Uniting

Terms and Conditions of Purchase Order

1. DEFINITIONS.

In these *Terms and Conditions* (as defined below): '***Agreement***' means the *Order*, including any document referred to therein, together with these *Terms and Conditions* and (subject to clause 2(a)) any *Other Agreement*. '***Data Breach***' means any incident where information, including Personal Information, held by the Supplier is subject to inadvertent or unauthorised disclosure, access, modification, misuse, loss or interference. '***Deliverables***' means the *Goods* and/ or *Services* stated in the *Order* and any other obligations under and reasonably contemplated by the *Agreement*. '***Fee***' means the fee or price for performance of the *Deliverables* identified or calculated in accordance with the *Order* and includes all costs and expenses incurred in the supply, including travel and delivery charges and consumables and the costs referred to in clause 8(a) (if applicable), unless otherwise stated. ' ***Goods***' means the products, goods, consumables and/or materials to be supplied under the *Agreement*. '***Licence***' means a licence, qualification, permit or registration issued or granted by a government agency or professional body or any statutory requirement, necessary for the supply of the *Goods* or *Services,* including, where relevant, a current National Criminal History Record Check and a Working with Children Check under any applicable legislation. '***Modern Slavery Act***' means the *Modern Slavery Act 2018* (Cth) including any regulations or statutory instruments relating to that legislation. '***Modern Slavery Practices***' means all conduct or practices that would constitute: (a) an offence under Divisions 270 and 271 of the Commonwealth Criminal Code (or that would constitute an offence if the conduct or practices had occurred in Australia) including, without limitation, slavery, servitude, forced labour, human trafficking, debt bondage, slavery-like practices, forced marriage and deceptive recruiting for labour or services; (b) trafficking in persons, as defined in Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, done at New York on 15 November 2000 [2005] ATS 27; or (c) the worst forms of child labour as defined in Article 3 of the ILO Convention (No. 182). '***Order***' means the Coupa purchase order form specifying the supply of *Goods* or *Services* to which these *Terms and Conditions* apply. '***Other Agreement***' has the meaning given in clause 2(a). '***Personal Information***' has the meaning given to that term in the *Privacy Act 1988* (Cth). '***Personnel***' means employees, officers, agents and subcontractors. '***Services***' means any services or works to be supplied under the *Agreement.* '***Special Conditions***' means any additional terms and conditions set out in any relevant annexure to these *Terms and Conditions* (which form part of these *Terms and Conditions*). '***Supplier***' means (except in clause 16) the party engaged to supply *Goods* and/or *Services* under the *Agreement.* '***Terms and Conditions***' means these 'Terms and Conditions of Purchase Order', and includes any schedules, annexures or other attachments hereto. '***Uniting***' means Uniting (Victoria and Tasmania) Ltd (ABN 81 098 317 125), the organisation requesting *Goods* and/or *Services* under the *Agreement*.

2. GENERAL.

(a) If the *Supplier* and *Uniting* enter into any other agreement or contract covering the supply and/or performance of *Deliverables* by the *Supplier* (that other agreement or contract being the '***Other Agreement***'), then the supply and/or performance of *Deliverables* is governed by both these *Terms and Conditions* and the *Other Agreement*, with the intention being that these *Terms and Conditions* cover any matter not expressly addressed by the *Other Agreement*, and accordingly (but subject to clause 2(c)), to the extent there is any conflict or inconsistency between the *Other Agreement* on the one hand, any other part of the *Agreement* (including these *Terms and Conditions*) on the other, the *Other Agreement* prevails.

(b) The *Supplier* acknowledges and agrees that by performing, or commencing performance, of the *Deliverables,* it accepts the *Agreement* as the sole basis for the supply of the *Deliverables* and that the *Agreement* overrides (and operates to the exclusion of) any terms and conditions provided on behalf of the *Supplier* (including, without limitation, any terms and conditions appearing in or on any docket, invoice or other documentation of the *Supplier*) to *Uniting.*

(c) Notwithstanding anything to the contrary contained in the *Other Agreement* (if any), the *Agreement* (comprising, for the avoidance of doubt, all of its constituent parts and documents) contains the entire understanding and agreement of the parties about the supply and/or performance of *Deliverables* by the *Supplier* (such sale and supply being the '***Subject Matter***'), and supersedes, terminates and replaces all prior representations, negotiations, agreements, arrangements, understandings and other communications between or involving the *Supplier* and *Uniting* about the *Subject Matter*.

(d) To the extent of any inconsistency between the documents constituting these Terms and Conditions, and notwithstanding anything else to the contrary in those documents, the following order of precedence will apply:
  (i) the *Special Conditions*;
  (ii) the balance of these *Terms and Conditions* (excluding the *Special Conditions* and any schedules, annexures or other attachments hereto); and
  (iii) any schedules, annexures or other attachments hereto (excluding the *Special Conditions*).

(e) The Agreement may be varied only by written agreement between the parties.

3. INVOICES AND PAYMENT.

Uniting will pay the *Supplier* the *Fee* for the *Deliverables* performed in accordance with the *Agreement*, within 30 days of the date of a valid tax invoice from the *Supplier*. If the *Fee* is disputed in whole or in part, payment of the disputed amount will be withheld until the parties agree a resolution. All invoices must quote the *Order* number and *Uniting* contact person and provide details of the *Deliverables* supplied, including details of time worked if charged on a time costing basis. Invoices must be in PDF and are to be forwarded to the address on the *Order or may be e-mailed to invoices@vtuniting.coupahost.com*. The price on the invoice must show the amount owing ex-GST, the GST component and a total price inclusive of GST. The *Fee* as stated on the *Order* is firm and cannot be varied except with the prior written consent of *Uniting. Uniting* may deduct from any amount owing to the *Supplier* any amount which is payable by the *Supplier* to *Uniting.*

4. PERFORMANCE.

In carrying out the performance of the *Deliverables*, the *Supplier* must:

(a) perform its obligations under the *Agreement* with due care and skill and to a professional standard and quality ;

(b) ensure its *Personnel* are appropriately qualified, skilled and supervised;

(c) obtain, maintain and thereafter comply with, all necessary *Licences*, and if requested by *Uniting,* provide copies of such *Licences* to *Uniting;*

(d) comply with all applicable laws, statutes and regulations relating to the supply of the *Deliverables* and relevant *Licences*;

(e) comply with reasonable directions made by *Uniting* (including providing any requested information concerning the Supplier's compliance with the *Agreement*) and *Uniting*'s policies and procedures as notified to the *Supplier* from time to time;

(f) minimise any interference with occupiers or users of the site to which the *Deliverables* relate;

(g) ensure the *Goods* and/ or *Services* conform to any relevant specifications, be undertaken in accordance with any relevant Australian standards, be fit for the intended purpose, be new (unless otherwise agreed), be of merchantable quality and free from any defect in design, materials and workmanship for a minimum of twelve months or for the period of warranty specified in any manufacturer warranty or guarantee (whichever is longer);

(h) observe at all times safe work practices when supplying the *Goods* or *Services* and take all steps necessary to protect the safety of others from risks caused by the performance of the *Deliverables*, including complying with the requirements of the *Occupational Health and Safety Act* 2004 (Vic) and associated regulations.

(i) comply with the *Modern Slavery Act* 2018 (Cth) and shall take reasonable steps to ensure that there is no Modern Slavery (as that term is defined in section 4 of that act) in the Supplier's business or its agents' or contractors/ sub-contractors supply chains.

5. DELIVERY.

The *Supplier* shall provide a delivery docket with each delivery of *Goods*. All delivery dockets must quote the *Order* number. All *Goods* shall be suitably packed to ensure they are delivered in good condition to the address on the *Order*. Time is of the essence for any supply under the *Agreement*. Where the *Goods* and/ or *Services* are not received by the due date, *Uniting* has the right under clause 14 to cancel the *Order* in respect of all or part of the incomplete supply and pay only for the supply received. Where the *Supplier*'s inability to supply on time is due to causes beyond its control, the *Supplier* may request an extension of time which will be considered by *Uniting*, acting reasonably.

6. TITLE AND RISK IN GOODS.

Title to *Goods*, free of encumbrances and other adverse interests, shall pass to *Uniting* upon payment. Risk in *Goods* remains with the *Supplier* until the *Goods* have been delivered to (or where appropriate, installed at) the location specified in the *Order* and expressly accepted by *Uniting*.

7. DEFECTS.

The *Supplier* must, promptly at its cost, make good any defects, errors or omissions in the *Deliverables* (which may include replacement of the *Deliverables*) when directed to do so by *Uniting*. *Goods* delivered in error, defective or otherwise failing to comply with the *Agreement*, shall be returned to the *Supplier* at the *Supplier's* expense. In relation to Goods, if the *Supplier* fails to promptly make good the defective Deliverables or provide a replacement to the reasonable satisfaction of *Uniting*, *Uniting* may in its sole discretion procure replacement goods from any other supplier and the associated costs of the replacement goods shall be moneys due and payable by the *Supplier* to *Uniting*. In relation to *Services*, if the *Supplier* does not promptly re-supply the *Services*, *Uniting* may have that work carried out by others and the costs thereby reasonably incurred are moneys due and payable by the *Supplier* to *Uniting*. Any costs, expenses or loss incurred by *Uniting* under this clause may be set off against any *Fee* paid and/or payable by *Uniting* to the *Supplier*.

8. SECURITY.

(a) If required by *Uniting*, the *Supplier* agrees to provide security for the *Supplier's* performance of *Deliverables* and its other obligations under the *Agreement* in an amount equal to 10% of the aggregate *Fee* (or such other

amount as provided by the *Order*) in accordance with clause 8(b) ('***Security***'). Any and all costs associated with the provision of the *Security* will be deemed to be included in the *Fee*.

(b) The *Supplier* may, at *Uniting's* discretion, provide *Security* by either:
  (i) agreeing that *Uniting* retains and withholds from the *Fee* payable by *Uniting* an amount equal to the amount of the *Security* in cash; or
  (ii) providing to *Uniting* single or multiple unconditional bank guarantee(s) for the required amount of the *Security*.

(c) If the *Security* constitutes a 'security interest' under the *Personal Property Securities Act 2009* (Cth) ('***PPSA***') which may be 'perfected' under the *PPSA* by registering the security interest on the Personal Property Securities Register, the *Supplier* agrees that *Uniting* may so register that security interest. The *Supplier* waives its rights to receive any notice that is required by any provision of the *PPSA* (including a notice of a verification statement).

(d) *Uniting* may have recourse to the *Security* only where the *Supplier* has committed a breach of its obligations under the *Agreement* and has failed to remedy that breach within 30 days' notice from *Uniting*.

(e) Within 30 days after the completion, performance or supply of all *Deliverables* by the *Supplier* in accordance with the *Agreement*, *Uniting* will either release any retained amounts under clause 8(b)(i), or return any bank guarantees provided under clause 8(b)(ii).

9. ICT SECURITY & DATA BREACH

(a) The *Supplier* must implement and maintain reasonable security measures to protect all information obtained in performing its obligations under the *Agreement*, including but not limited to:
  (i) implementing secure access controls and password protection;
  (ii) encrypting *Personal Information* where appropriate;
  (iii) ensuring secure storage and disposal of records containing information; and
  (iv) training *Personnel* in appropriate information handling procedures.

(b) The *Supplier* must not store, process or transmit any information obtained under the *Agreement* outside of Australia without the prior written consent of *Uniting*.

(c) The *Supplier* must immediately notify *Uniting* if it becomes aware of, or suspects, any *Data Breach* or potential *Data Breach*.

(d) Notification under clause 9(c) must be provided:
  (i) by telephone to *Uniting*'s contact person listed on the Order within 4 hours of becoming aware of the *Data Breach* or potential *Data Breach*; and
  (ii) in writing to *Uniting*'s contact person within 24 hours of becoming aware of the *Data Breach* or potential *Data Breach*.

(e) Written notification under clause 9(d)(ii) must include:
a description of the *Data Breach*, including when it occurred or was discovered;
  (i) the type and volume of information involved;
  (ii) the circumstances surrounding the *Data Breach*;
  (iii) the steps the *Supplier* has taken or proposes to take to contain and remediate the *Data Breach*; and
  (iv) contact details for further information.

(f) The *Supplier* must cooperate fully with *Uniting* in investigating and responding to any *Data Breach*, including providing all information reasonably requested by *Uniting* and implementing remedial measures as directed by *Uniting*.

(g) The *Supplier* must not notify any regulatory authority, affected individual or third party of any *Data Breach* without the prior written consent of *Uniting*, except where required by law.

10. MODERN SLAVERY

(a) The *Supplier* warrants that it will not engage in any form of *Modern Slavery Practices* or enter into a relationship with any party which engages in any form of *Modern Slavery Practices*.

(b) The *Supplier* shall provide any documentation to *Uniting* on request and if not requested then voluntarily, in relation to:
  (i) if any *Goods* are acquired by the *Supplier* from a manufacturer, the geographic location of the manufacturing facility and contact details of the manufacturer;
  (ii) if any *Goods* or *Services* (including labour) are acquired by the *Supplier* from a non-manufacturing entity, the location and contact details of that entity as well as any information it has in relation to the manufacturer as specified in clause 10(b)(i); and/or
  (iii) if any *Goods* or *Services* (including labour) are manufactured or performed 'in-house' by the *Supplier's* own factories, personnel or equipment, a statement of compliance with the *Modern Slavery Act*.

(c) If the *Supplier* detects an occurrence or risk of *Modern Slavery Practices* in its own operations or supply chain, it shall immediately disclose this occurrence to *Uniting* and take all reasonable steps to rectify the occurrence or mitigate the risk.

(d) *Uniting* has a right to disclose the information received from the *Supplier* in relation to this clause 10 to any entity to fulfil *Uniting's* own reporting requirements under the *Modern Slavery Act*.

(e) The *Supplier* will indemnify and hold harmless *Uniting* for and against any loss *Uniting* suffers (including with respect to brand damage or loss of reputation and any consequential damages) or liabilities or penalties due to any breaches of the *Modern Slavery Act*, or the engaging in any *Modern Slavery Practices*, by the *Supplier* or by any of its suppliers or subcontractors.

11. INDEMNITY.

The *Supplier* indemnifies *Uniting* and its *Personnel* from any claim (including without limitation costs, expenses and legal fees) arising from or in respect of (a) claims that the *Deliverables* infringe any intellectual property rights; (b) the failure of the *Supplier* to comply with any law or its obligations under the *Agreement*; or
(c) any personal injury to, or the death of, any person, or any loss of, or damage to, property (whether real or personal), insofar as that injury, death, loss or damage arises out of or as a consequence of the *Supplier's* (or its *Personnel's*) acts or omissions. The *Supplier's* liability and indemnity under this clause is reduced proportionately to the extent that any loss or damage is caused by a negligent act or omission of *Uniting* or its *Personnel*. *Uniting* holds the *Supplier's* indemnity on trust for, and for the benefit of, its Personnel.

12. CONFIDENTIALITY, PRIVACY AND IP.

(a) The *Supplier* (and its *Personnel*) must treat the *Agreement* and all information provided by or on behalf of *Uniting,* or obtained by the *Supplier* in the course of performing the *Deliverables*, as confidential and must not directly or indirectly disclose, divulge or communicate any confidential information to any other person without the prior written approval of *Uniting* expect where required by law.

(b) The *Supplier* must collect, use, disclose, store, retain and dispose of Personal Information (as that term is defined in the *Privacy Act 1988* (Cth) ('***Privacy Act***')) obtained in performing its obligations under the *Agreement* in accordance with the *Privacy Act* and *Uniting's* privacy policy, including protecting all Personal Information obtained during the course of performing its obligations under the *Agreement* against misuse and loss and from unauthorised access, modification or disclosure. The *Supplier* must immediately notify *Uniting* of any 'Eligible Data Breach' under the Privacy Act, or other possible breach or loss of such Personal Information.

(c) Any intellectual property rights in the *Deliverables* developed for *Uniting* vest in *Uniting* upon their creation and, to the extent that the intellectual property rights are not owned by *Uniting*, the *Supplier* grants *Uniting* a non-exclusive, perpetual and royalty-free licence to use the *Deliverables* and any pre-existing intellectual property rights in the *Deliverables*.

13. INSURANCE.

The *Supplier* shall obtain and maintain all applicable and appropriate insurances, (including without limitation, $20 million public liability in respect of any single occurrence, workers' compensation, vehicle, professional indemnity, cyber insurance and general commercial insurance) in an amount sufficient to cover the *Supplier's* liabilities under the *Agreement.* Any failure to provide *Uniting* with valid certificates of currency as evidence that the *Supplier* has obtained the insurance policies required by this clause 13 for the term of the *Agreement*, when requested to do so by *Uniting*, shall entitle *Uniting* to immediately terminate the *Agreement* without any liability whatsoever to the *Supplier*.

14. CONFLICT OF INTEREST.

The *Supplier* must avoid any actual or apparent conflicts between the *Supplier*'s interests and its duties to *Uniting* under the *Agreement* and, must immediately disclose to Uniting's contact person listed on the Order, the existence, nature and extent of any such conflict or potential conflict of interest. The Supplier must not do anything which may damage Uniting's name, brand or reputation. The Supplier agrees that it shall not publish any document or material using Uniting's name or logo without the prior written consent of Uniting.

15. TERMINATION.

(a) *Uniting* may terminate the *Agreement* or any *Order* without cause by giving notice in writing to the *Supplier* of at least 10 days' prior written notice of its intention to terminate. In that case *Uniting* will pay the *Supplier* for any *Deliverables* already performed or costs reasonably incurred.

(b) Notwithstanding the above clause 15(a), *Uniting* may immediately terminate the *Agreement* by notice in writing to the *Supplier* if:
  - the *Supplier* is in breach of a term or condition of the *Agreement* and fails to remedy such breach to the satisfaction of *Uniting* within 7 days after receiving written notice of that breach from *Uniting*;
  - commits a serious or persistent breach of any term or condition of the *Agreement*;
  - commits serious misconduct or engages in any fraudulent or dishonest conduct;
  - engages in any conduct which brings or may bring *Uniting* into disrepute;
  - is convicted of any criminal offence; or
  - has a receiver, receiver and manager, administrator, liquidator or other similar person appointed to it or any of its assets, is declared bankrupt, or enters into any composition or arrangement with or for the benefit of creditors generally.

(c) Any termination under this clause 14 or otherwise under the *Agreement* will be without prejudice to any other rights, remedies, obligations or liabilities that the parties have accrued up to the date of termination. Termination under this clause or otherwise pursuant to this *Agreement* by *Uniting* shall not give rise to any legal liability on the part of *Uniting* to pay any sum by way of compensation or damages to the *Supplier*.

16. ASSIGNMENT AND SUBCONTRACTING.

The *Supplier* must not transfer, novate, assign, create an interest in or deal in any other

way with its rights or benefits under the *Agreement* or subcontract any part of the *Deliverables* without the prior written consent of *Uniting*. Where *Uniting* gives written consent to the *Supplier* under this clause, *Uniting* may impose any conditions in its sole and absolute discretion. Where *Uniting* has given written consent for the *Supplier* to subcontract, the *Supplier* remains fully responsible for the acts and omissions of its subcontractors including any *Deliverables* provided by the subcontractors.

17. GOODS AND SERVICES TAX.

(a) Unless otherwise expressly stated, all fees, prices and other sums payable or *Consideration* to be provided under or in connection with the *Agreement* are exclusive of *GST*.

(b) If *GST* is imposed on any *Supply* made under or in connection with the *Agreement,* the *Recipient* of the *Taxable Supply* must pay to the *Supplier* an additional amount equal to the *GST* payable on or for the *Taxable Supply*, subject to the *Recipient* receiving a valid *Tax Invoice* in respect of the *Supply* at or before the time of payment. Payment of the additional amount must be made at the same time and in the same way as payment for the *Taxable Supply* is required to be made in accordance with the *Agreement.*

(c) If the *Agreement* requires a party (the '***First Party***') to pay for, reimburse, set off or contribute to any expense, loss or outgoing ('***Reimbursable Expense'***) suffered or incurred by the other party (the '***Other Party***'), the amount required to be paid, reimbursed, set off or contributed by the *First Party* will be the sum of:

- the amount of the *Reimbursable Expense* net of *Input Tax Credits* (if any) to which the *Other Party* is entitled in respect of the *Reimbursable Expense* ('***Net Amount***'); and
- if the *Other Party's* recovery from the *First Party* is a *Taxable Supply*, any *GST* payable in respect of that *Supply*,

such that after the *Other Party* meets the *GST* liability, it retains the *Net Amount*.

(d) In this clause 17, the expressions *Consideration*, *GST*, *Input Tax Credit*, *Recipient, Supply*, *Tax Invoice* and *Taxable Supply* have the meanings given to those expressions in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) ('***GST Act***') and *Supplier* means any party treated by the *GST Act* as making a *Supply* under the *Agreement.*

18. RELATIONSHIP.

The relationship between the parties under the *Agreement* is as independent contractors and does not involve any relationship of partnership, agency or employer and employee between the parties. The parties expressly deny any such relationship.

19. GOVERNING LAW.

The *Agreement* shall be construed in accordance with the laws of the State of Victoria, Australia and the parties submit to the jurisdiction of the courts of Victoria.

20. COUNTERPARTS AND ELECTRONIC SIGNING.

(a) The *Agreement* may be executed in any number of counterparts and all counterparts when exchanged will be taken to constitute one document.

(b) The *Agreement* may be signed electronically, and the parties agree that, for the purpose of the *Agreement*, the online electronic signing platform, DocuSign, is an appropriately reliable method for the electronic signing of the *Agreement*.