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## Parties

D Publishing ABN 65 090 395 690 of Level 6, 428 George Street, Sydney NSW 2000 (**D Publishing**)

Such person or persons (called an **Author**) who submit a work to D Publishing for publishing through the online publishing portal available at [www.dpublishing.com](http://www.dpublishing.com) (**Website**). For the purpose of this Agreement, the term 'Author' includes the Author's successors and assigns.

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## Recitals

- A. Author has written a book or other document (**Work**) and wishes to submit the Work to D Publishing for publication.
  - B. Author grants D Publishing the right to publish the Work if D Publishing, at its option, chooses to do so, on the terms set out in this Agreement.
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## 1 Agreement formation

- 1.1 This Agreement commences on the date that the Author accepts these terms and conditions through the Website.
  - 1.2 The Author accepts this Agreement and agrees to be bound by:
    - (1) clicking agree or accept where given the option to do so; or
    - (2) using the services of D Publishing.
  - 1.3 Incorporated into this Agreement are the following additional terms (with the appropriate amendments made, where the context requires):
    - (1) Dymocks website terms and conditions located at <https://www.dpublishing.com/PrivacyAndSecurity.aspx>; and
    - (2) D Publishing Terms of Service located at <https://www.dpublishing.com/TermsOfService.aspx>; and
    - (3) D Publishing rate card located at <https://www.dpublishing.com/ratecard.aspx> (**Rate Card**).
  - 1.4 The publishing services from D Publishing will change over time and so the terms of this Agreement will change. D Publishing reserves the right to change the Agreement on giving reasonable notice. Notice of changes will be given by publication of the revised terms on the Website. Changes to this Agreement take effect:
    - (1) in the case of changes other than to amounts shown in the Rate Card – immediately on posting of the revised version of this Agreement; and
    - (2) in the case of changes to amounts shown in the Rate Card – within 30 days of posting on the Website.You are deemed to accept changes to this Agreement by continuing to use D Publishing's publishing services.
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## 2 Delivery and Approval

- 2.1 The Author will provide to D Publishing on request:
    - (1) a photograph of the Author suitable for publication and promotional use; and
    - (2) any other ancillary material reasonably necessary for publication and promotion of the Works.
  - 2.2 The Works must:
    - (1) comply with the description set out in this Agreement; and
    - (2) be of a professional quality and suitable for publication by D Publishing.
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## 3 Licence and Territory

- 3.1 The Author grants to D Publishing a licence:
  - (1) to print, publish and sell the Work in hardcopy and all electronic forms, including publication designed for an ebook reader, audible (or spoken) book, multimedia (being any format or file that combines two or more media such as text, image, video or sound) or in CD-ROM format, in all languages; and
  - (2) to exercise, including by way of sub-licence, all rights in the Work other than its first volume and electronic publication rights (**Subsidiary Rights**). Without limiting the preceding, Subsidiary Rights

include:

- (a) anthology and quotation rights
- (b) condensation e.g. magazines, newspapers and ezines
- (c) radio and TV straight reading
- (d) sound recording
- (e) reprint under sub licence
- (f) adaptation in other media, including but not limited to internet, apps or other software,

collectively, 'Licence'.

- 3.2 The Licence granted to D Publishing in this Agreement, and clause 3.1 specifically, is for the territory of the world.
  - 3.3 The scope of the Licence granted to D Publishing is as follows:
    - (1) sole and exclusive licence to distribution of the Work through the Core Distribution Channels identified from time to time on the Rate Card and Nominated Secondary Distribution Channels; and
    - (2) non-exclusive licence, in conjunction with the Author only, to distribute the Work through Secondary Distribution Channels.
  - 3.4 Clause 3.3(2) expressly permits the Author to personally distribute the Work through Secondary Distribution Channels until such time as that channel or distribution method is nominated by D Publishing as a '**Nominated Secondary Distribution Channel**'. The Author may not at any time grant to any third party the right to distribute the Work on its behalf, for example, another publisher.
  - 3.5 D Publishing has the exclusive right to publish a tie-in edition to any motion picture, television or other dramatic version of the Work. In exercising this right D Publishing is to:
    - (1) have the right to use the title of any such version in the form of the logotype used in the final credits of that version; and
    - (2) be given access, at no cost, to photographic and other promotional material as is reasonably necessary to produce and promote the tie-in; and
    - (3) be given the opportunity to cooperate with the promoter and distributors of such version for the mutual advantage of D Publishing and the promoter and distributor.
  - 3.6 The Author warrants that it has not prepared, prior to the date of this Agreement, any work which reproduces or adapts any material part of the Work.
  - 3.7 All rights other than those specifically granted to D Publishing are reserved to the Author.
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## **4 Copyright**

- 4.1 Copyright in the Works remains with the Author.
- 4.2 D Publishing undertakes that the name of the Author will appear on:
  - (1) the title page; and
  - (2) the cover or binding; and
  - (3) any jacket,of the Work.
- 4.3 The parties agree that the following copyright notice will appear in accordance with the provisions of the Universal Copyright Convention:

*Copyright © [AUTHOR NAME] 20\*\**

Where \*\* indicates the year of first publication.
- 4.4 All moral rights are reserved to the Author.
- 4.5 D Publishing may, but is not required to, make available the option to apply digital rights management (**DRM**) technology to the Work. DRM technology may be made available at a price set by D Publishing at its discretion. Where DRM technology is made available, the Author acknowledges that D Publishing makes no representation as to the effectiveness of DRM and is not responsible for the failure of the DRM.

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## 5 Compensation to the Author

- 5.1 D Publishing will pay to the Author the Royalties as set out in the Rate Card.
- 5.2 D Publishing agrees not to conclude any sales of Subsidiary Rights without the prior approval of the Author, such approval not to be unreasonably withheld.
- 5.3 D Publishing will pay to the Author the royalties for the Subsidiary Rights set out in the Rate Card.
- 5.4 Where D Publishing wishes to sell the Works via a medium or Subsidiary Rights that are not listed specifically in the Rate Card, the royalty which D Publishing must pay for that medium or Subsidiary Right must be no less than the Default Rate set out in the Rate Card.
- 5.5 D Publishing will prepare accounts of royalties twice yearly – such periods being as at 30 June and 31 December in each calendar year. D Publishing must pay the Author royalties due within two months of the end of the accounting period covered by the account. Such accounts will show the number of sales of the Works in all formats.
- 5.6 Payment of royalties will be made in such manner as determined by D Publishing from time to time and may include by electronic funds transfer to a bank account nominated by the Author. D Publishing is only required to make payment to an Author where the Author has provided all information reasonably required by D Publishing or required by law for the payment to be made.
- 5.7 The Author or the Author's authorised representative will have the right, upon written request, to examine the books of account of D Publishing which relate to the sales of the Work or sub-licences. This examination will be at the cost of the Author unless errors of accounting are found to the Author's disadvantage, where the cost will be borne by D Publishing.

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## 6 Publication

- 6.1 D Publishing will publish the Work in the format submitted by the Author (**Agreed Format**), within the Publication Period unless prevented by circumstances beyond its control.
- 6.2 The cost of printing or compiling the Work in the Agreed Format will be borne by the Author.
- 6.3 D Publishing will be deemed to have published the Work if it makes it available in digital (e.g. ebook) form through one or more online book retailers.
- 6.4 If the Author, at the time of entering into this document, specified one or more distribution channels through which the Work is to be distributed then D Publishing will distribute the Work through the specified distribution channels only. Distribution by D Publishing through the nominated distribution channels does not restrict or limit the licence granted to D Publishing in clause 3.1 or any other rights of D Publishing in this document.
- 6.5 The reference to D Publishing in this Agreement includes any imprint of D Publishing whether under its present or future style.

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## 7 Pricing

- 7.1 The Author will set a list price for the Work (**List Price**). The List Price will be exclusive of value added or similar taxes such as GST. The Author will not be able to set a List Price where the royalty, after all relevant costs and contribution, is less than \$0.
- 7.2 D Publishing may sell the Work in different countries and in doing so may make the Work available in a currency different than the currency listed for the List Price (**List Currency**). D Publishing may convert the List Currency to another List Currency at any time and from time to time. Where this occurs the royalties payable to the Author will be calculated based on the List Price in the List Currency.
- 7.3 In determining the royalties payable on a sale of the Work in a currency other than the original List Currency, we will convert the sale price back into the original List Currency using an exchange rate determined by us and deducting all appropriate foreign exchange and other fees and charges for the conversion.
- 7.4 D Publishing has sole discretion as to the retail price at which the Work will be sold.
- 7.5 D Publishing is responsible for processing payments, payment collection, requests for refunds and related customer service. All data collected through the processes referred to in the preceding sentence is the property of D Publishing.

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## 8 Promotion

- 8.1 The Author agrees to be available, on reasonable notice, to assist with all promotion of the Work.

- 8.2 Where D Publishing requires the Author to travel in order to assist with the promotion of the Work, D Publishing agrees to meet the reasonable costs associated with travel, accommodation and meals.
- 8.3 The Author acknowledges that D Publishing has no obligation to market, distribute or offer for sale the Work or to continue marketing, distributing or selling the Work after D Publishing has commenced doing so.
- 8.4 D Publishing has sole discretion in determining the manner in which the Work will be marketed and promoted. Without limiting the preceding, D Publishing may promote the Work by making chapters or portions of the Work available to the public free of charge.
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## **9 Legally objectionable material**

- 9.1 If, in the reasonable opinion of D Publishing, it is necessary for the Work to be reviewed for defamation or other legally objectionable material, the costs of that review will be paid by the Author.
- 9.2 D Publishing has the right to require the Author to alter the text of the Work so as to remove any legally objectionable material or reduce the risk of any claim being made in respect of such material. Any alteration made by the author is without prejudice to the Author's liability under the indemnities and warranties set out in this Agreement.
- 9.3 If the Author refuses to amend or delete passages in the Work to D Publishing reasonable satisfaction then the Author must, at the request of D Publishing, repay all monies paid by D Publishing. On repayment of all monies this agreement terminates and the rights granted to D Publishing revert to the Author.
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## **10 Author's Warranties and Indemnity**

- 10.1 The Author warrants to D Publishing that:
- (1) the Work is an original work; and
  - (2) the Author is the sole proprietor of the Work; and
  - (3) the Work has not been published in any format with any company or person that may still own proprietary rights to the Work; and
  - (4) the Work contains no defamatory matter or any material which would breach the law of any of the territories in which the Work is to be published; and
  - (5) all statements in the Work purporting to be facts are true; and
  - (6) the Work contains no obscene, blasphemous or improper material; and
  - (7) the Work does not infringe upon any copyright or proprietary right, common law or statutory law; and does not contain any material of a libellous or obscene nature, or constitute a violation of privacy rights;
  - (8) the Author will not, after entering into this Agreement, enter into any agreement or understanding with any person or entity which might conflict with the rights granted to D Publishing pursuant to this Agreement during the term of this Agreement.
- 10.2 The Author agrees to hold D Publishing harmless and indemnifies D Publishing and its subsidiaries or affiliates, against any claim, demand, action, suit proceeding, or any expense whatsoever arising from any breach of the warranties in this Agreement or any claims of infringement of copyright or proprietary right, or claims of libel, obscenity, invasion of privacy, or any other unlawfulness based upon or arising out of the publication or any other matter relating to the Work.
- 10.3 In the event of a claim being made against D Publishing in respect of the Works, D Publishing may retain any sum due from it to the Author under this or any other agreement until the final settlement of such claim. Any sums retained by D Publishing in accordance with the preceding sentence may be used to set off any liability of the Author to D Publishing.
- 10.4 All warranties and indemnities in this Agreement will survive termination of this Agreement and any licences granted under this Agreement.
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## **11 Third party Copyright**

- 11.1 The Author must inform D Publishing on delivery of the Work of any quotation or inclusion in the Work of any copyright material from any third party source (**Third Party Material**).
- 11.2 The Author is responsible for:
- (1) ensuring that consent is obtained to the inclusion of the Third Party Material in the Work from the proprietor of copyright in that material; and

- (2) paying any fees or royalties necessary to procure such consent.
- 11.3 The Author must forward to D Publishing all correspondence relating to the consent of copyright holders to the inclusion of the Third Party Material in the Work.
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## **12 Copyright Infringement**

In the event of any identified copyright infringement of the Work, D Publishing may, at its expense, take legal action in order to restrain the infringement and/or seek damages from the infringing party. D Publishing shall not be required to take such legal action, nor shall D Publishing be liable to the Author should D Publishing refuse to take such action. Should D Publishing refuse, the Author may then, at the Author's expense, take such legal action.

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## **13 First and last rights of refusal**

- 13.1 In the event that the parties agree that a new edition of the Work is warranted, the Author grants to D Publishing a right of first refusal to publish and market the new edition of the Work by any means agreed in writing between the parties. If D Publishing does not accept any offer of the Author made under this clause 13.1 within one month of the offer being made, the Author may make the same offer on the same terms and conditions as offered to D Publishing to any other person but on no more favourable terms and conditions without first offering the same again to D Publishing.
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## **14 Termination**

- 14.1 Either party may by one month's notice in writing to the other party terminate this Agreement without prejudice to any claims outstanding or any sub-licences properly granted in the event of a breach by the other party of a material term of this Agreement that has not been remedied within 28 days of receiving notice of the breach.
- 14.2 This Agreement will automatically terminate without prejudice to any claims outstanding or any sub-licences properly granted in the event of D Publishing going into liquidation (except a voluntary liquidation for the purpose of reconstruction) or becoming insolvent within the meaning set out in the Corporations Act 2001.
- 14.3 The Author may terminate this Agreement if D Publishing has not published the Work within 28 days of being requested to do so by notice in writing from the Author.
- 14.4 D Publishing may, at its discretion and at any time, terminate this Agreement for convenience on giving 30 days' notice in writing to the Author.
- 14.5 Upon the termination of this Agreement for any cause all rights granted to D Publishing will revert to the Author for use at any time and D Publishing will return to the Author all property originally furnished by the Author.
- 14.6 D Publishing may sell the remaining copies for three months after the effective termination date and thereupon all remaining copies will, at the Author's request and cost, be returned to the Author or destroyed. D Publishing will continue to account to the Author for all sales within the sell-off period. Alternatively, D Publishing may elect not to require the sell-off period in which case it can cease to end retail supply immediately on termination.
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## **15 Limitation of liability**

- 15.1 The services are provided by D Publishing as far as permitted by law, on an 'as is, where is' basis. D Publishing is not responsible or liable for any claims, actions, proceedings, accounts, rights, demands, liabilities, costs and expenses, wherever and however arising, whether present or future, actual or contingent, known or unknown which the Author may have or have had but for the terms of this Agreement. In any event, the total liability of D Publishing under this Agreement is limited to the amount of royalty due and payable by D Publishing in the twelve month period preceding the claim.
- 15.2 D Publishing is not liable to an Author for any failure or delay in the performance of its obligations where such failure or delay arises as a consequence of force majeure events.
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## **16 Dispute and Mediation**

- 16.1 If a party believes that there is a dispute regarding the performance or interpretation of this document (**Dispute**) then:
- (1) that party must give notice in writing to the other party stating that there is a Dispute; and
  - (2) the notice must outline:
    - (a) what the party believes the dispute to be; and
    - (b) what the party wants to achieve; and

(c) what the party believes will settle the Dispute.

- 16.2 In the event of a dispute the parties agree that they or their representatives will meet to discuss the Dispute in good faith and attempt to resolve it.
- 16.3 If the dispute is not resolved within 7 days after the notice of Dispute is given to the other party or parties (**Notice Period**), the Dispute is by this clause submitted to mediation. The mediation must be conducted in Sydney. The Institute of Arbitrators Australia Rules for the Mediation of Commercial Disputes (edition 2 – September 1995) as amended by this clause 16 apply to the mediation, except where they conflict with this clause 16.
- 16.4 If the parties have not agreed upon the mediator and the mediator's remuneration within 7 days after the expiry of the Notice Period:
- (1) the mediator is the person appointed by; and
  - (2) the remuneration of the mediator is the amount or rate determined by, the President or the President's nominee, of the Law Society of New South Wales acting on the request of either party to the Dispute.
- 16.5 If the dispute is not resolved within 28 days after the appointment of the mediator, any party may take legal proceedings to resolve the Dispute.
- 16.6 This clause 16 does not prevent any party from obtaining any injunctive, declaratory or other interlocutory relief from a court which may be urgently required.
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## 17 GST

- 17.1 In this clause:
- (1) **GST** means goods and services tax; and
  - (2) **GST Amount** means in relation to a Payment, an amount arrived at by multiplying the Payment (or the relevant part of a Payment if only part of a Payment is the consideration for a taxable supply) by the appropriate rate of GST (being 10% when the GST Law commenced); and
  - (3) **Payment** means:
    - (a) the amount of any monetary consideration (other than a GST Amount payable); or
    - (b) the GST exclusive market value of any non-monetary consideration; andwhich is paid or provided by one party to another for any supply made under or in connection with this agreement and includes any amount payable by way of indemnity, reimbursement, compensation or damages; and
  - (4) terms that are not otherwise defined in this document have the meanings given to them in the *A New Tax System (Goods and Services Tax) Act 1999*.
- 17.2 Unless the context provides otherwise, all consideration provided under this document has been calculated without regard to GST.
- 17.3 The Author warrants to D Publishing that the supply of the copyright licence in this document is not subject to GST because the Author is not entitled to an ABN as they are not carrying on an enterprise in Australia. By entering into this document the Author declares the accuracy of the warranty.
- 17.4 If and to the extent that one party (**Supplier**) makes a taxable supply to the other party (**Recipient**) pursuant to this document, the Recipient must pay to the Supplier an additional amount equal to the GST payable on that taxable supply (unless the consideration for that taxable supply is expressed to be GST-inclusive). The additional amount must be paid by the Recipient at the later of:
- (1) the date when any consideration for the taxable supply is first paid or provided; and
  - (2) the date when the Supplier issues a tax invoice to the Recipient.
- 17.5 If the GST payable in relation to a supply made under or in connection with this document (including any GST payable in relation to an adjustment for the supply) varies from the amount that the Recipient has paid the Supplier under clause 17.2 such that a further amount of GST is payable in relation to the supply or a refund or credit of GST is obtained in relation to the supply, then the Supplier will adjust the amount payable by the Recipient to take account of the variation, and:
- (1) any amount that becomes payable must be paid by the Recipient within 10 business days of the Supplier providing written notice requiring such payment. Any payment is deemed to be a payment of the

additional amount payable under clause 17.2.

- (2) any refund or credit that becomes payable to the Recipient must be paid by the Supplier within 10 business days of the Supplier receiving such credit or refund from the Australian Taxation Office. Any credit or refund is deemed to be a credit or refund of the additional amount payable under clause 17.2.

17.6 This clause will not merge on completion and will survive the termination of this document by any party.

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## 18 Confidentiality

18.1 In this clause the term '**Confidential Information**' means:

- (1) this Agreement; and
- (2) any and all names, copyrights, patents, trade marks, service marks, trade names, designs, formulas, confidential information, plans, specifications, websites, URLs, trade secrets and know-how and similar industrial, commercial and intellectual property which are owned by or licensed to D Publishing (**Intellectual Property**); and
- (3) information regarding costs, profits, markets, sales and other financial information; and
- (4) information regarding business relationships and strategies, development plans, marketing, product concepts, trade secrets and other business information the business of the disclosing party and the disclosing party's clients or third party suppliers; and
- (5) any personal information relating to the officers (as defined in s9 of the *Corporations Act 2001*), partners, employees, agents, contractors or clients of the disclosing party; and
- (6) all information which becomes known to a party as a consequence of it performing the obligations under this Agreement including (without limitation) all records, documents, accounts, plans, specifications, price lists, customer lists, correspondence, photos and papers of every description relating to the disclosing party; and
- (7) information regarding designs, development processes and tools, hardware specifications, know-how, production, research, software specifications, data bases and software developed or used by a party whether as owner or under licence from any person and other technical information; and
- (8) any other information disclosed by, on behalf or in relation to D Publishing that:
  - (a) is identified as being confidential; or
  - (b) would be apparent to a reasonable person that such information was disclosed in confidence.

18.2 The Author must not disclose the Confidential Information except as permitted by the terms of this Agreement.

18.3 The Confidential Information may be disclosed:

- (1) where agreed by D Publishing; and
  - (2) to the Author's professional advisers (including legal advisers) who are subject to a duty of confidentiality; and
  - (3) to any governmental or statutory authority where the Author is required to make disclosure in accordance with any provision of any legislation, regulation, statutory rule or ordinance.
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## 19 Notices

19.1 A notice, demand, consent, approval or communication under this agreement (**Notice**)

- (1) must be in writing in English directed to the recipient's address for notices specified in the Details (as varied by any Notice);
- (2) must be hand delivered, left at or sent by prepaid post, email or facsimile to the recipient's address for notices specified in the Details (as varied by any Notice); and
- (3) may be given by an agent of the sender.

19.2 A Notice given in accordance with clause 19.1 takes effect when received (or at a later time specified in it), and is taken to be received:

- (1) if hand delivered or left at the recipient's address, on delivery;
- (2) if sent by prepaid post, the third Business Day after the date of posting, or the seventh Business Day after the date of posting if posted to or from outside Australia; and

- (3) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless, within one Business Day after the transmission, the recipient informs the sender that it has not received the entire Notice,

but if the delivery or transmission under paragraph (1) or (3) is outside Business Hours, the Notice is taken to be received at the commencement of Business Hours after that delivery, receipt or transmission.

- 19.3 Any process or other document relating to litigation, administrative or arbitral proceedings in relation to this Agreement may be served by any method contemplated by this clause in addition to any means authorised by law.

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## **20 General**

- 20.1 If a provision of this document or a right or remedy of a party under this document is invalid or unenforceable in a particular jurisdiction:
- (1) it is read down or severed in that jurisdiction only to the extent of the invalidity or unenforceability; and
  - (2) it does not affect the validity or enforceability of that provision in another jurisdiction or the remaining provisions in any jurisdiction.
- This clause is not limited by any other provision of this document in relation to severability, prohibition or enforceability.
- 20.2 This document states all the express terms agreed by the parties in respect of its subject matter. It supersedes all prior discussions, negotiations, understandings and agreements in respect of its subject matter.
- 20.3 Nothing in this document gives a party authority to bind any other party in any way. Nothing in this document imposes any fiduciary duties on a party in relation to any other party.
- 20.4 This document is governed by the laws of New South Wales, Australia and the parties submit to the exclusive jurisdiction of the courts of that jurisdiction.
- 20.5 This document:
- (1) may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument; and
  - (2) becomes binding by exchange of hard copy counterparts or facsimile or email transmission of signed counterparts.
- 20.6 This document may only be amended by the agreement of all parties recorded in writing.
- 20.7 Each party must promptly at its cost do all things, including executing all documents, necessary or desirable to give full effect to this document.
- 20.8 No party has relied on any statement by any other party not expressly included in this document. No party to this document may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.
- 20.9 It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity conferred by this Agreement.
- 20.10 Any indemnity or obligation of confidentiality in this Agreement is independent and survives termination of this Agreement. Any other term which by its nature is intended to survive termination of this Agreement survives termination of this Agreement.
- 20.11 A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise by a part of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.
- 20.12 Except where this Agreement expressly states otherwise, this Agreement does not create a relationship of employment, trust, agency or partnership between the parties.
- 20.13 The rights provided in this Agreement are cumulative with and not exclusive of the rights, powers or remedies provided by law independently of this Agreement.
- 20.14 A party may exercise a right, at its discretion and separately or concurrently with another right.

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## **21 Interpretation**

In this Agreement, except where the context otherwise requires:

- (1) the singular includes the plural and vice versa and a gender includes other genders;
- (2) other grammatical forms of a defined word or expression have a corresponding meaning;
- (3) a reference to a clause, paragraph, schedule or annexure is to a clause or a paragraph or a schedule or annexure to this Agreement and a reference to this Agreement includes any schedule and annexure;
- (4) a reference to a document or agreement, includes the document or agreement as novated, altered, supplemented or replaced from time to time;
- (5) a reference to A\$, \$A dollar or \$ is to Australian currency;
- (6) a reference to time is to Sydney time;
- (7) a reference to a year (other than a financial year) or month means a calendar year or calendar month respectively;
- (8) a reference to a party is to a party to this Agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (9) a reference to a person includes a natural person, partnership, firm, body corporate, trust, joint venture, association, governmental or local authority or agency or other entity;
- (10) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (11) any authorities, associations, bodies and entities whether statutory or otherwise will, in the event of such authority, association, or body or entity ceasing to exist or being reconstituted, replaced or the powers or functions thereof being transferred to or taken over by any other authority, association, body or entity, be deemed to refer respectively to the authority, association, body or entity established, constituted or substituted in lieu thereof which exercises substantially the same powers or functions;
- (12) the meaning of general words is not limited by specific examples introduced by including, for example, or similar expressions;
- (13) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (14) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (15) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Agreement or any part of it;
- (16) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day; and
- (17) headings are the ease of reference only and do not affect interpretation.