf of **FLINDERS PARTNERS PTY LTD as agent for FLINDERS UNIVERSITY** by:

Executed for and on behalf of **[Insert company name]** by:

Signature Director/Secretary

Signature Director/Secretary

Print Name

Print Name

Date

Date

Signature Director

Signature Director

Print Name

Print Name

Date

Date

Witnessed by:

Witnessed by:

Signature

Signature

Print Name

Print Name

Date

Date