

This is annexure "A" to the Exhibition Booking Request completed and submitted by the Exhibitor

**EXHIBITOR AGREEMENT**

**PARTIES:**

**Absolute Events & Marketing Pty Ltd as Trustee for the Harris Trust (ABN 11 608 378 816) ("We", "Us", "Our")**

**as agent for and on behalf of the Mine Electrical Safety Conference Pty Ltd ATF The Mine Electrical Safety Conference (ABN 39 624 467 108) (the "Host")**

**and**

**The Exhibitor identified in the Application submitted to Us or the Host ("You", "Your")**

**BACKGROUND:**

We have been engaged by the Host to assist it to conduct the Event.

You wish to exhibit Your products or services at the Event on the terms and conditions contained in this Agreement. You have completed and submitted an Application to Us for that purpose.

**OPERATIVE PROVISIONS:**

**1. INTERPRETATION**

**1.1 Definitions**

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

<b>Expression</b>	<b>Meaning</b>
<b>Agreement</b>	This document, any annexures or other documents incorporated by reference, including the Exhibition Prospectus and the Application.
<b>Application</b>	The form applying to become an exhibitor at the Event, that You have completed and submitted to Us or the Host.
<b>Cancellation Deadline</b>	5 pm on the date specified in the Exhibition Prospectus or in the Application, being the last date/time on which You may cancel Your Exhibition and receive a partial refund as provided in clause 10.

<b>Confidential Information</b>	Information pertaining to the subject matter of this Agreement, a party's employees, agents and contractors, a party's customers or suppliers, a party's finances, business and marketing plans, transactions and activities, a party's products and/or services and 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, but does not include information that is widely available or in the public domain.
<b>Event</b>	The conference or event identified in the Exhibition Prospectus and/or the Application.
<b>Event Website</b>	The website and/or portal on which the Event is promoted and at which the Prospectus and the Application may be located.
<b>Exhibition</b>	Your exhibition stand, booth, stall or other promotional structure or presence at the Event.
<b>Exhibition Fee</b>	The sum(s) of money that You must pay under this Agreement, as specified in the Exhibition Prospectus.
<b>Exhibition Materials</b>	All things and materials that You and/or Your contractors bring onto the Venue premises for the purposes of the Exhibition and includes (without limitation) all structural and build-materials, installations, tools, equipment, products, promotional gifts, promotional materials, displays, banners, advertisements, images and videos, interactive presentations and sound or image broadcasts.
<b>Exhibitor Entitlements</b>	The package of services and benefits to be provided in exchange for the Exhibition Fee under this Agreement as specified in the Exhibition Prospectus, and selected by You in Your Application.
<b>Host</b>	The person, company or organisation that has engaged Us to provide event-management services as its agent in connection with the Event, as specified in the Schedule.
<b>Insolvency Event</b>	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.
<b>Intellectual Property</b>	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.

<b>Intervening Occurrence</b>	Circumstances beyond a party's control (but only if they have a Relevant Effect), including 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 any declared public health emergency, Transmissible Illness (including COVID-19 or any variant or derivative of it).
<b>Prospectus</b>	The document inviting exhibitors to participate in the Event, in response to which You have submitted Your Application.
<b>Relevant Effect</b>	In connection with an Intervening Occurrence, means that the Intervening Occurrence has (or will, with reasonable certainty, have) the direct effect of making it unlawful or practically impossible for any of Your staff to attend the Event.
<b>Relevant Persons</b>	All of Your officers, employees, agents, contractors and guests who register for, or attend, the Event.
<b>Transmissible Illness</b>	Any transmissible illness: (a) declared by any government, government authority or the World Health Organisation as an epidemic or pandemic and includes COVID-19 and any variant or derivative of COVID-19; and (b) in respect of which lawfully enforceable lock-downs, isolation requirements, travel restrictions or advisories against travel or face-to-face or personal contact have been issued, either at the place where the Event is to be held or from where You or any Relevant Person reside(s) or will depart to attend the Event.
<b>Venue</b>	Any venue, facility or place at which the Event, or any component of it (including the social program), occurs. In the case of a partly or fully virtual Event, "Venue" includes the on-line platform on which the Event is (or parts of it are) accessible on-line.
<b>Venue and Organiser Rules</b>	Rules or a manual issued by the operator of a Venue for the exhibition and other related matters, the conduct and dress of persons within the Venue, exhibitions, access and egress to the Venue, the use of Venue facilities, and the use of promotional materials within the Venue, and includes all directions made from time to time by staff of the Venue operator, or its authorised contractors

## 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 clause or word mentioned herein shall not be restricted by reference to any other 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) The parties agree that, to the extent that it is legally permissible to contract out of those laws:
- (i) the *Frustrated Contracts Act 1978* (NSW) does not apply to this Agreement;
  - (ii) the parties intend this Agreement to regulate their bargain to the exclusion of the provisions for frustrated contracts contained in the *Australian Consumer Law and Fair Trading Act 2012* (Vic) and the *Frustrated Contracts Act 1988* (SA); and
  - (iii) no other applicable legislation for frustration of contract is to apply to this Agreement.

## **2. CAPACITY**

### **2.1 We are agent for the Host**

You acknowledge and agree that We enter into this Agreement in Our capacity as agent for and on behalf of the Host. All of Our obligations, rights and remedies under this Agreement are obligations, rights and remedies of the Host. To the extent that this Agreement confers a benefit, right or remedy on the Host, it is intended that We shall also have the benefit of and the right to exercise or enforce that right or remedy.

### **2.2 Relevant Persons**

You acknowledge and agree that You enter into this Agreement for Yourself and as duly authorised agent for all Relevant Persons. You warrant that You have provided a copy of this Agreement to all Relevant Persons. If you are a Relevant Person, you agree to comply with this Agreement.

## **3. EXHIBITION PROSPECTUS AND EXHIBITOR APPLICATION**

### **3.1 This Agreement applies if We accept Your Application**

This Agreement applies if, and commences when, You have accepted it and We have accepted Your Application. We may reject Your Application on any reasonable grounds, including that:

- (a) any limit on the number of exhibitors of a particular classification or level has been reached;
- (b) We or the Host consider that You, Your business, products or services are not suitable to be an exhibitor at the Event; or
- (c) Your conduct, or that of Relevant Persons, at previous events was in breach of the applicable exhibitor, sponsorship, or delegate agreement, as the case may be, or was disruptive, offensive or inappropriate.

We will notify You if We reject Your Application and We will immediately refund any monies paid to Us, in full.

### **3.2 Your warranty re Exhibition Prospectus and Exhibitor Application**

You warrant, acknowledge and agree that:

- (a) You have received and read the Application, the Exhibition Prospectus and the Venue Rules (or if they have not been provided at the date of Your acceptance of this Agreement, You will do so, thoroughly;
- (b) the information provided by You in Your Application is true and correct in all respects;
- (c) You are not aware of any fact or circumstance, whether actual or potential, that would cause You to breach any of the provisions of this Agreement, or that may entitle Us to terminate it, including but not limited to termination for breach of clause 16.2 (Termination for Disrepute; and
- (d) the individual who accepts these terms and conditions (details of whom are set out in the Application) does so on Your behalf and You warrant that that individual is duly authorised to do so.

## **4. EXHIBITOR ENTITLEMENTS**

### **4.1 Provision of the Exhibitor Entitlements**

You will be provided with the Exhibitor Entitlements:

- (a) subject to Your compliance with, and on the terms and conditions of, this Agreement and the Venue Rules;
- (b) referred to in the Exhibition Prospectus and selected in Your Application;
- (c) subject to the completion of any milestones or pre-requisites set out in the Exhibition Prospectus and/or the Venue Rules; and
- (d) subject to Your compliance with, and in accordance with, the Venue Rules.

### **4.2 Exhibitor Entitlements not exclusive**

Unless expressly specified to the contrary in the Exhibition Prospectus and the Application, this Agreement and the Exhibitor Entitlements are not exclusive to You in any respect and We may engage other exhibitors and sponsors for the Event, including exhibitors and sponsors whose products or services may compete with Yours.

### **4.3 Inconsistency**

In the event of any inconsistency between this Agreement, the Application, and/or the Exhibition Prospectus, the provisions of this Agreement prevail to the extent of the inconsistency.

## **5. VENUE RULES**

### **5.1 Exhibitor Entitlements subject to Venue Rules**

You:

- (a) agree that provision of the Exhibitor Entitlements is subject to, and to Your compliance with, the Venue Rules;
- (b) warrant that that, if You commence delivery to or construction of the Exhibition at, the Venue, You have received a copy of the Venue Rules, or otherwise accessed them, and has thoroughly acquainted Yourself, and all Relevant Persons with their requirements and, where necessary, has given a copy of the Venue Rules to them;
- (c) must at all times comply with the Venue Rules and must ensure and procure that its employees and contractors and all Relevant Persons comply with them. ;
- (d) must notify Us immediately in writing and provide such information as We require, if You become aware of any breach of the Venue Rules;
- (e) if We ascertain that any Exhibitor Entitlement cannot be provided because of, or is inconsistent with, the Venue Rules, We will consult with You and make reasonable endeavours to agree on a "work-around". If both parties, acting reasonably, are unable to reach agreement on a "work-around", You may cancel Your Exhibition and You will receive a refund of all monies paid; and
- (f) acknowledge and agree that the operator of each venue has the right, if You or any Relevant Person does not comply with the Venue Rules, to eject You and Relevant Persons from the venue and You must comply with (and ensure that Relevant Persons comply with) any directions of a venue operator as regards Your/their presence at the relevant venue

## **6. CERTAIN PROMISES CONCERNING THE EVENT ARE EXCLUDED**

### **6.1 No warranty re success of the Event**

You acknowledge and agree that neither We nor the Host make, or have made, any binding warranty, promise, representation or prediction concerning:

- (a) the number and types of the businesses, products or services that will be exhibited or otherwise promoted at the Event;
- (b) the number of persons who shall attend the Event, their seniority or status, or the nature of the businesses they may represent; and/or
- (c) the number or value of sales leads that You may obtain as a result of Your Exhibition.

Any predictions We or the Host may make or have made concerning the Event, or information or statistics that We or the Host may provide or have provided concerning

previous events, are/were provided in good faith, but they are not binding upon Us. You acknowledge and agree that You have not relied and does not rely on such predictions, statistics or information to determine whether to enter into this Agreement.

## **7. EXHIBITION FEES**

### **7.1 Payment of the Exhibition Fee**

You must pay the Exhibition Fee and any applicable GST in the amount specified in the Exhibition Prospectus.

### **7.2 When payment is required**

You must pay the Exhibition Fee and GST in full:

- (a) within 14 days of the date of a tax invoice submitted by the Host or Us; or
- (b) before You brings (or causes to be brought) any Exhibition Materials or other property on or into the Venue,

whichever is earlier.

## **8. GST**

### **8.1 You must pay GST**

The Exhibition Fee and any other payments under this Agreement and in the Exhibition Prospectus and the Application are expressed exclusive of GST unless otherwise specified. You must pay, in addition to the Exhibition Fee and any other payments required under this Agreement and at the same time as those payments are made, the sum calculated as the GST, at the then-applicable rate, on those payments.

## **9. YOUR ADDITIONAL OBLIGATIONS**

### **9.1 Access, removal and construction of Exhibition**

You agree that:

- (a) You and all Relevant Persons (including any contractor You engage), must access the Venue at such times and dates as We may notify, to bring Exhibition Materials into the Venue and construct the Exhibition. You must ensure that the Exhibition is completed and ready for the Event by the time and date We notify. Construction work during the Event will not be permitted. If We, acting reasonably, consider that the construction of the Exhibition will not be complete by the date We notify under this paragraph (a), We may exercise Our rights under clause 15;
- (b) You must construct or, if You engage contractors, ensure that such contractors construct and install the Exhibition so as to comply with the warranties in clause 10.2; and



- (c) on conclusion of the Event, by the date and time We notify, You must ensure that the Exhibition is dismantled and that it and all Materials and other property are removed from the Venue and that the space occupied by the Exhibition is returned to the same state that it was in before the Exhibition was installed and that all rubbish is removed.

## **9.2 Exhibition and Exhibition Materials are at Your risk**

The Exhibition, Exhibition Materials and all other property that is brought onto the Venue (whether by You, by Your contractors or by any Relevant Person) are at Your risk and You are responsible for its care and security. Neither We nor the Host is liable for any loss of or damage to the Exhibition, the Exhibition Materials or any other property, howsoever caused, excepting only to the extent such loss or damage is caused by Our negligence or breach of this Agreement, but in all cases Our liability is limited as provided in clause 17.

## **9.3 Exhibitor's conduct (and conduct of Relevant Persons) at the Event**

At all relevant times You must (and must also ensure that Relevant Persons also comply with the following):

- (a) comply with the Venue Rules and all lawful directions of Venue staff;
- (b) conduct itself in a reasonable, respectful, considerate and lawful manner;
- (c) be attired in a manner that is appropriate to the Event and that will not cause offence to any person;
- (d) ensure that all Relevant Persons wear, and display identification badges or lanyards provided;
- (e) not act, speak or otherwise communicate in a manner that is offensive, obscene or that reasonable persons may consider to be offensive or obscene;
- (f) if Relevant Persons consume alcohol, they do so reasonably and responsibly, and not so as to become intoxicated;
- (g) not carry, consume or supply unlawful drugs;
- (h) observe "no-smoking" signs and directions;
- (i) not place the safety and health of any person(s) at the Event at risk;
- (j) not cause personal injury to, or defame, any person or damage the property of any person;
- (k) be respectful towards other exhibitors, sponsors, speakers and others and refrain from causing a nuisance or interrupting or disrupting programme content, whether by making noise or otherwise;

- (l) not place Your products or promotional materials anywhere other than in the places We designate or direct. Without limiting the foregoing, You must not place such things at, within or on the stands, booths, tables or other installations of other exhibitors or sponsors;
- (m) comply with the COVID-19 and Transmissible Illness protocols set out in clause 27; and
- (n) comply promptly with Our reasonable and lawful directions and those of the authorised staff of the Host and its contractors.

#### **9.4 Virtual Event**

If the Event is wholly or partly to be staged by virtual (i.e., online) means, the Event, or that part of it that is so staged:

- (a) the provisions in this Agreement that, in practice, can only apply to a “face-to-face” event, do not apply; and
- (b) You and Relevant Persons must comply with the rules of participation posted to the relevant online platform or website, as the case may be.

### **10. WARRANTIES**

#### **10.1 Warranties by both parties**

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; and
- (b) it has not suffered, nor been threatened with an Insolvency Event.

#### **10.2 Warranties by Exhibitor**

You warrant and agree that:

- (a) You and all Relevant Persons have received and reviewed the Venue Rules, and Your Exhibition does not and will not breach the Venue Rules; and
- (b) if the Exhibition is to be constructed by You or Your contractors, You and/or those contractors (as the case may be) are, or will be, sufficiently skilled, licensed, qualified and experienced to undertake the works, having regard to their type, construction method, materials, size, scale and location;
- (c) the Exhibition will comply with all applicable laws, industry and building codes, safety rules and guidelines;
- (d) Your Exhibition Materials, and Your Exhibition:

- (i) and its placement or construction will not create a risk to the health and safety of any person and will not cause personal injury or death to any person;
- (ii) are or will be constructed or installed to a quality and standard that is equal or better than a reasonable standard in the circumstances,
- (iii) will not damage the Venue or the property of any other exhibitor, person attending the Event or any other person;
- (iv) will not damage the reputation of the Event, the Host, Us or the Venue;
- (v) will comply with all applicable laws and any applicable code of conduct or ethics of the Host, of which notice is given to You and/or any Relevant Person;
- (vi) do not and will not infringe the Intellectual Property, contractual, confidentiality, privacy or other legal rights of any person;
- (vii) are not and will not be misleading or deceptive in any respect, or contain any misrepresentation of any kind;
- (viii) are not and will not be derogatory or defamatory of any person, organisation or product of any kind; and
- (ix) are not and will not be likely to be considered by a reasonable person to be offensive or otherwise inappropriate for display at the Event.

### **10.3 Breach of Exhibitor warranties**

If You breach any of the warranties contained in this clause 10, We may exercise Our rights under clause 15, or, if We request, You must remove or modify the Exhibition and/or Your Exhibition Materials so as to comply with the warranties contained in this clause 10.

## **11. YOU MUST PROVIDE PARTICULARS OF EXHIBITION MATERIALS AND INFORMATION**

### **11.1 You must provide information on request**

You must, when requested by Us or the Venue-operator, promptly provide particulars of all Exhibition Materials and any information concerning Your Exhibition or its construction. Neither We nor the Host will be liable for any delay in or failure to provide Exhibitor Entitlements if You does not comply with this clause.

## **12. CANCELLATION OF THE EVENT BY US OR HOST**

### **12.1 Your acknowledgement that the Event may be cancelled**

You acknowledge and agree that the Event may be cancelled at any time by Us or the Host for any reason.

## **12.2 We/Host are not liable if the Event is cancelled**

Subject to clause 12.3 and Your entitlements to a refund, You agree that neither We nor the Host have any liability to You or any Relevant Person for any losses, damage, liability or claim caused directly or indirectly by cancellation of the Event for any reason whatsoever, including but not limited to travel and accommodation costs.

**NB:** We recommend that You and Relevant Persons consider making accommodation and transport arrangements that permit variation or cancellation with appropriate refunds, and obtain insurance (if available) that will reimburse accommodation and transport costs in the event of cancellation.

## **12.3 Consequences of cancellation of Event**

If the Event is cancelled, We will notify You of such cancellation by email, and We will refund all monies received from You.

## **13. CANCELLATION OF EXHIBITION BY EXHIBITOR**

### **13.1 Cancellation of Your Exhibition by You - general**

- (a) You may cancel Your Exhibition at any time before the Cancellation Deadline for any reason by written notice to Us ("Cancellation Notice"). A Cancellation notice may not be given after the Cancellation Deadline unless clause 13.2 applies.
- (b) If We receive a Cancellation Notice before the Cancellation Deadline, We will refund 50% of the Exhibition Fee, less merchant fees if Exhibitor has paid by credit card and bank charges if otherwise applicable. If You have not paid 50% of the Exhibition Fee by the date of the Cancellation Notice, You must make payment with the Cancellation Notice. If You have already paid more than 50% of the Exhibition Fee by the date of the Cancellation Notice, We will refund the excess within 14 days.
- (c) A Cancellation Notice is of no effect unless it is accompanied by payment (if payment is required) as provided under this clause.

### **13.2 Cancellation of Exhibition by Exhibitor for Intervening Occurrences**

If an Intervening Occurrence has a Relevant Effect upon You, You may, at any time before the commencement of the Event, notify Us by email that You wish to cancel Your Exhibition, giving particulars of the Intervening Occurrence and the Relevant Effects. We will consider the notice in good faith and if, acting reasonably, We accept the particulars given, We will refund all monies We have received under this Agreement within 60 days, less merchant fees if You have paid by credit card and bank charges if otherwise applicable.

## **14. VARIATION, POSTPONEMENT, CHANGE OF PRIMARY VENUE AND CONVERSION OF THE EVENT TO VIRTUAL**

### **14.1 The Event may be postponed, moved or converted, etc**

You acknowledge and agree that, from time to time and for any reason, including but not limited to Intervening Occurrences:

- (a) the Event may be postponed;
- (b) the Event and exhibition space may be moved to a different place (including a different city or town) or primary Venue, or part of a Venue;
- (c) the Event may be converted to a fully or partly virtual event;
- (d) programme content of the Event, its order or session times, the speakers, entertainers and other presenters may be varied; and/or
- (e) the social programme and any Venue for dinners and other social events or activities may be varied.

### **14.2 We/Host are not liable if the Event is varied, postponed, moved or converted, etc**

Subject only to Your entitlements to a refund under clause 14.3, You agree that neither We nor the Host have any liability to You or any Relevant Person for any losses, damage, liability or claim (including but not limited to travel and accommodation costs) caused directly or indirectly by any of the changes referred to in clause 14.1.

### **14.3 Consequences of substantial or material variation**

- (a) If the Event is postponed, moved to a different city, town or primary Venue, is converted to a fully on-line or "virtual" event, or if there is a substantial and material change to the Event programme, We will give You notice (by email) of the relevant variation(s) (in this clause, a "Material Change Notice"). In all other cases, details of changes will be posted to the Event Website. You are responsible for checking for such notifications/alerts prior to the Event.
- (b) If You notify Us by email within 14 days of Our Material Change Notice, or before the commencement date of the Event, whichever is earlier:
  - (i) You may cancel Your Exhibition; and
  - (ii) We will refund all monies received from the Exhibitor.
- (c) **Important Note:** If You do not notify Us of such cancellation within the aforementioned time, You are deemed to have accepted the variation.

## **15. OUR RIGHTS TO SUSPEND, REQUIRE "TAKE DOWN" AND REFUSE ENTRY**

### **15.1 Our rights**

If We or the Host, acting reasonably, consider that there is any reasonable cause, or if We consider that You (including by the actions or omissions of any Relevant Person) is in material or substantial breach of this Agreement in any respect, including if the Exhibition Fee, or any part of the Exhibition Fee is not paid in full by the date(s) specified in the Event Website or the Exhibition Prospectus, We may:

- (a) suspend provision of the Exhibitor Entitlements; and/or
- (b) refuse You, Relevant Persons, and Your Exhibition Materials from access or entry into the Venue, or eject any of the foregoing from the Venue; and/or
- (c) require You to dismantle and remove Your Exhibition from the Venue and if You do not comply with a direction given under this paragraph (c), We may dismantle and remove the Exhibition and all Exhibition Materials from the Venue and store and retain that property, by way of lien, at Your risk and cost, until You pay Us Our actual costs of so doing and any other losses We incur; and/or
- (d) recover all actual costs of exercising Our rights under this clause from You, including legal costs and disbursements.

The exercise of any of the foregoing remedies is not Our exclusive remedy and We may exercise any other remedy available to Us under this Agreement or under the law.

## **16. TERMINATION OF THIS AGREEMENT**

### **16.1 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.

## **16.2 Our additional termination right for non-payment**

In addition to Our rights of termination under the preceding clause, We may terminate this Agreement by written notice to You if You fail to pay the Exhibition Fee, or any part of it, or if You fail to pay any other monies payable under this Agreement by the due date for payment. Time is of the essence as regards payment of the Exhibition Fee.

## **16.3 Termination for disrepute**

In addition to Our rights of termination under the preceding clauses, We may terminate this Agreement with immediate effect by written notice to You if You commit, or a Relevant Person commits an act or omission which, in Our reasonable opinion, has materially damaged or is likely to materially damage Our reputation or that of the Host or the Event.

## **16.4 Sole rights of termination**

The rights of termination in this clause 16 and otherwise expressly set out in this Agreement are the parties' sole rights to terminate this Agreement.

## **16.5 Consequences of termination**

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

- (a) all Exhibitor Entitlements cease;
- (b) excepting only in the case of termination by You under clause 16.1, We may retain all Exhibition Fees received;
- (c) You must cease referring to Yourself as an exhibitor at the Event;
- (d) each party must cease making further use of the Intellectual Property of the other party;
- (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; and
- (f) all rights and obligations of the parties survive such expiry or termination if they are, by express provision or by reasonable implication, intended to so survive.

## **17. LIMITATION AND EXCLUSIONS OF LIABILITY**

### **17.1 No attempt to contract-out of statutes where prohibited**

Nothing in this clause 17 (or in the other provisions of this Agreement) purports to limit to exclude a liability that, by law, cannot be limited or excluded. This clause 17 applies to the extent permissible under the law.

## **17.2 Limitation of parties' liability**

Subject to clauses 17.3, 17.4 and 18:

- (a) The total aggregate liability of each party and the liability of its employees, agents and contractors for breach of this Agreement, for negligence or other tort or breach of duty, and for any other cause of action, will not exceed a sum being the equivalent of three times (3x) the total monetary value of the Exhibition Fee; and
- (b) the word "*liability*" (in the phrase "total aggregate liability" in paragraph (a)) means liability however arising in contract, in tort or in equity and whether the conduct giving rise to such liability was wilful, negligent or otherwise, in any jurisdiction, and for any loss (including personal injury), damage or expense (including legal costs and disbursements),

provided that this clause 17.2 does not limit Your liability under clause 18.

## **17.3 Our/Host's liability under certain statutes**

Where Our/the Host's liability arises under the *Competition and Consumer Act 2010* (Cth) or analogous Fair Trading laws, then to the extent permissible by law, Our liability is limited (at Our option), in aggregate, to supplying the services for Exhibitor Entitlements again, or the cost of supplying them again.

## **17.4 We/Host have no liability for losses caused by independent third parties**

You agree that third parties, including other exhibitors, sponsors, attendees of, and suppliers (including Venue operators) to, the Event, are independent (and are not the employees, agents or partners of Us or the Host) and neither We nor the Host are vicariously or jointly liable to You or any Relevant Person for loss of any kind (including personal injury) to the extent caused by any third party.

## **18. EXHIBITOR'S BREACH MAY CAUSE US LIABILITY TO THIRD PARTIES**

### **18.1 Additional losses recoverable by Us**

You acknowledge and agree that:

- (a) the negligence, other tort, breach of statutory duty, or breach of this Agreement or of the Venue Rules by You or any Relevant Person may cause us to be in breach of contractual obligations (including indemnities) or other duties or obligations that We or the Host may have to the Venue operator or other third parties, such as other sponsors, exhibitors, or attendees of, or suppliers to, the Event; and
- (b) any loss or liability We incur to a Venue operator or any other third party, as a direct or indirect consequence of any negligence, other tort, breach of statutory duty, or breach of this Agreement or of the Venue Rules by You or any Relevant Person, is a reasonably foreseeable and proximate loss recoverable by Us from You, and is not subject to the limitation of Your liability in clause 17.2



## **19. INSURANCE**

### **19.1 You must hold certain insurances**

You must hold (and must ensure that any contractor engaged by You, for the purposes of the Exhibition, holds), for the duration of this Agreement and for six years after the closure of the Event, the following policies of insurance with reputable insurers, namely:

- (a) public liability and products liability insurance for an amount not less than the sum of \$20,000,000.00;
- (b) to the extent that Your public liability and products liability insurance does not provide such cover, insurance for liability arising from the installation and construction works (including third party liability cover) that will be conducted to build the Exhibition and any Exhibition Materials for an amount not less than the sum of \$20,000,000.00;
- (c) insurance for a prudent and reasonable sum covering liability for breach of this Agreement;
- (d) insurance required by law; and
- (e) any other insurance specified in the Venue Rules.

When We request and, in all cases, before accessing the Venue and the commencement of the installation or construction of the Exhibition, You must provide Us and/or the Venue operator with certificates of currency of such insurance and such other evidence of insurance as We may request.

## **20. INTELLECTUAL PROPERTY**

### **20.1 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.

### **20.2 Licence of Your Intellectual Property to Us**

- (a) You grant Us a licence (in this clause, the "Licence") to use Your Intellectual Property for the sole purposes of providing the Exhibitor Entitlements and otherwise performing Our obligations and exercising Our rights under this Agreement.
- (b) The Licence is:
  - (i) world-wide;

- (ii) non-exclusive;
  - (iii) transferrable 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 in promoting, organising, staging and holding the Event or to provide the Exhibitor Entitlements; and
  - (v) fee-free.
- (c) You warrant that Our use of Your Intellectual Property under the Licence will not infringe the Intellectual Property rights or other legal rights of any person.

## **21. CONFIDENTIAL INFORMATION**

### **21.1 Non-disclosure and restricted copying**

Subject to clause 21.2, a party must not disclose any Confidential Information to a third party.

### **21.2 Exceptions to non-disclosure**

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

- (a) reasonably necessary to perform its obligations under this Agreement. In Our case, this includes the disclosure of Your Confidential Information to the Host and its contractors;
- (b) legally compelled by a court or other authority of competent jurisdiction;
- (c) made to a legal adviser, accountant, or other professional adviser to whom a copy of this Agreement is supplied; or
- (d) made with the prior written consent of the other party, which may grant or withhold its consent in its absolute discretion.

## **22. ANNOUNCEMENTS AND PUBLICATIONS**

### **22.1 Announcements**

The parties agree that:

- (a) We and the Host may make announcements or publish materials at any time, referring to You, for the reasonable promotion of the Event; and
- (b) with the sole exception of the reasonable promotion of Your participation in the Event as an exhibitor, You must not make announcements or publish materials referring to Us, the Host or the Event, without Our prior written approval, which approval will not be unreasonably withheld.

## **23. HEALTH AND SAFETY**

### **23.1 You are responsible for Health and Safety**

You acknowledge and agree that You are responsible for ensuring that Your Exhibition and the construction, installation, display and removal of Your Exhibition and the Exhibition Materials will not place any person at risk of injury or illness. To the extent that any such work includes or comprises a construction project or building works (and unless the Venue Rules provide to the contrary) You agree that You are the "principal contractor" and must discharge the duties of a principal contractor for the purposes of all work, health and safety laws and obligations.

## **24. ASSIGNMENT AND NOVATION**

### **24.1 Parties not to assign etc.**

Subject to clause 24,2, a party must not assign or novate this Agreement without the prior written consent of the other party.

### **24.2 Exceptions**

We or the Host may novate or assign this Agreement to any substitute conference organiser or event manager that may be engaged by the Host, on reasonable terms and You must sign and deliver any reasonable agreement for that purpose.

## **25. NOTICES**

### **25.1 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 in the manner provided in this Agreement and if not expressly stipulated, by hand (whether by the party or a courier), sent by ordinary or registered mail, or by email. Notices to Us must be sent to the following addresses:

Mail or hand delivery: *PO Box 584, Coorparoo Qld 4151*

Attention: *Susan Harris, Managing Director*

Email: *mesconference@absoluteevents.com.au*

or such other address that We may notify, in writing, from time to time. Notices to You must be sent to the addresses specified in the Application. A notice may be given by an employee or agent (including a legal advisor) of the party giving the notice.

### **25.2 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.

**26. GOVERNING LAW AND JURISDICTION**

**26.1 QLD law and jurisdiction**

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

**27. COVID-19 AND OTHER TRANSMISSIBLE ILLNESS - SAFETY**

**27.1 Relevant Persons must not attend the Event in certain circumstances**

You and a Relevant Person must not attend the Event if diagnosed as having a Transmissible Illness, or is feeling unwell with symptoms that may indicate infection with a Transmissible Illness.

**27.2 On entry and while attending**

In the interests of safety in connection with Transmissible Illness, at entry to and while attending the Event, You and each Relevant Person must,:

- (a) comply with all applicable laws and health directives concerning Transmissible Illness;
- (b) comply with all lawful directions and protocols issued by Our staff or staff of a Venue operator; and

report to Event staff any symptoms of Transmissible Illness and comply with all reasonable and lawful directions given by Event staff, including any request to leave the Venue.

**EXHIBITOR ACCEPTS THESE TERMS AND  
CONDITIONS ON ITS OWN BEHALF AND ON  
BEHALF OF ALL RELEVANT PERSONS**

**\*\*\*\*\*End of Agreement\*\*\*\*\***