



PURCHASE ORDER – STANDARD TERMS

These Standard Terms, along with the Purchase Order, form the terms on which the Supplier will supply Goods or Services to ASH (**Agreement**). The Agreement is formed upon the earlier of the Supplier doing any one of the following prior to the expiry of any time for acceptance specified in the Purchase Order:

- (a) providing to ASH a copy of the Purchase Order signed by or on behalf of the Supplier;
- (b) otherwise notifying ASH that the Supplier accepts the Purchase Order; or
- (c) commencing provision of the Goods or Services.

1 MEANINGS AND BASIS OF PURCHASE ORDER

1.1 Unless the context otherwise indicates:

- (a) **“Acceptance”** of the Goods occurs when the Goods have been inspected and tested to the satisfaction of ASH after delivery and unpacking or following installation or incorporation of the Goods into plant or premises and for Services means the time that the Services have been completed to the satisfaction of ASH and **“Accepted”** and **“Accepts”** have a corresponding meaning;
- (b) **“ASH”** means Australian Sustainable Hardwoods Pty Ltd (ABN 72 151 841 431) of Weir Road, Heyfield, Victoria, 3858;
- (c) **“ASH Site”** means 4 Weir Road, Heyfield, Victoria 3858 and any other premises owned, leased or occupied by ASH which the Supplier or its Personnel have access to for the purpose of delivering the Goods or providing the Services;
- (d) **“Code of Conduct”** means the ASH Code of Conduct (as amended from time to time), a copy of which can be accessed at www.ash.com.au or from ASH upon request;
- (e) **“Deliverable”** means all things, materials, documents, information and items developed by or on behalf of the Supplier or its Personnel in the course of or in connection with the supply of the Services in any form whatsoever (including electronic form), including all things described as a Deliverable in the Purchase Order;
- (f) **“Delivery Address”** is the address stated against ‘Deliver To’ on the Purchase Order;
- (g) **“Delivery Date”** is the relevant date(s) or period stated under ‘Delivery Date’ on the Purchase Order;
- (h) **“Developed IP”** means any intellectual property rights which are created, generated, developed, written or brought into existence by or on behalf of the Supplier in connection with or for the purposes of supplying the Goods, providing the Services (including any Deliverables) or meeting its other obligations under the Agreement;
- (i) **“Fees”** means the amounts payable by ASH under the Agreement for the supply of the Goods, provisions of the Services and supply of the Deliverables as set out in, or calculated in accordance with, the Purchase Order;
- (j) **“Goods”** means the goods or any part of them identified under the ‘Description’ section on the Purchase Order;
- (k) **“Insurance Policies”** means the insurance policies specified in the Purchase Order;
- (l) **“Invoice Address”** is the address of ASH stated on the Purchase Order;
- (m) **“Law”** includes any national, federal (including Commonwealth), state, territory or local government legislation, statutes, ordinances and other laws including regulations, by-laws and other subordinate legislation or law, common law, equity, awards, and approvals, licences or other permissions or consents of government or quasi-government authority and any standards establishing conditions of

quality or merchandising in relation to the Goods;

- (n) **"Modern Slavery"** has the meaning given to 'modern slavery' under the *Modern Slavery Act 2018* (Cth);
- (o) **"Personnel"** means the officers, employees, agents, contractors and subcontractors (who are individuals) of a party, including officers, employees and contractors (who are individuals) of any subcontractor of a party;
- (p) **"Purchase Order"** means the order or request by ASH to the Supplier to supply to ASH any Goods or provide it with any Services (or both) and on which these Standard Terms are attached or incorporated;
- (q) **"Services"** means the services or any part of them identified under the 'Description' section on the Purchase Order to be provided by the Supplier to ASH;
- (r) **"Standard Terms"** means these 'Purchase Order - Standard Terms'; and
- (s) **"Supplier"** means the person identified as the supplier on the Purchase Order.

1.2 The addresses of the parties are stated on the Purchase Order.

1.3 The Agreement (including the Purchase Order and these Standard Terms) contains the entire agreement between the parties and no regard will be had to any prior dealings. The Purchase Order and these Standard Terms prevail over any terms that may have been attached or embodied in the Supplier's quote, tender or offer or other correspondence and such terms are deemed to have been withdrawn in favour of the terms stated in the Purchase Order and these Standard Terms, except to the extent specifically agreed by ASH in writing.

1.4 Without limiting clause 1.3, any terms and conditions seeking to limit the liability of the Supplier which may be contained in sales literature, tenders, quotations, information, notices, delivery dockets, acceptance letters, tax invoices or any other documents are excluded.

2 SUPPLY OF GOODS AND SERVICES

2.1 The Supplier must supply the Goods, Services and Deliverables to ASH free from any encumbrance or security interest and in accordance with the terms of the Agreement.

2.2 Time is of the essence in relation to the Supplier's performance of the Supplier's obligations under the Agreement.

2.3 The Supplier must:

- (a) in supplying the Goods and Services and undertaking its other obligations, act efficiently, honestly and fairly at all times;
- (b) faithfully and diligently perform its obligations under the Agreement in a safe manner using reasonable skill, care and professional competence;
- (c) provide, at its cost, all Personnel, equipment, materials and other resources necessary to supply the Goods and Services;
- (d) act, and ensure that its Personnel act, in good faith in all dealings with ASH;
- (e) notify ASH immediately of any difficulties encountered by it in relation to the supply of the Goods or provision of the Services and otherwise keep ASH regularly informed of all matters relevant to the Goods and Services; and
- (f) not engage in conduct which does or is likely to have a material adverse effect, or reflect unfavourably, on ASH, including bringing ASH into disrepute, contempt, scandal or ridicule.

2.4 The Supplier warrants and agrees that the Goods, Services and Deliverables will:

- (a) conform precisely in quality, quantity, specification and description with the Purchase Order and any drawings, plans, specifications, requirements, technical documents or other description included with and/or identified in the Purchase Order or otherwise provided by ASH, including any samples of Goods inspected and approved by ASH;
- (b) comply with all applicable Law and relevant standards and, at the Supplier's cost, the Supplier must obtain all necessary licences, permits or authorities required in connection the performance of the Supplier's obligations under the Agreement;
- (c) in respect of any Goods or Deliverables, be new (unless otherwise agreed with ASH), of good merchantable quality, free of defects and fit for the purpose for which goods of the same kind are

- commonly supplied and any other purpose made known to the Supplier;
- (d) be free from all liens, charges and encumbrances of any kind and must be the property of the Supplier;
 - (e) have all warranties implied at Law apply to the Goods and Services, in addition to any express warranty, manufacturer's warranty, service guarantee or guarantee of performance. In the event of any inconsistency between any implied warranty or express warranty or guarantee, the warranty or guarantee which is most favourable to ASH prevails;
 - (f) in respect of the manufacture, supply and use of the Goods, Deliverables and Services, not infringe any patent, trade mark, design, copyright, confidentiality agreement or any third party's intellectual property rights in Australia or elsewhere; and
 - (g) be supplied to ASH strictly in accordance with the Purchase Order except to the extent that ASH may agree or direct otherwise in writing prior to the supply or performance of the Goods, Services or Deliverables.
- 2.5 The Supplier must allow ASH and other persons authorised by ASH access at all reasonable times to:
- (a) any place where the Goods, Services or Deliverables are being manufactured, stored or performed; and/or
 - (b) any quality assurance records or technical documentation relevant to the Goods, Services or Deliverables.
- 2.6 If the Supplier represents that the Goods or Deliverables are protected by one or more patents and any such patent is found to be invalid, ASH may terminate the Agreement and recover any Fees or other money paid to the Supplier.
- 2.7 The Supplier must:
- (a) supply to ASH any documentation or information required to enable ASH to use the Goods or Deliverables;
 - (b) ensure that a representative of the Supplier is available to meet with a representative of ASH at the times and locations as required by ASH to discuss performance of the Agreement and any issues arising under the Agreement; and
 - (c) ensure that its Personnel:
 - (i) are competent and have all the appropriate experience, skills, training and valid qualifications to carry out the duties and responsibilities of their positions and the tasks allocated to them; and
 - (ii) understand and agree to the requirements of the Agreement which are relevant to them.
- 2.8 When performing its obligations under the Agreement the Supplier must, and must ensure that the Supplier's Personnel, comply with all Laws and reasonable policies, procedures and directions notified by ASH to the Supplier in writing from time to time.
- 2.9 The Supplier is responsible for the care and insurance of the Goods and Deliverables and any plant, equipment and other things used to supply the Goods and Deliverables until their supply and Acceptance by ASH. If loss or damage occurs to the Goods, Deliverables or any plant, equipment and other items used to supply the Goods or Deliverables while the Supplier is responsible for their care, unless otherwise directed by ASH, the Supplier must promptly make good the loss or damage.

3 NON-EXCLUSIVITY

- 3.1 The Supplier acknowledges that it is not the exclusive supplier of the Goods or Services or goods or services which are similar to the Goods or Services, to ASH and that ASH may appoint other persons to provide the same or similar goods or services ("**Other Supplier**").
- 3.2 The Supplier must deal with such Other Suppliers as reasonably directed by ASH and assist and co-operate with ASH and any Other Supplier to enable the Other Supplier to otherwise perform the services that are to be provided by them to ASH.

4 DELIVERY AND ACCEPTANCE

- 4.1 Unless agreed otherwise in writing by ASH, the Supplier must supply and deliver or perform the Goods, Services and Deliverables to achieve Acceptance by the relevant Delivery Date and must ensure that the

delivery of Goods or supply of Services causes as little disruption as possible to ASH's business activities.

- 4.2 A Delivery Date may be amended or extended by ASH pursuant to clause 5.
- 4.3 The Supplier must:
- (a) liaise with ASH prior to each Delivery Date to confirm the arrangements for each delivery or performance of the Goods, Services and Deliverables;
 - (b) label the Goods and Deliverables as directed by ASH;
 - (c) store the Goods and Deliverables until the date and time arranged with ASH for each delivery of the Goods and Deliverables;
 - (d) at the Supplier's cost, supply and deliver the Goods and Deliverables packaged as reasonably required by ASH; and
 - (e) deliver the Goods and Deliverables to the Delivery Address on the date and at the time stated in the Purchase Order or arranged with ASH.
- 4.4 ASH may inspect all work related to the manufacture and/or supply of the Goods and Deliverables, and no such inspection will affect the obligations of the Supplier with respect to the Goods or Deliverables.
- 4.5 Inspection and testing must be conducted to the satisfaction of ASH, otherwise ASH will be entitled to reject the Goods and Deliverables. The Goods and Services must be performed to the satisfaction of ASH.
- 4.6 Subject to ASH's right to reject the Goods and Deliverables, property in and title to the Goods and Deliverables passes to ASH upon delivery of the Goods and Deliverables but risk in the Goods and Deliverables does not pass to ASH until Acceptance. Signature by or on behalf of ASH will not constitute Acceptance. Where the Goods or Deliverables are destroyed or damaged prior to delivery or Acceptance, ASH may terminate the Agreement and recover any Fees and other money paid to the Supplier.
- 4.7 Any Acceptance or payment of some or all of the Fees does not in any way:
- (a) alter the Supplier's obligations under the Agreement; or
 - (b) affect ASH's rights to claim for any loss it may suffer because of the Supplier's breach of warranty or failure to fulfil any of its other obligations under the Agreement.
- 4.8 At the time of each delivery the Supplier must provide ASH with a delivery docket in duplicate setting out the details of the Goods and Deliverables delivered for signature by ASH and the Supplier must retain one copy so signed.
- 4.9 The Supplier must not impede or interfere with any work in progress at the Delivery Address.
- 4.10 The Supplier must not register any encumbrance or security interest against ASH on the Personal Property Securities Register.

5 DELAY

- 5.1 The Supplier must give immediate notice to ASH upon becoming aware of any event or circumstance likely to delay supply, delivery or performance of the Goods or Deliverables by the Delivery Date.
- 5.2 ASH:
- (a) is entitled at any time in its absolute discretion to grant a reasonable, in the circumstances, extension of time to the Delivery Date; but
 - (b) is not obliged to grant an extension of time to the Delivery Date except to the extent that the Supplier is delayed in supplying and delivering the Goods or Deliverables by the Delivery Date which is caused by an act of prevention by ASH.
- 5.3 The Supplier must:
- (a) take all practical steps to avoid or minimise any delay to the supply or delivery or Acceptance of the Goods or Deliverables by the Delivery Date; and
 - (b) where a delay does not cause the supply, delivery or Acceptance of the Goods or Deliverables by the Delivery Date to be extended, take whatever action is necessary to supply, deliver or achieve Acceptance of the Goods or Deliverables by the Delivery Date.

6 SITE ACCESS

- 6.1 If Supplier's Personnel are required to access any ASH Site, the Supplier must ensure that Supplier's Personnel:

- (a) access the ASH Site only when reasonably necessary to supply the Goods, Services and Deliverables and only at the times specified by ASH;
 - (b) prior to accessing the ASH Site, undertake and complete any induction, safety or other training directed by ASH; and
 - (c) when accessing the ASH Site:
 - (i) comply with any security, health, safety and other procedures specified by ASH from time to time; and
 - (ii) take reasonable care not to damage any of ASH's or any other person's property or injure any of ASH's or any other person's employees, agents, contractors or subcontractors; and
 - (d) deliver the Goods and carry out the Services so as to avoid interfering with, disturbing, disrupting or delaying any works or services being undertaken by or on behalf of ASH at the ASH Site or any business activities of ASH being undertaken at the ASH Site.
- 6.2 ASH will not be liable for any injury, illness, or death or loss of, or damage to, property suffered by any of the Supplier's Personnel when at any ASH Site.
- 6.3 The Supplier must:
- (a) comply with all applicable laws, regulations, codes of practice, and guidelines about the health, safety and welfare (**H&S**) of people at work (**H&S Laws**);
 - (b) do all things necessary to ensure that the Supplier's Personnel comply with H&S Laws; and
 - (c) provide ASH with access to all documentation necessary to establish the Supplier's compliance with H&S Laws and this clause 6.
- 6.4 The Supplier must notify ASH immediately in the event of any incident or injury involving Supplier's Personnel attending any ASH Site and provide to ASH copies of any documentation created or produced as a result of or relating to any such incident or injury, including incident reports.
- 6.5 The Supplier indemnifies ASH for any claim, including in relation to any injury, illness or death, arising out of or in connection with a breach by the Supplier of H&S Laws or this clause 6.

7 FEES AND PAYMENT

- 7.1 In consideration for the provisions of the Goods and Services, ASH will pay the Fees to the Supplier less:
- (a) the reasonable costs incurred by ASH in remedying any default by the Supplier of its obligations under the Agreement; less
 - (b) the amount of any costs, losses or damage suffered by ASH if the Supplier does not fulfil its obligations under the Agreement or otherwise.
- 7.2 The Fees are deemed to include everything necessary (such as labour, plant, equipment, travel, waiting time, delivery, packaging of the Goods and any other requirements or instructions specified in the Purchase Order as well as customs duty and any excise or any other charge, levy, cost, expense or tax applicable to the Goods) for the Supplier to supply, deliver or perform the Goods to or at the Delivery Address, to provide the Services and to fulfil all of its other obligations under the Agreement.
- 7.3 All Fees are firm and not subject to rise and fall or escalation.
- 7.4 Unless stated or agreed otherwise by ASH and subject to the Supplier's compliance with clause 7.5, payment for the Goods and Services will only be made for those Goods and Services supplied or performed and Accepted by ASH.
- 7.5 It is a precondition to the Supplier being entitled to payment that (and no payment will be due unless) the Supplier has:
- (a) performed its obligations in accordance with the Agreement;
 - (b) paid its employees and subcontractors all amounts due and payable to them;
 - (c) provided to ASH the data required by clause 9;
 - (d) if required by ASH, issued a Tax Invoice for the Goods and Services to the Invoice Address setting out the value of those Goods and Services as described in clause 7.1 and showing the date and place of supply or performance of the Goods and Services and the calculation of any GST, customs duty, excise or other tax, charge or levy applicable to the Goods and Services; and
 - (e) complied with all applicable obligations at Law, in respect of the Goods and Services.

- 7.6 Subject to compliance with clauses 7.4 and 7.5, the Supplier may invoice ASH for the Fees at the times set out in the Purchase Order or, if no times are set out in the Purchase Order, at the time ASH Accepts delivery of the relevant Goods, Services and Deliverables to which the Fees relate.
- 7.7 ASH may, at any time and as a condition precedent to payment, require the Supplier to provide evidence satisfactory to ASH that its employees and subcontractors have been paid all amounts due and payable to them and that it has satisfied all obligations at Law with respect to the Goods and Services.
- 7.8 Subject to clauses 8, 11 and 12 and unless stated otherwise, payment of the Fees will be made by ASH to the Supplier by the end of the month following the month in which the invoice is submitted to ASH or provided by ASH under clause 8.5(a), but if the invoice is not dated or is received or provided by ASH more than 7 days after it is dated, the date of the invoice will be deemed to be the date that the invoice is received by ASH or provided by ASH under clause 8.5(a).
- 7.9 At ASH's discretion, payment will be made by electronic funds transfer or by another electronic method. Unless expressly stated otherwise, all amounts stated in the Purchase Order and all payments made pursuant to the Agreement will be in Australian dollars and are GST exclusive.
- 7.10 If ASH disputes the amount of any invoice:
- (a) ASH may withhold or suspend payment of any disputed part of the disputed invoice until the dispute is resolved; and
 - (b) the Supplier must continue to perform its obligations under the Agreement while the dispute is resolved.

8 GOODS & SERVICES TAX (GST)

- 8.1 In this clause 8:
- (a) "GST" has the meaning given in the GST Act;
 - (b) "GST Act" means the A New Tax System (Goods and Services) Act 1999 (Cth);
 - (c) "GST Amount", "GST exclusive Consideration", "Recipient", "RCTI", "Supply Party" and "Tax Invoice" have the meanings given in this clause 8; and
 - (d) other terms used that are defined in the GST Act, have the same meanings in this clause 8.
- 8.2 Each party acknowledges and agrees that:
- (a) at the time of entering into the Purchase Order, it is registered for GST;
 - (b) it must promptly provide written evidence of its GST registration if so requested by the other party;
 - (c) it must indemnify the other party against any loss that may arise from it not being registered for GST; and
 - (d) it must promptly notify the other party in writing if it ceases to be registered for GST.
- 8.3 In respect of payments to be calculated under or in connection with the Purchase Order:
- (a) when calculating the amount payable or other consideration to be provided for a supply, the amounts used in the calculation are to exclude any GST component; and
 - (b) if the amount payable in respect of the Goods supplied and accepted by ASH is increased or decreased by an amount calculated by reference to a cost, expense or loss suffered or incurred by a party, then the amount will be reduced by any input tax credit to which that party, or the representative member of any GST group of which that party is a member, is entitled in respect of that cost, expense or loss.
- 8.4 For each supply made by a party ("Supply Party") under or in connection with the Purchase Order on which GST is imposed:
- (a) the consideration payable or to be provided for that supply under the Purchase Order but for the application of this clause 8.4 ("GST exclusive Consideration") will be increased by, and the recipient of the supply ("Recipient") must also pay to the Supply Party, an amount ("GST Amount") equal to the GST exclusive Consideration multiplied by the prevailing rate of GST; and
 - (b) the GST Amount must be paid to the Supply Party by the Recipient without set off, deduction or requirement for demand, at the same time as the GST exclusive Consideration is payable or to be provided, subject to a valid tax invoice ("Tax Invoice") being provided in respect of the GST exclusive Consideration.

- 8.5 A Tax Invoice must be provided either by:
- (a) subject to agreement between the parties, if ASH is the Recipient of the supply, ASH providing the Supplier with a recipient created tax invoice ("RCTI") on or before making payment in respect of the supply; or
 - (b) if paragraph (a) does not apply, the Supply Party providing the Recipient with a Tax Invoice before the due date for payment of the supply.
- 8.6 If clause 8.5(a) applies:
- (a) the Supplier must not issue a Tax Invoice in respect of any supply it makes to ASH; and
 - (b) ASH must notify the Supplier if it ceases to comply with any of the requirements of any taxation ruling issued by an authority relating to the creation of RCTIs.
- 8.7 If and to the extent an adjustment event arises in respect of a supply made under or in connection with the Purchase Order, then:
- (a) if the Supply Party's corrected GST Amount is less than the previously attributed GST Amount, the Supply Party must refund the difference to the Recipient;
 - (b) if the Supply Party's corrected GST Amount is greater than the previously attributed GST Amount, the Recipient must pay the difference to the Supply Party; and
 - (c) the Supply Party must issue an adjustment note to the Recipient (unless clause 8.5(a) applies, in which case ASH will issue an adjustment note to the Supplier).

9 TECHNICAL DATA

- 9.1 The Supplier must supply the Goods and Deliverables with all engineering, technical and other data required for the satisfactory use, maintenance, repair, installation or operation of the Goods and Deliverables, including the Supplier providing the Purchaser with all appropriate Safety Data Sheets (**SDS**) at the time of delivery of each shipment of Goods and Deliverables and upon each update of the relevant SDS.
- 9.2 Goods or Deliverables made or completed according to ASH's design or specification or developed for ASH at ASH's direction and any designs or specifications supplied by ASH, including all copies may be held by the Supplier on ASH's behalf, must not be disclosed, provided or furnished to any third party without the prior written consent of ASH.

10 INTELLECTUAL PROPERTY

- 10.1 The Supplier acknowledges and agrees that:
- (a) any Developed IP will be owned by ASH from the date it is created, generated, developed, written or brought into existence; and
 - (b) neither the Supplier nor any third party engaged by the Supplier in connection with the Goods or Services will have any right, interest or title in the Developed IP other than as provided in the Agreement.
- 10.2 The Supplier hereby assigns, and will procure that any relevant Personnel promptly assigns, to ASH all right, title and interest in all intellectual property rights in any Developed IP.
- 10.3 ASH grants to the Supplier a nonexclusive, royalty-free, non-transferable licence to use the Developed IP solely for the purpose of, and to the extent necessary to perform, the Services and its obligations in accordance with the terms of the Agreement.
- 10.4 The Supplier must comply with any standards, guidelines or directions given by ASH from time to time as to the use of Developed IP.
- 10.5 Where any thing, material, document, information or item developed by or on behalf of the Supplier independently of the Agreement ("**Pre-Existing Materials**") is included or incorporated in Developed IP, Goods or Deliverables delivered to ASH by the Supplier, is used by the Supplier to provide the Goods or Services or is required in order to be able to use or exploit the Developed IP, a Good, a Deliverable or a Service, the Supplier grants ASH a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, transferrable licence to use, reproduce, modify, perform testing, adapt and exercise the relevant Pre-Existing Materials for the purposes of, or in connection with, the use, exploitation, operation, maintenance, modification, enhancement of the Developed IP, Good, Deliverable or Service.

11 DEFAULT

Without limiting ASH's rights under this clause 11, if the Supplier fails to:

- (a) supply or perform Goods or Services to meet the requirements of the Agreement;
- (b) promptly and properly make good, re-supply, rectify or re-perform any defective Goods or make good any damage or loss for which the Supplier is responsible;
- (c) remove rubbish or other items belonging to the Supplier from the Delivery Address; and/or
- (d) comply with any other obligation it has under the Agreement (including, without limitation, failing to deliver the Goods or perform the Services on or by each Delivery Date),

then:

- (e) ASH may, at its discretion and without obligation, remedy or mitigate that failure on behalf of the Supplier and the cost of doing so will be a debt due from the Supplier to ASH and may be recovered by ASH in accordance with clause 7.1(a) or upon written demand; and
- (f) any cost, loss and damage that ASH has incurred or is likely to incur as a result of the Supplier's default will be a debt due from the Supplier to ASH and may be recovered by ASH in accordance with clause 7.1(b) or upon written demand.

12 TERMINATION

12.1 In the event that:

- (a) the Supplier commits any material breach of any of the provisions of the Agreement which is incapable of remedy;
- (b) the Supplier commits any breach of any of the provisions of the Agreement and the breach is capable of remedy, but the Supplier fails to remedy that breach within five days of notice from ASH requesting it to do so;
- (c) any warranty provided by the Supplier under the Agreement is not true;
- (d) in ASH's opinion, the Supplier is or is likely to become (in any jurisdiction) insolvent, bankrupt, wound up, unable to pay its debts when due or subject to any administration, receivership, external management, creditor action or court proceedings relating to its financial condition; or
- (e) if the Supplier is a person, the Supplier dies,

then ASH, may at its sole discretion, immediately terminate the Agreement.

12.2 Upon termination under clause 12.1:

- (a) ASH will be liable only for those amounts which become payable for Goods or Services supplied or performed and Accepted by ASH as at the date of termination;
- (b) any cost, loss, and damage that ASH has incurred or is likely to incur as a result of the termination will be a debt due from the Supplier to ASH;
- (c) subject to clauses 12.2(a), 12.2(b) and 12.4, each party is released from its obligations under the Agreement;
- (d) all rights granted to the Supplier pursuant to the terms of the Agreement will immediately revert to ASH and the Supplier must immediately cease using the Developed IP;
- (e) the Supplier must provide ASH with all Deliverables produced under the Agreement and any Developed IP in the Supplier's possession or control; and
- (f) each party retains any rights, entitlements or remedies it has accrued before termination.

12.3 Upon termination of the Agreement, the Supplier's sole entitlement to payment in respect of the Agreement will be payment under clause 12.2(a).

12.4 The termination or expiry of the Agreement does not operate to terminate any rights or obligations under the Agreement that by their nature are intended to survive termination or expiry, including under clauses 3, 4.10, 6.5, 8, 9, 10, 11, 12, 13, 14, 15, 17 and 18.

13 INSURANCE

13.1 The Supplier must, at its own expense, maintain the Insurance Policies during the term of the Agreement and for a period of five years after the later of the expiry or termination of the Agreement.

13.2 The Supplier must pay all premiums and all deductibles applicable to the Insurance Policies when due and

promptly reinstate any insurance required under this clause 13 if it lapses or if cover is exhausted.

- 13.3 If the Supplier fails to effect or maintain any of the Insurance Policies, then ASH may, at the Supplier's cost, effect and maintain the Insurance Policies on the Supplier's behalf.
- 13.4 Prior to commencing work under the Agreement and at such other times as ASH may request, the Supplier must provide evidence to ASH as to the existence, currency and terms of the Insurance Policies (including a certificate of currency).
- 13.5 The Supplier must notify ASH within two days of the cancellation of any of Insurance Policies.
- 13.6 The Supplier must comply with the terms of the Insurance Policies and must not do or omit to do any act that would be grounds for an insurer to refuse to pay a claim made under any of the Insurance Policies.
- 13.7 The Insurance Policies are primary and not secondary to the indemnities in the Agreement. ASH is not obliged to make a claim or institute proceedings against any insurer under the Insurance Policies before enforcing any of its rights or remedies under the indemnities referred to in the Agreement, or generally.

14 INDEMNITIES

- 14.1 The Supplier indemnifies and must hold ASH and each of its officers, employees and agents ("**Indemnified Persons**") harmless from and against any claim, action, demand or loss which any of the Indemnified Persons pay, suffer, incur or are liable for arising out of or in connection with:

- (a) the death or personal injury of any person;
- (b) the loss of, or damage to, any property;
- (c) any breach of Law or infringement of a third party's rights (including intellectual property rights or moral rights); and
- (d) any act or omission of negligence, fraud, dishonesty, reckless or wilful misconduct or misrepresentation,

to the extent caused or contributed to by any Good, Deliverable or any act or omission of the Supplier or the Supplier's Personnel.

- 14.2 The Supplier's obligation to indemnify ASH under clause 14.1 reduces proportionately to the extent that a wrongful or negligent act of omission by ASH caused or contributed to the relevant claim, action, demand or loss.

15 LIABILITY

- 15.1 Subject to clause 15.2 and to the extent any liability can be excluded by Law, the maximum aggregate liability of ASH for any loss, however caused or arising, suffered by the Supplier in connection with the Agreement is limited to the total amount of the Fees paid by the ASH to the Supplier under the Agreement. The limitation set out in this clause 15.1 is an aggregate limit for all loss, whenever suffered.
- 15.2 To the extent any liability can be excluded by law, ASH will not be liable to the Supplier for any indirect or consequential loss (including without limitation any loss of revenue, profit, business or reputation) suffered or incurred by the Supplier in connection with the Agreement.
- 15.3 The limitation of ASH's liability under this clause 15 applies despite any other provision of the Agreement and extends to all liabilities and obligations of ASH in any way connected with any representation, warranty, conduct, omission, deed or transaction related to the Agreement.

16 CODE OF CONDUCT

- 16.1 The Supplier:
 - (a) acknowledges that it has read and understood the Code of Conduct and that ASH has built a reputation based on acting with integrity and fairness at all times, and that any behaviours that breach the Code of Conduct must be notified to ASH;
 - (b) warrants that it shall comply with the Code of Conduct and that it will report any actual or potential breaches of the Code of Conduct to ASH so that the matter may be properly and confidentially investigated;
 - (c) warrants that it and its subcontractors and their respective directors, executive officers, employees, representatives and agents must not give or receive either directly or indirectly, any commission, fee, gift, rebate, entertainment or benefit of any kind to or from any director, executive officer, employee,

representative or agent of ASH, without the prior written approval of ASH;

- (d) undertakes that it will not make payments or provide financial or other advantage for unlawful purposes, including purposes violating anti-corruption laws, such as making or causing to be made direct or indirect payments to any person or to a public official in order to assist a party or any related body corporate or anyone acting on their behalf in obtaining or retaining business with, or directing business to, any person, or securing any improper advantage; and
 - (e) warrants that it and any of its subcontractors and their respective directors, executive officers, employees, representatives and agents are persons or organisations of good character and repute and, except as has been otherwise previously disclosed to ASH in writing, have not been found guilty or entered a plea of guilty in respect of any criminal offence and have not otherwise been the subject of any official investigation or enquiry into criminal conduct.
- 16.2 The Supplier must advise ASH in writing upon any change of circumstances relevant to matters addressed in this clause 16 including without limitation, any finding or plea of guilty in respect of any criminal offence or any official investigation or enquiry into criminal conduct involving the Supplier, any subcontractors and their respective directors, executive officers, employees, representatives and agents.
- 16.3 The Supplier indemnifies ASH, its directors, executive officers, employees, representatives and agents against all claims, losses, actions, damages, costs (including legal costs) and expenses that ASH may incur either directly or indirectly, due to any breach of a provision of this clause 16. ASH may recover from the Supplier as a debt due and owing to ASH, any such costs, losses, expenses or damages.

17 MODERN SLAVERY

17.1 Prohibition of Modern Slavery

- (a) The Supplier warrants that it does not knowingly and covenants that it will not knowingly engage in any form of Modern Slavery.
- (b) The Supplier warrants that it has not knowingly and covenants that it will not knowingly give or receive goods or services from, or otherwise deal with, a Tier 1 Supplier (being a supplier with whom the Supplier has a direct contractual relationship) which in any way engages in any form of Modern Slavery.
- (c) The Supplier will do all that it reasonably can to ensure that all entities in its supply chains do not engage in Modern Slavery.

17.2 On request from ASH, the Supplier will;

- (a) disclose all suppliers of goods or services in its supply chains (as at the time of the request) relevant to the supply of goods or services to ASH; and
- (b) provide a written statement confirming that it, all its related bodies corporate and all its Tier 1 Suppliers to the extent reasonably possible, are taking reasonable steps to identify and assess actual and potential Modern Slavery practices in their operations and supply chains used in the performance of the Agreement, and that they address potential Modern Slavery practices, and remediate actual Modern Slavery practices, as they discover them.

17.3 In the event that the Supplier identifies an occurrence or risk of Modern Slavery in its own operations or within its supply chains, it will immediately:

- (a) take reasonable and appropriate steps to rectify that occurrence or mitigate that risk (including provision of an appropriate remedy for the victim of that occurrence); and
- (b) notify ASH of that occurrence or risk and the steps taken by it to rectify that occurrence or mitigate that risk.

17.4 Any breach of these clauses will entitle ASH to:

- (a) suspend performance of any or all Purchase Orders that it has issued to the Supplier and this Agreement until it is satisfied (acting in good faith and reasonably) that the breach has been adequately addressed and rectified; or
- (b) terminate any or all Purchase Orders that it has issued to the Supplier and this Agreement by giving 5 days' written notice.

17.5 In the event of suspension or termination pursuant to this clause 17, ASH will not be required to pay any compensation to Supplier for that suspension or termination or any consequential damages.

17.6 clause 17.5 does not limit, restrict or interfere with in any way any other right of suspension or termination

given to ASH under this Agreement.

18 GENERAL

- 18.1 The Supplier must not transfer, novate or assign (in whole or in part) the Agreement or any payment or any other right, benefit or interest of the Supplier there under without the prior written consent of ASH.
- 18.2 The Supplier must not subcontract any of its rights or obligations under the Agreement without ASH's prior written consent.
- 18.3 The Supplier is and must remain an independent contractor and is responsible for its employees and subcontractors and the Agreement does not create a relationship of employment, agency, partnership or joint venture between the parties.
- 18.4 No provision of the Agreement will be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Agreement or the inclusion of the provision in the Agreement.
- 18.5 The Supplier must:
- (a) provide sufficient and suitable resources to supply or perform the Goods and Services in a proper and workmanlike manner with due diligence and expedition and in accordance with the Purchase Order;
 - (b) ensure that only persons who are careful, skilled, experienced and qualified in their respective trades and callings are employed in connection with the supply or performance of the Goods and Services and hold all certificates and licences required by Law in order for them to supply or perform the Goods and Services; and
 - (c) comply with any direction that ASH may give in connection with the supply, delivery or performance of the Goods and Services.
- 18.6 In the event that the terms in these Standard Terms conflict with any other terms stated in the Purchase Order including any special conditions then such other terms or special conditions will take precedence to the extent of the conflict.
- 18.7 The Agreement (including the Purchase Order and these Standard Terms) are governed by and must be construed according to the laws of Victoria and the parties submit to the exclusive jurisdiction of the courts of Victoria and the Federal Court of Australia (Victorian registry).
- 18.8 If any part of the Agreement is found to be void then that part will be deleted and the balance of the Agreement will continue without the deleted part.