

1. This Agreement

This Agreement sets out the terms on which we will provide the Services and Deliverables to you. You are a party to, and are bound by, the terms of this Agreement.

2. Term

This Agreement starts on the date you sign and return the Agreement to us. Unless it is terminated earlier under the specific provisions within Section 11, this Agreement terminates when we have completed providing the Services and Deliverables to you and you have paid us our Fees.

3. Our Services and Deliverables

3.1 We will provide the Services and Deliverables to you in accordance with this Agreement and with the degree of skill, care and diligence expected of a professional providing services and deliverables of the same kind.

3.2 The Services and Deliverables may include advice and recommendations, but all decisions relating to the advice and recommendations shall be the responsibility of and made by you.

3.3 The Services may include the ability to access an SMC provided secure software evaluation Platform to view information related to the provision of these Services. There may be additional terms associated with the provision of, and access to this Platform.

3.4 We will use all reasonable efforts to complete the Services within any agreed time frame, changes to the timeframe will need to be addressed through a variation to this agreement.

3.5 Services will be performed at our offices, remotely at our staff's residences, and when agreed at your offices.

4. Our Team

4.1 Each of us agrees that, during the term of this Agreement and for a period of twelve months after it ends, neither of us will directly or indirectly employ or contract any Representative of the other who is involved with the Services and Deliverables. A fee of \$40,000 will be payable to the other party in the event that this term is breached.

5. Confidentiality

5.1 Each of us agrees to protect and keep confidential any Confidential Information that is given to us by the other.

5.2 A party shall not, without the prior written approval of the other party, disclose the other party's Confidential Information.

5.3 Each party shall take all reasonable steps to ensure that its employees and any sub-contractors engaged for the purposes of the Agreement, do not make public or disclose the other party's Confidential Information.

5.4 We will return your Information to you at any time at your request. We may also destroy it if you ask us to. However, we are entitled to retain a copy of any Information you provide to us or which forms part of our Work or our Working Papers, provided that we will continue to keep this Information confidential in accordance with this Agreement.

5.5 This clause shall survive the termination of this Agreement.

6. Intellectual Property

6.1 We will retain ownership of the Intellectual Property in our Work. We give you a royalty-free, non-exclusive, perpetual, world-wide licence to use and reproduce any Deliverable for the Purpose for which the Deliverable was prepared and any related incidental internal purposes in accordance with the terms of this Agreement.

6.2 You acknowledge that reuse of our methodology or deliverables to facilitate similar projects with different scope will incur a fee. This fee will be \$5,000 and payable immediately. This includes, but not limited to, BPI, DTB, Analyse and Blueprint, Select and Negotiate, IPR, Plan and Prepare and Implement and Embed projects.

6.3 You acknowledge and agree that nothing herein shall be deemed to grant you any ownership, license, or other proprietary rights namely with respect to the software, knowledge bases, and solutions. Without limiting the generality of the foregoing, you may not modify, copy, distribute or create derivative works of the information provided by us or through a secure software evaluation Platform utilised by SMC herein without our express written consent.

6.4 You give us permission to add your logo on our Work, in our introduction presentation and proposals and on our website. We will follow your brand/logo guidelines. We may also describe the Services we provided to you generally as a credential. We will seek your consent if a prospect wishes to conduct a reference call.

7. Our Work

7.1 Our Work is for your exclusive use and must be used only by you and only for the purpose of this agreement.

7.2 You acknowledge that the final copy of our Deliverable is the definitive version.

7.3 Unless we give our consent, our Work must not be used or disclosed for any other purpose or made available to any other party or person.

8. Our Fees

8.1 The Fees and the basis on which they are calculated are set out in this Agreement. We may review the Fees where:

(a) an Unexpected Delay occurs;

(b) there is a change in the scope of the Services we agreed to provide to you; or

(c) you do not accept this Agreement within the validity period; or

(d) at 1 July each year we will examine market rates for similar professional services, and suggest a % increase to rates that is no higher than 5% and your approval will not be unreasonably withheld.

8.2 You agree to pay us the Fees for the Services and Deliverables in accordance with this Agreement.

8.3 Unless we state otherwise, our Fees exclude GST. You agree to pay any GST imposed on us, now or in the future, in relation to this Agreement. Where GST is payable on any taxable supply made under this Agreement, you agree that the Fee payable for this supply will be increased by an amount equivalent to the GST payable by us in respect of that supply.

8.4 We will invoice you upon signing the engagement agreement for IBM Blueworks Live Licences; Business Process Intellectual Property; and access to the SMC Software Evaluation Platform for the duration stated in the agreement. This initial invoice must be paid before on-line access can be granted.

8.5 We will charge you at cost for any expenses we incur in providing the Services to you by prior agreement. Expenses include airfares, accommodation, Ubers/taxis, parking, km allowance, telephone, meals or per diems.

8.6 Our employees fly flexible economy class for travel within Australia. If a director, is required on site, and authorised by you, they will travel business class.

- 8.7 Travel time to your site and return is chargeable at half the hourly rate (excluding GST) for each of our resources required on site and will be used whenever possible for project related work.
- 8.8 We will charge a minimum of two hours per Solution Minds Consulting consultant for meetings held at any of your site locations, which includes preparatory work and travel time.
- 8.9 We will invoice you fortnightly, or upon the completion of a major deliverable or phase, the relevant Fees, and you agree to pay our invoice within 7 days. You agree to pay any undisputed portions of an invoice even if there is a dispute between us about that invoice or another invoice. Where amounts remain due and unpaid we may charge you interest at an annual rate of 2% over the Bank Bill Swap Rate published in the Australian Financial Review on the date payment is due plus any debt collection fees incurred by us.
- 8.10 Without limiting any other rights we may have, we are entitled to suspend or terminate the Services, in whole or part, or to retain or withhold any Information we may hold in relation to the Services or any Work we have done for you if you do not pay our invoices on time.
- 8.11 You have a right to withhold money if we fail to deliver the Services and Deliverables in accordance with this Agreement.
- 8.12 The performance fee relating to selections regardless of who is involved in the contract or commercial negotiations and the effort of the respective parties, the performance Fee will be payable as stipulated in the SMC proposal and calculated as per the SMC negotiation calculation tool.

9. What you agree to do

- 9.1 You agree to co-operate with us and provide us with all reasonable and necessary assistance so that we can provide the Services to you. This includes providing us with timely and reasonable access, as appropriate, to your premises, facilities, Information and Representatives.
- 9.2 In addition to any responsibilities, you may have that are set out in the Proposal, you are responsible for:
- (a) the performance of your Representatives;
 - (b) making timely decisions in connection with the Services;
 - (c) designating a competent Representative to oversee the Services;
 - (d) evaluating the adequacy of the Services, as they have been described in the Proposal, for your particular purposes and needs; and
 - (e) providing us with accurate and complete Information. Where any Information that we require in order to provide the Services is to be provided by someone else, you are responsible for ensuring that Information is provided to us. You will need to give us all Information that is relevant to the Services, even if the same Information has been given to us previously during another engagement.
- 9.3 You acknowledge that:
- (a) our ability to provide the Services and deliverables depends on you meeting your responsibilities under this Agreement and instructing us or responding to our requests in a timely and effective manner; and
 - (b) we are entitled to and will rely on Information provided by you, the decisions you make and any approvals you give.
- 9.4 You agree to make available to us in a timely manner (and in accordance with any timeframes which we have agreed) all assistance, including your Representatives, Information,

facilities, and equipment reasonably required by us in order to fulfil the Services.

10. Unexpected Delay

- 10.1 We are not responsible to you or anyone else for any failure in providing the Services or Deliverables caused by an Unexpected Delay as a result of a delay caused by you and any of your Representatives or any other 3rd party delay. We will tell you if there is a delay that will affect the Services and Deliverables and the cause of the delay, if known. You acknowledge that this Agreement will be varied to include any change to the scope of the Services and Deliverables, the Fees or the timeframes for completion of the Services and Deliverables if any delay requires it, under the mechanism outlined within Section 10.3.
- 10.2 If we are required to perform additional services because of an Unexpected Delay, then this Agreement will also be varied to include those additional services and any additional Fees that apply.
- 10.3 Where Clause 10.1 applies, and this delay event results in additional costs to us in performing the Services under this Agreement, we will notify you accordingly and both parties will discuss and agree an amendment to the Fees in good faith payable by you to reflect the actual and additional costs incurred by us as a result of the Unexpected Delay.
- 10.4 Where you choose unilaterally to delay the agreed project schedule for any reason then the following applies:
- (a) Activities for the next 2 business days, 100% of scheduled time will be invoiced; and
 - (b) Activities scheduled for the next 3-7 business days will be invoiced at 50%; and
 - (c) Activities scheduled for the following 8-14 business days will be invoiced at 25%.

Unless all parties agree commercially otherwise.

11. Termination

- 11.1 Either party may terminate this Agreement at any time by giving thirty (30) days written notice to the other party.
- 11.2 We may terminate this Agreement immediately if you fail to meet any of your obligations under this Agreement including to pay our Fees within the time specified, and in particular any serious or material breaches of this Agreement, including but not exclusive to Sections 5 and 6.
- 11.3 If this Agreement is terminated you agree to pay us the Fees for any work we have done and work that has been planned during the 30 day notice period, plus any expenses we have incurred up to termination.

12. Insurance

We will maintain appropriate insurance in relation to the Services, including professional indemnity insurance in an amount of not less than \$2.5 million during the term of this Agreement.

13. Limitation on Damages

You agree that Solution Minds Consulting shall not be liable to you for any actions, claims, damages, liabilities, costs, expenses, or losses in any way arising out of or relating to the Services and Deliverables for an aggregate amount in excess of the fees paid by you to Solution Minds Consulting under this Agreement in the preceding three month period.

14. Entire agreement

- 14.1 This Agreement is the entire agreement between us for the Services. It supersedes all prior communications,

negotiations, arrangements and agreements, either oral or written between us in relation to its subject matter.

14.2 Any changes to this Agreement must be agreed to in writing by both of us.

15. Assignment

Neither of us may transfer, assign or novate this Agreement without the Consent of the other.

16. Severability

If any of the terms of this Agreement are not legally enforceable then that term or the relevant part of it will be either amended as appropriate to make it enforceable or ignored, but in all other respects this Agreement will have full effect.

17. Governing Law

This Agreement is governed by the Laws of Western Australia and each party irrevocably submits to the jurisdiction of the courts exercising jurisdiction in that State.

18. General

18.1 A waiver by one of us of a breach by the other party of any term of this Agreement does not operate as a waiver of another term or a continuing breach by the other of the same or any other term of this Agreement.

18.2 To the extent permitted by Law, we disclaim all warranties, either express or implied, in relation to the Services and the Work other than any written warranty made in the Terms.

18.3 The rights and remedies in this Agreement are cumulative and not exclusive of any rights or remedies provided by Law.

19. Reading this Agreement

In this Agreement:

(a) headings are for convenience only and do not affect how this Agreement is interpreted;

(b) the singular includes the plural and conversely;

(c) the word person includes an entity, a firm, a body corporate, an unincorporated association or an authority;

(d) an Annexure forms part of this Agreement; and

(e) if there is any conflict between these Terms and any other part of this Agreement, the following order of priority will apply:

(i) the Proposal;

(ii) the Standard Terms of Business

20. Definitions

In this Agreement the following words have the meanings set out below:

A&B means Analyse and Blueprint.

Addresses means each person to whom the Letter is addressed and includes, where relevant, any additional parties who may agree to the terms of this Agreement.

Agreement means this Agreement including the Standard Terms of Business.

Annexure means a document which is attached to the Agreement and identified as an annexure or attachment.

BPI means Business Process Improvement.

DTB means Digital Transformation Blueprint.

Confidential Information means and includes:

(a) the terms of this Agreement and the details of the Services;

(b) any information which is proprietary to a party or acquired by either of us solely as a result of the Services;

(c) any Intellectual Property and methodologies and technologies that:

(i) you use in your business, and to which we are exposed in the course of providing the Services; or

(ii) we use to provide the Services;

(d) any information designated as confidential by either of us;

(e) any Work we provide to you; and

(f) information relating to either party including:

any clients, customers or suppliers;
business, sales or marketing strategies;
any financial, commercial, technical or operational information; and

any trade secrets and intellectual property or any products, processes, know-how, designs, formulas, methodologies, developmental or experimental work, computer programs, data bases or other original works of authorship,

but excludes any information that:

(a) is or becomes publicly available, except by a breach of this Agreement;

(b) is disclosed to either of us by a third party provided that the recipient reasonably believes the third party is legally entitled to disclose such information;

(c) was known to either of us before we received it from the other or is developed by either of us independently;

(d) is disclosed with the other's Consent;

Consent means prior written consent which may be granted at the consenting party's discretion and which may be subject to conditions.

Deliverables has the meaning given to it in the Agreement or where the Agreement does not set out a specific deliverable, means any final form documents or reports we provide to you as a result of the Services or this Agreement including those consisting of advice or opinions.

Information means any information, documents, materials, facts, instructions or Confidential Information provided to us by you or your Representatives.

Intellectual Property means all industrial and intellectual property rights throughout the world and includes rights in respect of copyright, patents, trademarks, designs, trade secrets and know-how.

IPR means Implementation Planning & Readiness

Letter means a document or proposal or statement of work prepared by us that articulates in writing the nature of the proposed Services and/or Deliverables to be delivered to you.

Platform means a secure software evaluation platform utilised, owned and/or licenced by SMC that may be used in the provision of the Services to you.

P&P means Plan and Prepare

Professional Advisers means your professional advisers who are advising you in relation to the Services

Purpose has the meaning given to it in the Letter or our Work, or where silent on this, the purpose for which we provide our Work to you.

Representative means the proposed employees, contractors, associates, etc. that you or we provide to assist in the delivery of the Services and Deliverables for the purposes of our Work

Services means the services described in the Letter.

Terms means these standard business terms.

Unexpected Delay means any delay in providing the Services that is caused or contributed to by an act or event (including the non-performance of your responsibilities) that is beyond our control or was not reasonably foreseeable by us at the date of this Agreement.

us means Solution Minds Consulting, or both you and Solution Minds Consulting, as the context requires.

we and **our** means Solution Minds Consulting.

Work means any advice or materials including any reports, documents, advice, opinions, e-mails, notes or other deliverables, whether in draft or final form, in writing or provided orally, that we prepare either alone or in conjunction with you or provide to you as a result of this Agreement.

you and **your** means each Addressee to whom the Letter and these Terms of business are addressed.