

TERMS AND CONDITIONS

Sponsorship and Exhibition Agreement

MCI AUSTRALIA PTY LIMITED ABN 76 108 781 988 ("MCI")

and

THE SPONSOR ("Sponsor")

Background

- A. MCI has been engaged by the Host to provide Event-Management Services in respect of the Event.
- B. MCI is engaged by the Host to provide the Event-Management Services on the basis that:
- (i) MCI will contract with the Event venue, other suppliers and sponsors as a principal, ie, in its own name; and
 - (ii) MCI will receive and manage revenues generated by the Event, including but not limited to sponsorship revenues.
- C. The Sponsor wishes to sponsor the Event by providing MCI with the Sponsorship Contribution in return for the Sponsorship Benefits, on the terms and conditions contained in this Agreement.

Operative Provisions

1. INTERPRETATION

1.1 Definitions

Where used in this Agreement the following expressions have the following respective meanings:

Expression	Meaning
Agreement	This document, its Schedule and any annexures or other documents incorporated by reference.
Confidential Information	Information about or pertaining to (a) the subject matter of this Agreement, the Sponsorship Contribution and the Sponsorship Benefits; (b) a party's employees, agents and contractors; (c) a party's customers or suppliers; (d) a party's finances, business and marketing plans, transactions and activities; (e) a party's products and/or services; and (f) a party's Intellectual Property. The expression includes information no matter how or when it is received and whether the information is marked or labelled "confidential", "secret" or otherwise.
Event	The conference or event, if any, identified in the Schedule.
Event management Services	The services to be provided by MCI to the Host to assist the Host to hold the Event or, if the context permits, any other event for any other host or client of MCI.
Host	The person, company or organisation that has engaged MCI to provide Event-management Services in connection with the Event.
Insolvency Event	Any form of administration in insolvency including bankruptcy, liquidation, receivership or voluntary administration, compromise with creditors, ceasing to trade or being unable to pay debts as they fall due.
Intellectual Property	All forms of intellectual property throughout the world including patents, petty patents, innovation patents, patentable inventions, know-how, trade marks (whether registered or unregistered), copyright, registered and registrable designs, circuit layout rights, plant variety rights, applications for registration of any of the foregoing and rights to apply for registration of any of the foregoing, and whether existing under statute or common law or otherwise.

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Expression	Meaning
Intervening Occurrence	<p>An occurrence, series or combination of occurrences, or circumstances, that, at any time:</p> <ul style="list-style-type: none"> (a) cause a party to be unable to perform its obligations under this Agreement in a timely manner; (b) cause the performance of a party's obligations to be radically more difficult (whether legally or practically) or radically more expensive to that party; (c) cause the registrations for the Event to be reduced to less than half of the number reasonably anticipated by MCI at the date of this Agreement, in the absence of the Intervening Occurrence; or (d) require, whether by operation of law, or otherwise reasonably require, the cancellation of the Event, and "Intervening Occurrence" includes (but only if it has an effect set out in paragraphs (a)-(d) of this definition), but is not limited to, war, civil disturbance, acts of terrorism, strikes and lock-outs, natural disasters (whether naturally occurring or caused by human act or omission) including fire, flood and storm, volcanic or seismic activity, power and communication outages, and declared public health emergency, whether of international or local effect (or both). <p>For the purposes of this definition:</p> <ul style="list-style-type: none"> (e) an Intervening Occurrence includes occurrences or circumstances that are not foreseen and occurrences and circumstances that would be reasonably foreseen as possible by the parties; (f) an Intervening Occurrence does not include: <ul style="list-style-type: none"> (i) an occurrence or circumstances caused directly or indirectly by that party; (ii) an occurrence or circumstances that is/are within the reasonable control of that party, without being required to incur substantial additional expense; (iii) currency exchange, share market fluctuations or other fluctuations in economic indicators; or (iv) the insolvency or other financial hardship of that party; (g) the expression "radically" in paragraph (b) of this definition means: to such an extent that it is reasonable to conclude that one or both of the parties would not have entered into this Agreement, whether at all, or substantially on these terms and conditions, had it been known in advance that the Intervening Occurrence would actually occur; (h) the expression "declared public health emergency" means a health emergency that is: <ul style="list-style-type: none"> (i) declared or recognised by the Australian Commonwealth Government or Government health authorities in the place where the Event is to be held, as an epidemic or pandemic; and/or (ii) of serious risk to the health or safety of those attending the Event; and/or, or (iii) the cause of a ban (whether by law or by advice published by government health authorities) on gatherings that would include the Event. For the avoidance of doubt, the parties agree that any applicable law, ban or published Government advisory against holding a gathering that would include the Event because of covid-19 (coronavirus), is a declared public health emergency; <p>and</p> <ul style="list-style-type: none"> (i) as regards MCI, an Intervening Occurrence includes the inability or failure of other suppliers to provide goods and services in connection with the Event, including but not limited to venues, suppliers of food and beverage, communications and audio-visual suppliers, suppliers of safety or security services and speakers or entertainers.
Schedule	The schedule to this Agreement.
Sponsorship Application	The application to become a sponsor of the Event submitted by the Sponsor to MCI, a copy of which is annexure "B" to this Agreement.
Sponsorship Benefits	The services and benefits to be provided by MCI and the Host to the Sponsor in exchange for the Sponsorship Contribution under this Agreement as specified in the Sponsorship Application and the Sponsorship Prospectus.
Sponsorship Contribution	The sum(s) of money or contribution in-kind that the Sponsor is to provide to MCI, the Host or others under this Agreement, as specified in the Sponsorship Application and the Sponsorship Prospectus.
Sponsorship Prospectus	The document seeking sponsorship for the Event, a copy of which is annexure "A" to this Agreement.

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1.2 Interpretation

The following rules apply in interpreting this Agreement, except where the context makes it clear that a rule is not intended to apply:

- (a) Headings and catchwords are for convenience only, and do not affect interpretation;
- (b) A reference to:
 - (i) a party to this Agreement or to any other document or agreement includes a successor, permitted substitute or a permitted assign of that party;
 - (ii) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;
 - (iii) conduct includes any omission, representation, statement or undertaking, whether or not in writing;
 - (iv) anything (including a right, obligation or concept) includes each part of it; and
 - (v) except as otherwise provided, a reference to a period of time (including without limitation, a year, a month and a day) is to a calendar period;
- (c) A singular word includes the plural, and vice versa;
- (d) A word which suggests one gender includes the other gender;
- (e) If a word is defined, another part of speech has a corresponding meaning;
- (f) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing;
- (g) Specifying anything in this document after the words including or includes or similar expressions does not limit what else might be included unless there is express wording to the contrary;
- (h) A reference to dollars or \$ is to an amount in Australian currency unless otherwise specified;
- (i) Interpretation of any covenant clause or word mentioned herein shall not be restricted by reference to any other covenant clause or word mentioned herein or by the juxtaposition of the same;
- (j) This Agreement constitutes the entire agreement between the parties concerning the subject matter herein and no discussion or correspondence referring to that subject matter shall be binding unless incorporated in this document; and
- (k) To the extent that it is legally permissible to contract out of them, any applicable statutes concerning the frustration of contracts, including but not limited to the Frustrated Contracts Act, 1978 (NSW), the Australian Consumer Law and Fair Trading Act 2012 (Vic) and the Frustrated Contracts Act 1988 (SA), do not apply to this Agreement.

2. SPONSORSHIP CONTRIBUTION

2.1 Provision of the Sponsorship Contribution

The Sponsor will provide the Sponsorship Contribution:

- (a) as to the sum(s) of money and/or contributions in-kind;
- (b) by the dates and times or subject to completion of the milestones, if any;
- (c) in compliance with all applicable laws, industry standards and guidelines; and
- (d) in the manner, as specified in the Sponsorship Application and the Sponsorship Prospectus.

2.2 Sponsorship Contribution in-kind

If the Sponsorship Contribution consists in whole or in part of the supply of goods or services ("in-kind"), the Sponsor agrees to ensure that:

- (a) all goods supplied are new, fit for the purpose for which they are acquired or received by MCI, Event participants or other third-parties, as the case may be, of acceptable and merchantable quality and must match in type and quality any samples provided by the Sponsor to MCI;
- (b) all services supplied by the Sponsor and any third party on behalf of the Sponsor are of acceptable quality, are supplied diligently, promptly and with reasonable care and are of such quality as befits the Event; and
- (c) all goods and services supplied by the Sponsor and by any third party on behalf of the Sponsor comply with all applicable laws, industry codes and guidelines.

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2.3 Sponsorship not exclusive to the Sponsor

Unless specified to the contrary in the Sponsorship Application and the Sponsorship Prospectus, this Agreement and the sponsorship is not exclusive to the Sponsor in any respect and MCI may appoint other sponsors for the Event, including sponsors whose products or services may compete with those of the Sponsor.

3. SPONSORSHIP BENEFITS

3.1 Provision of the Sponsorship Benefits

MCI must provide or procure that the Sponsor is provided with the Sponsorship Benefits:

- (a) as provided and by the dates and times or subject to completion of the milestones specified in the Sponsorship Application and the Sponsorship Prospectus; and
- (b) in compliance with all applicable laws, industry codes and guidelines.

If the Sponsor does not provide the Sponsorship Contribution by the date(s) specified in the Sponsorship Application and the Sponsorship Prospectus, MCI may suspend provision of the Sponsorship Benefits until the Sponsorship Contribution is supplied as provided in this Agreement. The exercise of this remedy is not MCI's exclusive remedy and MCI may exercise any other remedy available to it under this Agreement or under the law.

4. CANCELLATION OF EVENT

4.1 Acknowledgement by Sponsor

The Sponsor acknowledges and agrees that the Event may be cancelled from time to time for any reason, including but not limited to Intervening Occurrences, either by MCI or by the Host.

4.2 MCI not liable if Event cancelled

The Sponsor agrees that, save only for compliance by MCI with this clause 4, neither MCI nor the Host is liable for any losses, damage, liability or claim caused to the Sponsor directly or indirectly by cancellation of the Event for any reason whatsoever.

4.3 Consequences of cancellation of Events where the Sponsorship Contribution is money

- (a) If the Event is cancelled for any reason whatsoever before its commencement, MCI must promptly notify the Sponsor in writing and provide reasons, and
 - (i) both parties are discharged from further performance of their obligations under this Agreement, excepting that obligations contained in this clause 4, and provisions that survive upon the termination of this Agreement, remain binding on the parties; and
 - (ii) MCI must, within 90 days of cancellation, reimburse all monies paid by the Sponsor under this Agreement, after deduction of reasonable expenses already incurred by MCI in connection with this Agreement, up until the time of cancellation of the Event.
- (b) If the Event is cancelled for any reason whatsoever during the Event, MCI must promptly notify the Sponsor in writing and provide reasons, and:
 - (i) both parties are discharged from further performance of their obligations under this Agreement, excepting that obligations contained in this clause 4, and provisions that survive upon the termination of this Agreement, remain binding on the parties; and
 - (ii) MCI must, within 90 days of cancellation, reimburse such portion of the monies paid by the Sponsor as reasonably reflects the reduction in value of the sponsorship benefits to which the Sponsor is entitled under this Agreement, and after deduction of reasonable expenses incurred by MCI in connection with this Agreement, up until the time of cancellation of the Event.

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4. CANCELLATION OF EVENT (Continued)

4.4 Consequences of cancellation of the Event where the Sponsorship Contribution is other than money

If the Sponsorship Contribution consists of goods in-kind that:

- (a) can be re-supplied by the Sponsor and the Sponsor notifies MCI that it desires the return of the goods, MCI must allow the Sponsor to take back all the goods that are actually in MCI's possession. In that event, neither MCI nor the Host have any further obligations to the Sponsor under this Agreement; or
- (b) are perishable or cannot be re-supplied by the Sponsor, MCI shall arrange for disposal of the goods and neither MCI nor the Host have any further obligations to the Sponsor under this Agreement.

4.5 Postponed or "brought forward" Event

If MCI or the Host determines to hold the Event at a different date (whether before or after the date proposed for the Event noted in the Schedule), the Event is deemed not to have been cancelled and the provisions of clause 11 (variation of Event) will apply.

5. WARRANTIES

5.1 Warranties

Each party warrants that:

- (a) it will not breach any agreement, duty or obligation of any kind by entering into and performing its obligations under this Agreement;
- (b) it has not suffered, nor been threatened with an Insolvency Event; and
- (c) the use, by the other party, of its Intellectual Property, as permitted under this Agreement, will not infringe the Intellectual Property rights of any third party.

6. SPONSOR TO PROVIDE MATERIALS AND INFORMATION

6.1 Sponsor to provide in timely manner

The Sponsor must, in a timely manner and in such form as MCI requires, provide to MCI (if the Sponsor has not already done so) all information, banners, images, promotional materials and other works which may be required to enable MCI to supply the Sponsorship Benefits, including but not limited to the information and materials specified in the Schedule. Neither MCI (and for the avoidance of doubt) nor the Host is liable for any delay in or failure to provide Sponsorship Benefits if the Sponsor does not comply with this clause.

7. ANNOUNCEMENTS AND PUBLICATIONS

7.1 No announcements without approval

The parties agree that:

- (a) MCI must not make announcements or publish materials promoting the Sponsor or its products or services, unless expressly required by this Agreement (as a Sponsorship Benefit) or otherwise approved in writing by the Sponsor. The Sponsor must act reasonably and not withhold approval unreasonably in all the circumstances;
- (b) the Sponsor must not make announcements or publish materials referring to or implying the existence of this Agreement or its subject matter, or referring to MCI, the Host or the Event, as the case may be, without the prior written approval of MCI.

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8. TERMINATION

8.1 Termination for cause – general

A party to this Agreement (the “Terminating Party”) may, at its option, by written notice to the other party, terminate this Agreement with immediate effect if:

- (a) the other party is subject to an Insolvency Event;
- (b) the other party commits a breach of any term or warranty of this Agreement which is capable of rectification but is not rectified to the reasonable satisfaction of the Terminating Party within fourteen (14) days of the date of a notice by the other party specifying the breach; or
- (c) the other party commits a breach of any term or warranty of this Agreement which is not capable of rectification in the reasonable opinion of the Terminating Party.

8.2 Termination for disrepute

- (a) The Sponsor may terminate this Agreement with immediate effect, by written notice to MCI, if MCI or the Host commits an act which, in the reasonable opinion of the Sponsor, has materially damaged or is likely to materially damage the reputation of the Sponsor, the Sponsor's products or services; and
- (b) MCI may terminate this Agreement with immediate effect by written notice to the Sponsor if the Sponsor commits an act which, in the reasonable opinion of MCI, has materially damaged or is likely to damage the reputation of MCI, the Host, the Event or any other event or initiative of MCI or in respect of which MCI is appointed to provide event-management services, MCI's.

8.3 Sole rights of termination

The rights of termination in this clause 8 and otherwise expressly set out in this Agreement are the sole rights of termination exercisable by the parties, but in all other respects the common law rights and remedies of the parties are preserved. For example, on termination of this Agreement for default, a party may exercise its right to claim damages from the defaulting party.

8.4 Consequences of termination

On termination of this Agreement by either party for any reason:

- (a) all Sponsorship Benefits and all Sponsorship Contributions cease, provided that the Sponsor must pay all Sponsorship Contributions payable to MCI that are due and payable under this Agreement up to and including the date of termination;
- (b) the Sponsor must cease referring to itself as a sponsor of MCI, the Host or the Event, as the case may be;
- (c) MCI must, at the option of the Sponsor, return to the Sponsor or destroy all information, promotional and other materials in its possession that contain any such reference;
- (d) each party must cease making further use of the Intellectual Property of the other party; and
- (e) such termination is without prejudice to any and all rights and remedies which had accrued to the benefit of the parties to the date of termination.

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9. INTELLECTUAL PROPERTY

9.1 No transfer of Intellectual Property

Nothing in this Agreement constitutes a transfer of any Intellectual Property of a party to the other party. The rights conferred on each party to use the Intellectual Property of the other party rest in contract only. For the avoidance of doubt, all Intellectual Property in works created by a party for the purposes of the Event and the performance of a party's obligations under this Agreement remains the property of the party that created the work.

9.2 Licence of Sponsor Intellectual Property to MCI

- (a) The Sponsor grants to MCI a limited licence ("Licence") to use the Sponsor's Intellectual Property for the sole purposes of providing the Sponsorship Benefits.
- (b) The Licence is:
 - (i) world-wide;
 - (ii) non-exclusive;
 - (iii) non-transferrable, except in the case of permitted assignment or novation of this Agreement;
 - (iv) sub-licensable but only for the purposes of engaging any sub-contractor to assist MCI or the Host to stage the Event or to provide the Sponsorship Benefits; and fee-free.

10. CONFIDENTIAL INFORMATION

10.1 Non-disclosure and restricted copying

A party must not disclose any Confidential Information to a third party. A party must not copy any Confidential Information of the other party except as may be necessary to comply with this Agreement.

10.2 Exceptions to non-disclosure

Notwithstanding the preceding clause, a party may disclose Confidential Information of the other party if the disclosure is:

- (a) legally compelled by a court or other authority of competent jurisdiction;
- (b) made to a legal adviser, patent attorney or other professional adviser to whom a copy of this Agreement is supplied; or
- (c) made with the prior written consent of the other party, which may grant or withhold its consent in its absolute discretion.

11. VARIATION AND POSTPONEMENT OF THE EVENT

11.1 MCI/Host may vary Event

Subject to clause 4, the Sponsor acknowledges and agrees that the Event is subject to variation by MCI and/or the Host, for any reason, from time to time without liability to the Sponsor. Such variations include, but are not limited to the Event programme, the speakers or entertainment, the date(s) of the Event, the venue or location. If MCI or the Host varies the Event in a substantial manner (having regard to the subject matter of this Agreement), MCI must within a reasonable time following its decision to do so, give written notice of the variation to the Sponsor, for its information only.

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11.2 Postponement of the Event

(a) The Sponsor acknowledges and agrees that the Event may be postponed for any reason (including but not limited to the impact of Intervening Occurrences), either by MCI or by the Host. If the Event is postponed for any reason

(i) MCI must promptly notify the Sponsor in writing, giving reasons;

(ii) this Agreement (including this clause 11) applies to the postponed Event;

(iii) MCI or the Host may retain monies paid by the Sponsor up to the date of the notice of postponement;

(iv) The Sponsor must pay or provide any portion of the Sponsorship Contribution that is unpaid (at the time of the postponement notice) within the times adjusted to apply to the postponed Event and must otherwise comply with its obligations under this Agreement; and

(v) Each party shall perform its obligations under this Agreement in connection with the postponed Event.

11.3 MCI not liable if Event postponed

The Sponsor agrees that, save only for compliance by MCI with clause 11.2, neither MCI nor the Host is liable for any losses, damage, liability or claim caused to the Sponsor directly or indirectly by the postponement of the Event for any reason whatsoever.

12. INTERVENING OCCURRENCES

12.1 Consequences of Intervening Occurrences – cancellation of the Event

The consequences of cancellation of the Event (whether by reason of Intervening Occurrences or otherwise) are set out in clause 4.

12.2 Consequences of Intervening Occurrences – postponement of the Event

The consequences of postponement of the Event (whether by reason of Intervening Occurrences or otherwise) are set out in clauses 11.2 and 11.3.

12.3 Consequences of Intervening Occurrences other than cancellation of the Event – impossible or radically different obligations

If an Intervening Occurrence occurs or is present and paragraph (a) and/or (b), of the definition of “Intervening Occurrence in clause 1.1 applies/apply:

(a) the affected party must notify the other party promptly in writing, giving particulars of the Intervening Occurrence;

(b) both parties are discharged from the further performance of their obligations under this Agreement, excepting that obligations contained in this clause 12, and provisions that survive upon the termination of this Agreement, remain binding on the parties;

(c) MCI must, within 90 days of the notice given under paragraph (a), reimburse all monies paid by the Sponsor under this Agreement, after deduction of:

(i) reasonable expenses already incurred by MCI and the Host in connection with this Agreement, up until the time of the notice; and

(ii) such portion of the Sponsorship Contribution paid by the Sponsor as MCI determines to reasonably equate to the value of the sponsorship benefits which the Sponsor actually achieved up to the date of the notice.

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12. INTERVENING OCCURRENCES (continued)

12.4 Consequences of diminished Event due to Intervening Occurrence

If an Intervening Occurrence occurs or is present and paragraph (c) of the definition of "Intervening Occurrence" in clause 1.1 applies, but the Event is not cancelled, MCI must notify the Sponsor in writing and provide reasons, whereupon:

- (a) both parties must continue to perform their obligations under this Agreement, so far as the Intervening Occurrence permits, but without being required to incur substantial additional cost;
- (b) Subject to paragraph (d) of this clause, MCI may retain monies paid by the Sponsor up to the date of the notice;
- (c) The Sponsor must pay the Sponsorship Contribution in full; and
- (d) within 90 days of the end of the Event, MCI must refund that portion of the monies paid by the Sponsor after deducting such portion of those monies as MCI reasonably calculates to represent:
 - (i) the value of the Sponsorship Benefits actually received by the Sponsor in connection with the Event, affected as it is by the Intervening Occurrence. MCI shall calculate this by reference to the number of persons who actually attend the Event, as a proportion of the number reasonably anticipated by MCI at the date of this Agreement, in the absence of the Intervening Occurrence; plus
 - (ii) MCI's and the Host's reasonable expenses incurred in connection with this Agreement, up to the date of the notice.

13. ASSIGNMENT AND NOVATION

13.1 Sponsor not to assign etc

The Sponsor must not assign or novate this Agreement without the prior written consent of MCI.

13.2 MCI may novate or assign

MCI may novate or assign this Agreement:

- (a) at any time, to the Host or any successor or any third party to which the Host assigns the rights to host the Event; or
 - (b) to any conference organiser or event-manager that may be engaged by the Host, in the case where MCI's contract with the Host for the provision of the Event-Management Services is brought to an end.
- If MCI wishes to exercise its rights under this clause, MCI will give written notice to the Sponsor and will provide an assignment or novation deed or agreement to the Sponsor, which provides, among other things, that:
- (c) the Sponsor consents to the assignment or novation as the case may be;
 - (d) the Host or other third party, as the case may be, agrees to comply with and provisions of this Agreement and perform any outstanding obligations under this Agreement;
 - (e) MCI has no further liability in respect of this Agreement; and
 - (f) if the case where novation occurs following cancellation of the Event as provided in clause 4.4 the, Host covenants to make reasonable endeavours to provide sponsorship benefits to the Sponsor that are equivalent in value or type to the Sponsorship Benefits,

and the Sponsor must promptly execute and deliver the assignment or novation (as the case may be) to MCI.

14. NOTICES

14.1 How given

Any notice, approvals, request or demand or other communication ("notice") to be given under this Agreement must be in writing and must be delivered by hand (whether by the party or a courier), sent by ordinary or registered mail or by email. A notice must not be given by email unless expressly permitted under this Agreement. Notices must be sent to each party at the respective addresses specified in the Schedule or such other address that they may notify each other, in writing, from time to time. A notice may be given by an employee or agent (including a legal advisor) of the party giving the notice.

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14.2 When served

A notice given:

- (a) by hand will be served upon delivery;
- (b) by post will be regarded as having been served three (3) days after posting;
- (c) by email is served on the day of transmission in the location of the recipient, unless the sender's machine generates a report that the email was not sent at all or in its entirety. If the email has not been completely transmitted by 5 pm (determined by reference of the time of day at the recipient's address) it will be regarded as having been served on the next business day; and
- (d) on a day other than a business day will be regarded as having been served on the first business day (determined by reference of the time of day at the recipient's address) after such day. For the purposes of this clause, a "business day" is a day other than a Saturday, Sunday or public holiday at the recipient's address.

15. GOVERNING LAW AND JURISDICTION

15.1 NSW law and jurisdiction

This Agreement shall be created, performed, interpreted and enforced in accordance with the laws applicable in New South Wales, Australia and the parties submit to the non-exclusive jurisdiction of the Courts of that place.

16. FURTHER ASSURANCES

16.1 Parties to do all things necessary

Each party must take all steps, execute all documents and do everything reasonably required by any other party to give effect to the intent of this Agreement and to the intent of any of the transactions contemplated by this Agreement.