

Terms and conditions as follows.

1. Definitions and interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Additional Services means those services which APT is not obliged to provide under this agreement but which the Occupier may request from APT from time to time.

Additional Services Fee means the amount of money agreed from time to time between APT and the Occupier in relation to Additional Services.

Application for Services means an application which has been completed by the Occupier.

APT Equipment means all appliances, equipment, fixtures and fittings installed by and all other items owned by APT from time to time at or intended to be at the Location.

Carriage Service Provider means a third party used by APT from time to time to provide the Network Services.

Commencement Date means the date of Application for Services is accepted by APT.

Default Rate means the rate of interest prescribed from time to time under section 2 of the *Penalty Interest Rates Act 1983* (Vic).

Documentation means all manuals, information, passwords, security related material and all other materials provided to the Occupier by APT in respect of the Services.

Domain Hosting and **Email Services** means those services set out in Clause 6.

Force Majeure Event means an event or cause beyond the reasonable control of the party claiming force majeure including, without limitation:

- (a) act of God, lightning, storm, flood, fire, earthquake or explosion
- (b) strike, lockout or other labour difficulty;
- (c) act of public enemy, war (declared or undeclared), sabotage, blockade, revolution, riot, insurrection, civil commotion, epidemic;
- (d) the effect of any applicable laws, orders, rules or regulations of any government or other competent authority;
- (e) embargo, inability to obtain any necessary materials, equipment, facilities or qualified employees, power or water shortage, lack of transportation, failure or default by sub-contractors; and
- (f) any failure of equipment or information technology (including hardware, software and communication links).

GST means the goods and services tax as defined by section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.

Intellectual Property Rights means any intellectual or industrial property including, without limitation, a patent, copyright, trade mark, registered design, trade secret and rights in confidential information.

Internet means the global network of interconnected computer networks providing for the transmittal of electronic mail, on-line information, information retrieval and file transfer protocol.

Internet Access means the ability for the Occupier to gain access to the Internet and the LAN but does not include Network Services.

LAN means the local area network at the Location.

Location means the place where APT supplies a Service under this Agreement.

Network Services means the provision of a carriage service over a telecommunications network (as that term is defined by the *Telecommunications Act 1997*) on the street side of the Server.

Occupier means the person named on the Application for Services as the recipient of the relevant services.

Server means the server or servers installed from time to time at the Location by APT.

Services means any Internet Access, Web Hosting Services, Domain Hosting, Mail Hosting and Additional Services (and includes any APT Equipment provided to the Occupier to receive any such services) which the Occupier may request from time to time pursuant to an Application for Services, but does not include the Network Services.

Term means the term stated in Clause 2.

User means a person other than the Parties who seeks access to the Internet.

Web Hosting Services means the services provided by APT set out in Clause 6.

Web Site means a location accessible on the Internet through the World Wide Web and which provides multimedia content via a graphical user interface.

World Wide Web means a method of representing and obtaining graphical data and linking data items used by Internet users.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural and conversely.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.

(e) A reference to a Clause or Schedule is a reference to a clause of, or a schedule to, this Agreement.

(f) A reference to an agreement or document (including, without limitation, a reference to this Agreement) is to the agreement or document as amended, varied, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document.

(g) A reference to a party to this Agreement or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).

(h) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.

(i) A reference to conduct includes, without limitation, an omission, statement or undertaking, whether or not in writing.

(j) A reference to an **agreement** includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a document includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.

(k) A reference to **dollars** and **\$** is to Australian currency.

(l) The meaning of general words is not limited by specific examples introduced by **including**, or **for example**, or similar expressions.

(m) Nothing in this Agreement is to be interpreted against a party solely on the ground that the party put forward this Agreement or any part of it.

1.3 Consents or approvals

(a) If the doing of any act, matter or thing under this Agreement is dependent on the consent or approval of a party or is within the discretion of a party, the consent or approval may be given or the discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion.

(b) If anything APT must do under this Agreement requires the consent or cooperation of a third party with which the Occupier has a prior existing relationship, for instance a landlord or the owners corporation affecting the Location, it is the Occupier's sole responsibility to secure that consent or cooperation to APT's reasonable satisfaction.

2. Term

This Agreement commences on the Commencement Date and continues until terminated in accordance with Clause 15.

3. Services

3.1 APT to provide Services

The Occupier, once its Application for Services has been accepted by APT and the Occupier has secured any consents or approvals required by APT, will be provided with the nominated services from the date that the Application for Services is accepted by APT, in accordance with these Standard Terms and Conditions.

3.2 Rules regarding the Services

From time to time, APT may make or provide rules regarding any aspect of the Services and the Occupier agrees to comply with such rules and to procure the compliance of its officers, agents, subcontractors, employees and sub-tenants. APT may amend, alter and replace such rules as it sees fit provided it gives the Occupier reasonable notice of the change to allow the Occupier to comply with this clause. The Occupier's continued use of the Services after receiving notice of the changed rules will be taken to constitute acceptance of the changes. Immediately upon having been provided with any rules made pursuant to this clause, such rules will be taken to form part of the Documentation.

3.3 Reporting Faults with the Services

The Occupier must report all faults or problems with the Services immediately upon becoming aware of such faults or problems. The contact number for APT's technical support is 03 9863 9863.

3.4 Documentation for the Services

APT will provide the Occupier with such Documentation as is reasonably required by the Occupier to receive the Services. The Occupier acknowledges that the Documentation is and remains the exclusive property of APT.

4. No Responsibility for Network Services

APT is not responsible for the Network Services, nor for any problems, faults, delays or interruptions to or failure of Network Services, all of which will be the sole responsibility of the relevant Carriage Service Provider, and will be provided to the Occupier under that Carriage Service Provider's Standard Form of Agreement. APT will include in the Invoice, the charges notified to APT by the Carriage Service Provider in respect of the Occupier's use of the Network Services, but APT will otherwise have no responsibility or liability for the Network Services.

5. Internet Access

5.1 Provision of Internet Access

If requested by the Occupier pursuant to an Application for Services, APT will provide Internet Access to the Occupier in accordance with this Clause 5.

5.2 Occupier acknowledgments

The Occupier acknowledges that:

- (a) APT has no responsibility or liability for the accuracy, appropriateness, functionality and legality of any information, material or software on the Internet;
- (b) Internet Access may be disrupted by factors beyond the control of APT, including, without limitation, by failures of or disruptions to the Network Services, by routine maintenance or upgrades conducted by APT or by third parties, and by peak demand; and

Standard Terms and Conditions relating to the provision of Internet services by Asian Pacific Telecommunications Pty Ltd (ACN 091 353 374) (version dated 22 November 2011).

- (c) APT may delete any files on the Server or on any storage disks which breach the warranty given in Clause 5.4 and may make and keep any record of such files for the purposes of ensuring compliance with this Agreement.

5.3 Continuity of Internet Access

Subject to Clause 5.2(b), APT will endeavour to maintain the continuity of the Internet Access but has no obligation to do so if a Force Majeure Event occurs or if the law requires otherwise.

5.4 Occupier use of Internet Access

The Occupier warrants that neither it nor its officers, agents, sub contractors or employees will misuse the Internet Access in any way including, but not limited to, by engaging in any harassment or abuse of any persons, by transmitting or receiving (other than innocent, unsolicited, reception) any material which is illegal, unlawful, obscene, indecent, defamatory, fraudulent, menacing or in breach of any third party's rights (including Intellectual Property Rights), repeatedly sending messages without reasonable cause or for the purpose of causing annoyance, inconvenience or needless anxiety to any person, or using the Internet Access for the purpose of obtaining unauthorised access to any information, data or systems on the Internet. The Occupier indemnifies and holds APT harmless against any loss, damage, cost, expense, action, claim and liability arising out of or otherwise in connection with the Occupier either breaching the warranty in this clause 5.4 or any of the terms of clause 5.5 or if any third party makes an allegation that the Occupier has engaged in any conduct referred to in this clause 5.4 or any of the terms of clause 5.5.

5.5 Prohibited activities

The Occupier must not and must not allow anyone else to use the Services or any item provided under this Agreement by APT to do any of the following:

- (a) **(spamming)** to send unsolicited bulk, and/or commercial messages over the Internet (known as 'spamming') is not only harmful because of its negative impact on consumer attitudes toward APT, but also because it can overload APT's network and disrupt service to APT customers. Spamming may also be illegal. APT does not allow an open SMTP relay to be maintained;
- (b) **(obscene material)** to advertise, transmit, store, post, display or otherwise make available obscene speech or illegal material;
- (c) **(illegal or unauthorised access to other computers or networks)** – to access illegally or without authorization computers, accounts or networks belonging to another party, or attempting to penetrate security measures of another individual's system (often known as 'hacking') and any activity that may be used as a precursor to an attempted system penetration (i.e. port scan, stealth scan, or other information gathering activity);
- (d) **(distribution of internet viruses, worms, trojan horses or other destructive activities)** to distribute information regarding the creation of and sending internet viruses, worms, Trojan Horses, ping, flooding, mail bombing, or denial of service attacks, also activities that disrupt the use of or interfere with the ability of others to effectively use the network or any connected network, system, service or equipment;
- (e) **(illegal activities)** to conduct, procure, contribute to or further any activity which is illegal in any of Victoria, Australia or the place where APT supplies Services to the Occupier or the place where the Occupier's use of the Services terminate;
- (f) **(activities detrimental to APT)** to conduct, procure, contribute to or further any activity which APT reasonably determines is detrimental to it, its reputation, its goodwill, its customer relations and any of its customers and operations.

APT is required by law to notify law enforcement agencies when it becomes aware of the presence of illegal material on or being transmitted through APT's network.

5.6 Termination of Internet Access

Notwithstanding any other provision of this Agreement, APT may at any time with or without notice terminate provision of Internet Access or terminate this Agreement at the option of APT if APT reasonably considers that the Occupier or anyone else uses or used the Services provided by APT under this Agreement to do anything which would be a breach of this clause 5.4 or any of the terms of clause 5.5 if committed by the Occupier.

6. Web Hosting Services

6.1 Provision of Web Hosting Services

If requested by the Occupier pursuant to an Application for Services, APT will provide Web Hosting Services to the Occupier in accordance with this Clause 6.

6.2 Obligations of APT for Web Hosting Services

- (a) Subject to paragraph (b), APT will use reasonable endeavours to ensure that the sufficient capacity is maintained on its network to enable Users to access the Web Site.
- (b) APT does not warrant that Users will have continuous access to the Web Site. APT will not be liable in the event that the Web Site is unavailable to the Occupier or Users due to computer downtime attributable to malfunction, upgrades or preventative or remedial maintenance activities or by reason of any failure of or disruption to the Network Services.

6.3 Occupier's obligations for Web Site

- (a) Unless the parties expressly agree to the contrary, the Occupier is responsible for the design, development, modification, content and maintenance of the Web Site.
- (b) The Occupier undertakes to ensure that the Web Site:
- (i) does not infringe the Intellectual Property Rights of any person;
- (ii) has complied with and obtained all appropriate laws, licences, permits and permissions;

- (iii) will not at any stage during the term of the Agreement contain material which is obscene, offensive, upsetting, defamatory, menacing, in breach of any third party's rights (including Intellectual Property Rights); and

- (iv) does not comprise and cannot be used for any purpose or activity of an illegal, fraudulent or defamatory nature.

- (c) Unless the Supplier's written consent is obtained in advance, the Occupier shall use the Web Site for its own purposes and shall not sub-let space for any other individual or entity.

- (d) The Occupier acknowledges that APT may terminate, immediately and without notice, the Web Hosting Services if it considers (on reasonable grounds) that the Occupier has breached paragraph (b) or (c) or if a third party makes an allegation that the Occupier has breached paragraph (b), and APT will have no liability whatsoever to the Occupier in respect of any such termination.

- (e) The Occupier acknowledges that, unless agreed otherwise, the Web Hosting Services do not include maintenance of the Web Site, where APT has not agreed to maintain the Web Site. APT accepts no responsibility for any deficiency or inaccuracy in the Web Site attributable to a lack of maintenance.

6.4 Domain Name Registration

- (a) If so requested by Occupier, APT will:
- (i) procure a domain name for the Occupier; and
- (ii) endeavour to obtain the Occupier's preferred domain name as nominated in the Application for Services.
- (b) APT does not warrant that any preferred domain name of the Occupier will be available and in any event APT accepts no liability arising out of the inability of APT to obtain the Occupier's preferred domain name or the exercise of discretion by APT in obtaining on behalf of the Occupier an alternative and reasonably comparable domain name.

6.5 Occupier warranties regarding domain name

- (a) The Occupier warrants that:
- (i) all information provided in the domain name application is true and correct; and
- (ii) the domain name sought does not breach any legal rights of a third party, including but not limited to Intellectual Property Rights.
- (b) The Occupier acknowledges that the registration of its domain name may be the subject of licence conditions and that the licensor may revoke the licence for infringement of those conditions. The Occupier undertakes to familiarise itself with any such conditions. The Occupier shall indemnify the Supplier in respect of:
- (i) any liability arising, directly or indirectly, from a failure by the Occupier to comply with any such licence conditions; and
- (ii) any loss, damage, cost, expense, action, claim or liability arising, directly or indirectly, out of or otherwise in connection with the Occupier's use of the domain name.

6.6 Domain and Email Hosting

If so requested by the Occupier, APT will host the Occupier's domain name on the Server and/or host electronic accounts of the Occupier on the Server.

7. Additional Services

7.1 Provision of Additional Services

If requested by Occupier pursuant to an Application for Services, or otherwise, APT will, subject to agreement between the parties as to scope of the Additional Services and price for the Additional Services, provide the Occupier with Additional Services.

8. APT Equipment

8.1 Rights in the APT Equipment

The Occupier has no right, title or interest in the APT Equipment, which remains the exclusive property of APT.

8.2 Occupier to ensure integrity of APT Equipment

The Occupier will ensure the physical security and safety of any APT Equipment in its possession, custody or control, or to which the Occupier has access, and will not, and will ensure that its officers, employees and sub contractors do not, interfere with, alter, change, modify, move, or remove any labels, plates, insignia, lettering or other markings on, the APT Equipment.

8.3 Reporting Faults with Equipment

The Occupier must notify APT of any faults or problems with the APT Equipment, immediately that it becomes aware of such faults or problems.

9. APT access to required areas

9.1 Access to provide Services

The Occupier grants APT access to such of the areas in the possession or control of the Occupier as are required by APT to provide the Services and the Additional Services, and in order to gain access to the APT Equipment and to repair, maintain, test and conduct other activities APT requires on the APT Equipment from time to time.

10. Invoicing and charges

10.1 Fees for Services

APT will invoice the Occupier for Services (other than Network Access) in accordance with the rates and terms agreed from time to time between APT and the Occupier relating to the relevant service. The Occupier agrees that APT may change its fees and charges provided APT gives the Occupier not less than one month's notice.

10.2 Interest on late payment

If the Occupier fails to pay any amount payable by it under this Agreement by the due date, the Occupier must, if demand is made by APT, pay interest at the Default Rate on the unpaid amount,

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- such interest to accrue daily from the time the unpaid amount falls due until the amount has been paid in full. The right to demand payment of interest under this Clause 10.2 is without prejudice to any other rights and remedies that APT may have in respect of a default in payment under this Agreement
- 10.3 No Refunds**
- The Occupier acknowledges that no amounts paid by it under this Agreement are refundable, whether or not it has received Services in respect of such amounts or in the event of termination under Clause 16
- 10.4 Detailed Excess Meg Usage Statements**
- The Occupier acknowledges that requests for any detailed Excess Meg Usage Statements, must be made within seven (7) days, of date on invoice. After that time, it is up to the discretion of APT to distribute Detailed Excess Meg Usage Statements.
- 10.5 Detailed Excess Meg usage Statements Fees**
- The Occupier agrees to pay the relevant charges for the Detailed Excess Meg Usage Statement.
- 11. Disclosure of personal information**
- The Occupier acknowledges that APT may:
- disclose personal information (as defined in the *Privacy Act 1988* (Cth)) about the Occupier to a credit reporting agency, to any Carriage Service Provider and as required by any law, any code of practice and any usual practice within the telecommunications industry;
 - obtain from a credit reporting agency, and use, information concerning the Occupier's commercial activities or commercial creditworthiness to assess the Occupier's Application for Services or collect overdue amounts;
 - obtain and use a consumer credit report about the Occupier obtained from a credit reporting agency to assess an Application for Services or collect overdue amounts; and
 - exchange with another credit provider personal information derived from a credit report, or other report relating to the Occupier, to enable APT or the other credit provider to assess its creditworthiness or to collect overdue amounts,
- at any time during the term of the Agreement.
- 12. Warranties**
- 12.1 No warranty as to suitability**
- Subject to Clause 12.4, the Occupier acknowledges that the Services are supplied "as is" and that APT, its officers or employees, or any person acting or purporting to act on behalf of APT, has not made any representation to the Occupier as to the fitness for purpose or suitability for any particular purpose of the Services.
- 12.2 Exclusion of warranties**
- Subject to Clause 12.4, and to the maximum extent permitted by law, all terms and warranties, expressed or implied by any legislation, the common law, equity, trade, custom or usage or otherwise in relation to the supply of Services under this Agreement or otherwise in connection with this Agreement are expressly excluded.
- 12.3 No representations regarding third party rights**
- The Occupier acknowledges that APT, its officers or employees, or any person acting or purporting to act on behalf of APT, has not made any representation to the Occupier that the provision of the Services by APT will not infringe the rights, including but not limited to any intellectual property rights, of any third party.
- 12.4 Statutory warranties**
- Subject to paragraph (b), if any legislation implies in this Agreement any term or warranty and also prohibits provisions in a contract excluding or modifying the application of or exercise of, or liability under, that term or warranty, that term or warranty is deemed to be included in this Agreement.
 - The liability of APT for a breach of a term or warranty implied by paragraph (a) is limited, at the option of APT, to any one or more of the following:
 - the supplying of the relevant goods or services by APT again; or
 - the payment of the cost of having the relevant goods or services supplied again.
- 13. Liability and indemnity**
- 13.1 Limitation of liability**
- APT is not liable in any way for any indirect or consequential loss, economic losses, loss of profits, loss of income and special damages suffered or incurred by the Occupier and arising out of or otherwise in connection with APT's breach of, or negligence concerning, anything referred to in this Agreement.
- 13.2 Cap on liability**
- APT's aggregate liability for direct loss and damage in connection with this Agreement (including for negligence) is limited to the total amount paid by the Occupier under this Agreement in the 12 month period preceding the occurrence of the relevant event giving rise to such liability.
- 13.3 Indemnity by Occupier**
- The Occupier releases, holds harmless and indemnifies APT to the maximum extent permitted by law from and against any liability arising out of or in connection with the supply of Services (including, but not limited to, as a result of the negligence of APT or any person acting on its behalf) or otherwise in connection with this Agreement, but excluding APT's acts of wilful default.
- 14. Intellectual Property**
- As between APT and the Occupier, APT owns all Intellectual Property Rights in the technology used to provide the Services and in the Documentation.
- 15. Termination**
- 15.1 Termination for breach by either party**
- Either party may terminate this Agreement immediately by notice to the other party if the other party commits a material breach of this Agreement (unless the breach is capable of remedy, in which case if the breaching party fails to remedy the breach within 30 days after being required to do so). For the avoidance of doubt, a failure to pay any money under this Agreement will be a material breach of this Agreement.
- 15.2 Termination on insolvency**
- Notwithstanding any other provision of this Agreement, either party may terminate this Agreement immediately by notice to the other party if the other party:
- stops or suspends or threatens to stop or suspend payment of all or a class of its debts;
 - is insolvent within the meaning of section 95A of the Corporations Law;
 - may be presumed by a court to be insolvent by reason of section 459C(2) of the Corporations Law;
 - fails to comply with a statutory demand (within the meaning of section 459F(1) of the Corporations Law);
 - has an administrator appointed or any step preliminary to the appointment of an administrator is taken;
 - has a controller within the meaning of section 9 of the Corporations Law or similar officer appointed to all or any of its assets or undertaking; or
 - has an application or order made, a proceeding commenced, a resolution passed or proposed in a notice of meeting, an application to a court made or other steps taken against or in respect of it (other than frivolous or vexatious applications, proceedings, notices or steps) for its winding up, de registration or dissolution or for it to enter an arrangement, compromise or composition with or assignment for the benefit of its creditors, a class of them or any of them.
- 15.3 Obligations of the Occupier on Termination**
- Upon termination of this Agreement however that occurs, the Occupier:
- must immediately cease using all APT Equipment and Services;
 - loses all right to Network Access and to the receipt of any Services under this Agreement; and
 - must immediately return the Documentation to APT.
- 15.4 Without prejudice to accrued rights**
- Termination of this Agreement does not affect the accrued rights or remedies of either party arising in any way out of this Agreement up to the date of termination, including any obligation or liability of the Occupier to pay for the Services and the Additional Services provided prior to termination for the Agreement.
- 16. Force Majeure**
- Neither party will be liable to the other for a failure to perform its obligations under this Agreement, other than the obligation to pay money, which is caused by a Force Majeure Event, but only to the extent that the Force Majeure Event has caused the inability to perform the relevant obligation.
- 17. Notices**
- Any notice, demand, consent or other communication (the **Notice**) given or made under this Agreement:
- must be in writing and signed by a person duly authorised by the sender;
 - must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand or fax to the address or fax number below or the address or fax number last notified by the intended recipient to the sender:
 - to APT:** Attention: General Manager
Fax No: 03 9863 7701
 - to the Occupier:** for the attention of and to the fax number (if any) indicated in a notice provided by the Occupier to APT; and
 - will be taken to be duly given or made:
 - in the case of delivery in person, when delivered;
 - in the case of delivery by post, two business days after the date of posting (if posted to an address in the same country) or seven business days after the date of posting (if posted to an address in another country); and
 - in the case of fax, on receipt by the sender of a transmission control report from the despatching machine showing the relevant number of pages and the correct destination fax machine number or name of recipient and indicating that the transmission has been made without error,
- but if the result is that a Notice would be taken to be given or made on a day that is not a business day in the place to which the Notice is sent or is later than 4.00pm (local time) it will be taken to have been duly given or made at the commencement of business on the next business day in that place.

18. Entire agreement

This Agreement contains the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements and understandings between the parties in connection with it.

19. Amendment

No amendment or variation of this Agreement is valid or binding on a party unless made in writing executed by all parties except that APT may vary this Agreement without the Occupier's consent if that variation is not likely to cause a material detriment to the Occupier.

20. Sub contracting

APT may sub contract such of its obligations under this Agreement as it sees fit from time to time.

21. Assignment

The Occupier may not assign this Agreement or any rights or obligations under this Agreement without the prior written consent of APT.

22. No waiver

No failure to exercise nor any delay in exercising any right, power or remedy by a party operates as a waiver. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

23. Further assurances

Each party agrees to do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this Agreement and the transactions contemplated by it.

24. No merger

The rights and obligations of the parties will not merge on the completion of any transaction contemplated by this Agreement. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing a transaction.

25. Costs, duty and GST

25.1 Costs and duty

Each party must bear its own costs arising out of the negotiation, preparation and execution of this Agreement. All duty (including fines, penalties and interest) that may be payable on or in connection with this Agreement and any instrument executed under this Agreement must be borne equally by the parties.

25.2 GST

- (a) If GST is payable in relation to the supply of any goods or services under this Agreement, the amount payable will be the fee set out in this Agreement or (where there is no set fee) as agreed between the parties plus any amount of GST payable in relation to that supply, unless the fee specified is expressed to be GST inclusive.
- (b) Subject to paragraph (a), where the consideration for the supply of goods or services is ascertained by reference to any cost or expense incurred by a party, that cost or expense is calculated by deducting from the actual cost or expense the amount of any GST input tax credit that the party can claim in respect of the cost or expense.
- (c) Each party must do everything reasonably necessary, and provide all reasonable assistance, to enable the other party to claim any input tax credit or refund in respect of any payment made under this Agreement.

26. Governing law and jurisdiction

This Agreement is governed by the laws of Victoria. Each party submits to the non-exclusive jurisdiction of courts exercising jurisdiction there in connection with matters concerning this Agreement.

27. Counterparts

This Agreement may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.