API SUPPLY AGREEMENT

DATED: 20 December 2023

BETWEEN

(**the "Customer"**)

AND

OpenAustralia Foundation Limited ACN 138 089 942 (**the "Supplier"**)

DATED: _____**20 December**_____ **2023**_____

BETWEEN: (the **"Customer"**);

AND   OpenAustralia Foundation Limited ACN 138 089 942 of 38 Surrey Road, Keswick SA 5035 (the **"Supplier"**).

Terms

These terms are a legal agreement ("Agreement") between OpenAustralia Foundation. ("OpenAustralia") and You for the use of the PlanningAlerts commercial API access services. By using the PlanningAlerts commercial API access services, You accept these terms. If You do not accept them, do not use the PlanningAlerts commercial API access services. You are bound by these terms even if You do not read all the terms. These terms replace all previous terms.

Additional Terms of Use are also laid out at https://www.planningalerts.org.au/api/howto#hBeNice. We may revise these additional terms from time to time.

1.   **THE ENGAGEMENT**

1.   The Customer has engaged the Supplier to supply the services that are described in the Item One of the Schedule (the **"Services"**) and the Supplier has agreed to supply the Services to the Customer.

2.   The parties acknowledge that the Service is provided "as is" and without warranties of any kind either express or implied. The Supplier does not warrant that the functions contained in the API will meet the Customer's requirements, be fit for the Customer's purpose, or that the operation of the API will be uninterrupted or free from errors.

3.   The parties acknowledge that the service is supplied on a non exclusive basis.

2.   **THE FEE AND PAYMENT**

1.   The Customer has agreed to pay the Supplier the sum (the **"Fee"**) set out in Item Two in the Schedule on terms of payment as set out in Item Three of the Schedule. The Fee excludes GST. The Supplier must issue a Tax Invoice for the Fee and the Customer must pay the Fee as provided in this clause or as provided in Item Two of the Schedule (if applicable).

2.   If for whatever reason the Customer does not pay the Fee when it becomes due, the Supplier may without being in breach of this Agreement suspend providing the Services until all outstanding payments of the Fee have been paid. If after the Supplier has requested payment the Customer refuses or fails to make such payment within seven (7) days of such request, then the Supplier may terminate this Agreement and cease providing the Services for the Customer.

3.   The Supplier must add and separately identify on each of its Tax Invoices all GST.

4.   The method of payment is set out in Item Three of the Schedule.

3.   **ATTRIBUTION**

1.   In exchange for the grant of rights to use the Data, the User agrees to recognise the source of all PlanningAlerts Information it publishes on the Site by:

    (a) publishing the phrase "data provided by PlanningAlerts" on each page where PlanningAlerts Information is displayed on the Site designed and/or operated by the User; and

    (b) causing the phrase "PlanningAlerts" on the Site to link to the   current PlanningAlerts website, which at the date of this Agreement is:

https://www.planningalerts.org.au, or any subsequent website address as advised by the Supplier.

4. TERM

1. Means the period twelve (12) months from the commencement of this Agreement or until either Party terminates the Appointment as provided in this Agreement.

5. BREACH BY SUPPLIER

1. If the Supplier breaches any of its contractual obligations under this Agreement and fails to remedy that breach promptly and in any event within seven (7) days, then the Customer may by written notice to the Supplier terminate this Agreement. Upon termination of the Agreement, the Customer is only obliged to pay the Supplier for the Services actually provided.

6. BREACH BY CUSTOMER

1. If the Customer breaches any of its contractual obligations under this Agreement and fails to remedy that breach promptly and in any event within seven (7) days of being requested by the Supplier to so remedy, then the Supplier may by written notice to the Customer terminate this Agreement. Upon termination of the Agreement, the Supplier has no obligation to continue to provide the Services. The Supplier shall be entitled, notwithstanding such termination, to claim as a debt owing any amount due to the Supplier on termination and claim damages in respect of any loss sustained by the Supplier including loss of profits resulting from the termination.

7. CONFIDENTIALITY

1. The Supplier undertakes to keep all information which it acquires from the Customer or about the Customer strictly private and confidential and must not disclose that information to any person without the Customer's prior written consent. Nothing in this clause prevents the Customer from fully using and enjoying the Services.

2. The Customer undertakes to keep all information which it acquires from the Supplier or about the Supplier's business strictly private and confidential and must not disclose that information to any person without the Supplier's prior written consent. The Customer must not use any information so acquired except for the proper purpose of conducting its business.

8. TERMINATION

1. Either party may terminate this Agreement at any time from the date of this

Agreement by giving to the other party one (1) month's prior written notice. On the expiry of that month (the "Termination Date") this Agreement will be at an end. The Supplier must be paid by the Customer up to and including the Termination Date.

9. STATUTORY WARRANTIES AND LIMITATION OF LIABILITY

1. All Statutory Warranties that can be expressly excluded are hereby excluded.

2. **EXCLUSION OF LIABILITY**

   To the maximum extent permitted by law, under no circumstances, including but not limited to negligence, will the Supplier be liable for any damages (including, without limitation, direct, indirect, special, consequential damages or any other pecuniary loss) that result from the use or inability to use the API even if the Supplier has been advised of the possibility of such damages.

3. **LIMITATION OF LIABILITY**

   If statute implies terms into this agreement that cannot lawfully be excluded, the liability of the Supplier to a Customer, for a breach of any such implied term is limited (at the Supplier's option) to:

   1. the resupply of the Services; or

   2. the payment of the cost of resupplying the Services.

EXECUTED BY THE PARTIES on the date first mentioned.

SIGNED BY COMPANY NAME **ABN** pursuant to Section 127 of the *Corporations Act* 2001 (Cth) in the presence of: _____ Signature of Witness Print Name:	)))))	_____ Director Print Name: _____ _____ Director/Secretary Print Name:
SIGNED BY **OpenAustralia Foundation Limited** **ACN 138 089 942** pursuant to Section 127 of the *Corporations Act* 2001 (Cth) in the presence of: _____ Signature of Witness Print Name:	))))	_____ Director Print Name: _____ Director Print Name:

SCHEDULE

1.   **SERVICES**

The Supplier will provide the following Services to the Customer:

Access to PlanningAlerts API (up to 5,000 requests per day) for commercial use including republishing of content on the **Customer's website**

The Supplier will link to the website of the Customer on a page dedicated to commercial users of the API either on OpenAustraliaFoundation.org.au or PlanningAlerts.org.au.

2.   **SUPPLIER FEES**

The Supplier will be paid the rate of **$ 3499 per month** plus GST.

3.   **COMMENCEMENT**

This agreement takes effect on **DATE**

4.   **TERMS OF PAYMENT**

The Customer and the Supplier have agreed to the following terms of payment:

The Customer shall pay the Supplier Fees to the Supplier on a monthly basis, in advance, subject to first receiving a Tax Invoice for those monthly payments. Payment Due in 14 days.