

**“A”**

This is annexure “A” to the Sponsorship Application completed and submitted by the Sponsor

## **SPONSOR AGREEMENT**

### **PARTIES:**

**LEISHMAN ASSOCIATES PTY LTD** (ABN 22 103 078 897) ("**We**", "**Us**". "**Our**"), as agent for and on behalf of The Australasian Cytometry Society, ABN 68 355 872 685 ("**Host**") and

**THE SPONSOR IDENTIFIED IN THE SPONSORSHIP APPLICATION, TO WHICH THIS AGREEMENT COMPRISES ANNEXURE “A” ("Sponsor")**

### **BACKGROUND:**

The Sponsor wishes to sponsor the Event by providing the Sponsorship Contribution in return for the Sponsorship Benefits, on the terms and conditions contained in this Agreement.

### **OPERATIVE PROVISIONS:**

#### **1. INTERPRETATION**

##### **1.1. Definitions**

<b>Expression</b>	<b>Meaning</b>
<b>Agreement</b>	This document, as amended by written agreement from time to time.
<b>Confidential Information</b>	Confidential information pertaining to a party, or to the subject matter of this Agreement, the Event, the Sponsorship Contribution and the Sponsorship Benefits. .
<b>Event</b>	The conference or event, if any, identified in the Sponsorship Application.
<b>GST</b>	The tax imposed or assessed by the A New Tax System (Goods and Services Tax) Act 1999 (Cth), as amended from time to time and associated legislation.
<b>Host</b>	The person, company or organisation that has engaged Us to provide event-management services in connection with the Event, identified in the Sponsorship Application and on page 1 of this Agreement.
<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 trade marks (whether registered or unregistered) and copyright.
<b>Relevant Persons</b>	All officers, employees, agents, contractors and guests of the Sponsor.
<b>Sponsorship Application</b>	The application to become a sponsor of the Event submitted to Us, to which this Agreement forms Annexure "A".

<b>Sponsorship Benefits</b>	The services and benefits to be provided to the Sponsor in exchange for the Sponsorship Contribution under this Agreement, specified in the Sponsorship Prospectus.
<b>Sponsorship Contribution</b>	The sum(s) of money that the Sponsor must pay/provide under this Agreement, as specified in the Sponsorship Prospectus.
<b>Sponsorship Prospectus</b>	The document seeking sponsorship for the Event, in response to which the Sponsor has submitted the Sponsorship Application.
<b>Venue Rules</b>	Rules issued by the operator of an Event venue as to the conduct and dress of persons within the venue, the form, content, construction and placement of promotional materials within the venue, access and egress, the use of venue facilities and equipment and any other matter relevant to the sponsorship.

## 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) 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;
- (b) A singular word includes the plural, and vice versa and a word which suggests one gender includes any gender;
- (c) If a word is defined, another part of speech has a corresponding meaning;
- (d) 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. 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;
- (e) A reference to dollars or \$ is to Australian currency unless otherwise specified;
- (f) Interpretation of any covenant clause or word mentioned herein shall not be restricted by reference to any other covenant clause or word mentioned herein or by the juxtaposition of the same; and
- (g) This Agreement constitutes the entire agreement between the parties concerning its subject matter and no discussion or correspondence referring to that subject matter shall be binding unless expressly incorporated in this document.
- (h) 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. SPONSOR ENTERS INTO THIS AGREEMENT FOR ITSELF AND RELEVANT PERSONS**

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

The Sponsor acknowledges and agrees 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 (including but not limited to any limitation of liability), 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. Sponsor must ensure compliance by all Relevant Persons**

The Sponsor acknowledges and agrees that it enters into this Agreement for itself and as duly authorised agent for all Relevant Persons and the Sponsor must ensure that all Relevant Persons comply with this Agreement in all respects.

## **3. SPONSORSHIP PROSPECTUS AND SPONSORSHIP APPLICATION**

### **3.1. This Agreement applies if We accept the Sponsorship Application**

This Agreement applies if, and commences when, We accept the Sponsorship Application. We may reject a Sponsorship Application for any reason We deem fit, including that any sponsorship package has been sold out or that We consider that the Sponsor is inappropriate for the Event.

### **3.2. Sponsorship Prospectus and Sponsorship Application**

The Sponsor warrants and agrees that:

- (a) it has received and read the Sponsorship Prospectus thoroughly and that all information provided in the Sponsorship Application is true and correct;
- (b) the Sponsor is not aware of any fact or circumstance, whether actual or potential, that would cause the Sponsor to breach this Agreement, or that may entitle Us to terminate it, including for breach of clause 12.2(b) (termination for disrepute); and
- (c) the individual who accepts these terms and conditions is duly authorised to do so.

## **4. SPONSORSHIP CONTRIBUTION**

### **4.1. Provision of the Sponsorship Contribution**

The Sponsor must provide the Sponsorship Contribution in the sum(s) of money and by the dates and times or subject to completion of the milestones or prerequisites, if any, specified in the Sponsorship Prospectus and in all cases, where the Sponsorship Contribution is money:

- (a) as to 50% of the Sponsorship Contribution, within 14 days of the date of Our tax invoice, or 30 days before the commencement of the Event, whichever is earlier; and
- (b) as to the remaining 50% of the Sponsorship Contribution, within 14 days of the date of Our payment reminder, or 30 days before the commencement of the Event, whichever is earlier,

in the manner specified in the Sponsorship Prospectus.

### **4.2. Sponsorship not exclusive to the Sponsor**

Except as expressly specified to the contrary in the Sponsorship Prospectus, neither this Agreement nor the sponsorship are exclusive to the Sponsor in any respect.

## **5. SPONSORSHIP BENEFITS**

## **5.1. Provision of the Sponsorship Benefits**

Subject to the Sponsor's compliance with this Agreement, and subject to the completion of any milestones or prerequisites as provided in the Sponsorship Prospectus, the Sponsor is entitled to the Sponsorship Benefits specified in the Sponsorship Prospectus, commensurate with the classification, level or type of sponsorship package selected in the Sponsorship Application.

## **5.2. Sponsorship Benefits subject to Venue Rules**

The Sponsor must at all times comply with the Venue Rules and all directions issued by Us or the venue operator. We and the operator of each venue have the right, if the Sponsor does not comply with the Venue Rules, to eject the Sponsor and Relevant Persons from the venue and the Sponsor must comply with (and ensure that its employees and contractors comply with) any directions of a venue operator as regards the Sponsor's/their presence at the relevant venue.

## **6. NO WARRANTY AS TO SUCCESS, ETC, OF EVENT**

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

The Sponsor acknowledges and agrees that We do not make and have not made any binding warranty, promise, representation or prediction concerning:

- (a) the number and types of the businesses, products or services that will sponsor the Event or promote their products or services 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 or sales leads that the Sponsor may obtain as a result of the sponsorship.

Any predictions We may make or have made concerning the Event, its likely attendance, or information or statistics that We may provide or have provided concerning previous events, are/were provided in good faith, but they are not binding upon Us and the Sponsor warrants that it has not relied and will not rely on them.

## **7. ADDITIONAL OBLIGATIONS OF SPONSOR AND RELEVANT PERSONS**

### **7.1. Conduct at the Event**

At all relevant times the Sponsor must (and must also ensure that Relevant Persons):

- (a) comply with the Venue Rules;
- (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) participate in any safety inductions or briefing as We, Our Client or the authorised staff of the Venue may direct;

- (k) not cause personal injury to, or defame, any person or damage the property of any person;
- (l) be respectful towards other sponsors, exhibitors, speakers and others and refrain from causing a nuisance or interrupting or disrupting programme content, whether by making noise or otherwise;
- (m) comply with the COVID-19 protocols set out in clause 21; and
- (n) comply promptly with Our reasonable and lawful directions, those of Our contractors and those of the relevant venues.

## **7.2. Virtual Events**

If the Event is wholly or partly to be conducted by virtual (i.e., online) means:

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

## **8. GST**

### **8.1. GST to be paid on taxable supplies**

All consideration provided for a supply under this Agreement or referred to in the Sponsorship Prospectus is calculated exclusive of GST unless the contrary is clear. The Sponsor agrees that it must pay GST, at the prevailing rate, on the Sponsorship Contribution.

## **9. CANCELLATION OF THE EVENT BY US/HOST; CANCELLATION OF SPONSORSHIP BY SPONSOR**

### **9.1. We/Host may cancel the Event**

The Sponsor acknowledges and agrees that the Event may be cancelled from time to time for many different reasons, including but not limited to circumstances beyond Our control or the control of the operator of the Venue.

### **9.2. We are not liable if the Event is cancelled**

Subject to clause 9.4, the Sponsor agrees that We have no liability to the Sponsor 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.

### **9.3. Postponed Event, change of primary venue, conversion of Event into a fully on-line or "virtual" event**

- (a) Subject to paragraph (b) of this clause, if We determine to postpone the Event to a later date to that specified in the Sponsorship Prospectus, to hold the Event at a different primary venue, or to convert the Event to a fully or partly on-line (or "virtual") event, the Sponsor agrees that the Event is varied, but not cancelled and the provisions of clause 17 will apply.
- (b) If a component of the Event is effectively cancelled as a result of a variation of the Event, and the Sponsorship Benefits are connected solely to that component, We will refund all monies paid, unless the parties agree in writing on alternative Sponsorship Benefits.

### **9.4. Consequences of cancellation of Events**

Where the Event is cancelled (but not varied or postponed), We will notify the Sponsor of such cancellation by email and We will refund all monies paid.

### **9.5. Cancellation of Sponsorship by Sponsor**

(a) Subject to paragraph (b), the Sponsor may, by email to Us, cancel the Sponsorship for any reason, at any time before the date that is 30 days before the commencement of the Event (but not later), whereupon:

- (i) the Sponsor must pay 50% of the Sponsorship Contribution; and
- (ii) if, at the date of the Sponsor's notice, the Sponsor has paid more than that sum, We will refund the difference.

For the avoidance of doubt, the Sponsor may, by email to Us, cancel the Sponsorship after the date that is 30 days before the commencement of the Event, but the Sponsor must pay the Sponsorship Contribution in full and no refund will be given.

(b) For the purposes of this clause 9.5(b):

- (i) "Force Majeure" includes (but only if it has a Relevant Effect), 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, epidemic or pandemic (including COVID-19); and
- (ii) "Relevant Effect" means that the Force Majeure has (or will, with reasonable certainty, have) the direct effect of making it unlawful or practically impossible for the Sponsor to attend the Event or to "man" any related exhibition for which the Sponsor may have registered for Event.

If Force Majeure occurs, the Sponsor may, at any time before the commencement of the Event, notify Us by email that the Sponsor wishes to cancel its Sponsorship, giving particulars of the Force Majeure and the Relevant Effects (a "Force Majeure Cancellation Notice"). Upon receipt of a Force Majeure Cancellation Notice, We will consider it in good faith and if, acting reasonably, We accept the particulars given, We will refund all monies We have received under this Agreement, less a fee of five hundred dollars (\$500) including GST, to cover administration and other costs.

## **10. SPONSOR TO PROVIDE MATERIALS AND INFORMATION**

### **10.1. Sponsor to provide information in timely manner**

The Sponsor must, within the times We may request, and in such form as We require, provide to Us all information, banners, images, promotional materials and other documents, works and things which may be required, or that We may reasonably request, to enable the supply of the Sponsorship Benefits. We are not liable to the Sponsor for any delay in or failure to provide Sponsorship Benefits if the Sponsor does not comply with this clause.

### **10.2. Sponsor warranties re information and materials provided**

The Sponsor warrants that all information and materials provided to Us are accurate, not misleading or deceptive, comply with all applicable laws and any applicable code of conduct or ethics, of which notice is given to the Sponsor, and that they do not defame any person or infringe the Intellectual Property or other legal rights of any person.

### **10.3. We may refer to Sponsor in promotional materials for the Event**

We may, on any website for the Event, in social media and in any other materials published in any medium for promotion of the Event, refer to the Sponsor as a sponsor of the Event, and use the information and materials provided under this clause 10.

## **11. SUSPENSION AND EJECTION**

### **11.1. Suspension and ejection rights**

If We, acting reasonably, consider that the Sponsor (including by the actions or omissions of any Relevant Person) is in breach of this Agreement in any respect (including if the Sponsorship Contribution is not paid/provided by the date(s) specified in the Sponsorship Prospectus), or if there is any other reasonable cause:

- (a) We may suspend any or all of the Sponsorship Benefits until We are satisfied that compliance will resume; and/or

(b) We may, without liability to the Sponsor or any Relevant Person, eject the Sponsor and any or all Relevant Persons from the Event and/or refuse entry to the Event or any part of the Event,

and the exercise of this remedy is not Our exclusive remedy.

## **12. TERMINATION**

### **12.1. Termination for cause—general**

Either 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 7 days, or such lesser reasonable period, given the proximity of the breach to the Event date(s) after receipt of a notice by the Terminating 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.

### **12.2. Our additional termination rights**

We may terminate this Agreement by written notice to the Sponsor if:

- (a) the Sponsor fails to pay the Sponsorship Contribution, or any part of it, by the due date for payment or supply; and/or
- (b) if the Sponsor commits (or has committed) any act or omission which, in Our reasonable opinion, may cause disrepute or materially damage Our reputation, or that of the Event.

### **12.3. Sole rights of termination**

The rights of termination in this clause 12 and otherwise expressly set out in this Agreement are the sole rights of termination exercisable by the parties, but in all other respects the common law rights and remedies of the parties are preserved. For example, on termination of this Agreement for default, a party may exercise its right to claim damages from the defaulting party except as otherwise expressly excluded or limited under this Agreement.

### **12.4. Consequences of termination**

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

- (a) the Sponsor must cease referring to itself as a sponsor of the Event;
- (b) We will, to the extent that it is practicable for Us to do so:
  - (i) cease making subsequent references to the Sponsor as a sponsor of the Event; and
  - (ii) delete or destroy all information, promotional and other materials in Our possession that contain any such reference;
- (c) each party must cease making further use of the Intellectual Property of the other party; and
- (d) any and all rights and remedies, which had accrued to the benefit of the parties to the date of termination, survive.

## **13. LIMITATION AND EXCLUSION OF LIABILITY**

### **13.1. Limitation of Our liability**

Subject to clause 13.2:

- (a) Our total aggregate liability and the liability of Our employees, agents and contractors, to the Sponsor and any Relevant Person, for breach of this Agreement, for negligence or other tort and any other cause of action, will not exceed a sum being the equivalent of the total monetary value of the Sponsorship Contribution.
- (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, whether such liability arose in Tasmania, or in any other jurisdiction, and for any loss (including personal injury), damage or expense (including legal costs and disbursements).
- (c) Where Our liability arises in connection with the supply of services under statute (including but not limited to the *Competition and Consumer Act 2010* (Cth)), then to the extent permissible by law, Our liability is limited (at Our option), in aggregate, to supplying those services or the Sponsorship Benefits again, or the cost of supplying those services or the Sponsorship Benefits again.

### **13.2. Exclusion of certain liabilities**

We are not liable to the Sponsor or any Relevant Person, for loss of profit loss of savings, loss of savings, loss of opportunity, damage to reputation and/or indirect and consequential loss

## **14. INDEMNITY AND RELEASE AND LOSSES WE MAY RECOVER**

### **14.1. Indemnity and release**

The Sponsor must indemnify, and hereby release Us and Our respective employees, contractors and agents from and against all claims, actions, demands, losses, liability, cost or expenses (including any claims, actions or demands made or brought by the Venue operator, attendees of the Event and other third parties), caused in whole or in part by, or arising in connection with:

- (a) its breach of this Agreement;
- (b) its negligence or other tort;
- (c) its breach of the Venue Rules;
- (d) its breach of any other legal duty or obligation, including but not limited to any statutory duty;
- (e) the presence, use, display, transportation, construction, installation, display or removal of any promotional materials or content,

and for the avoidance of doubt this indemnity and release applies to:

- (i) claims, actions and demands made on the basis of any cause of action;
- (ii) claims, actions and demands for loss of any kind including but not limited to personal injury, loss of or damage to property of any person (including but not limited to the venue operator), loss of the kind referred to in clause 14.2, infringement of Intellectual Property, damage to reputation, economic loss, indirect loss and consequential losses; and
- (iii) legal costs and disbursements on a full indemnity basis.

This indemnity is not Our sole remedy for the matters referred to in this clause. We may, in addition, or in the alternative, pursue any other remedy under this Agreement or under the law.

### **14.2. Losses recoverable by Us**

The Sponsor acknowledges and agrees that:

- (a) the negligence, other tort, breach of statutory duty, or breach of this Agreement or of the Venue Rules by the Sponsor or any Relevant Person may cause Us to be in breach of contractual obligations (including



indemnities) or other obligations that We 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 the 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 the Sponsor or any Relevant Person, is a reasonably foreseeable loss recoverable by Us.

## **15. INTELLECTUAL PROPERTY**

### **15.1. 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 a work 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 that work.

### **15.2. Licence of Sponsor's Intellectual Property to Us**

The Sponsor grants to Us a world-wide, non-exclusive, non-transferrable (except in the case of permitted assignment or novation of this Agreement) licence to use its Intellectual Property for the sole purposes of providing the Sponsorship Benefits and otherwise performing Our obligations and exercising Our rights under this Agreement. The Sponsor warrants that the use of its Intellectual Property, as permitted under this Agreement, will not infringe the Intellectual Property rights of any third party

## **16. CONFIDENTIAL INFORMATION AND PRIVACY**

### **16.1. Non-disclosure**

A party must not disclose any Confidential Information of the other party to a third party, excepting that a party may disclose Confidential Information of the other party if the disclosure is:

- (a) reasonably necessary to perform its obligations under this Agreement
- (b) legally compelled by a court or other authority of competent jurisdiction;
- (c) made to a legal adviser, patent attorney, 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.

### **16.2. Privacy**

At all relevant times the parties must comply with all applicable privacy laws.

### **16.3. Consent of Sponsor**

The Sponsor grants its irrevocable consent to Our disclosure of the Sponsor's Confidential Information and personal information to the Host.

## **17. VARIATION AND POSTPONEMENT OF EVENT**

### **17.1. We may vary Event**

The Sponsor acknowledges and agrees that the Event is subject to variation by Us at any time and from time to time for any reason, without liability to the Sponsor or any Relevant Person, including but not limited to changes to:

- (a) the primary venue or the location of the Event or components of the Event within the venue;
- (b) the date(s) of the Event;

- (c) the method of delivery of the Event, such as by converting the Event to a fully or partly on-line or "virtual" event;
- (d) programme content, its order or session times, the speakers, entertainers and other presenters;
- (e) the social programme and any venue for dinners and other social events.

If (and only if) the Event is postponed, moved to a different primary venue or converted to a fully on-line or "virtual" event, We will give the Sponsor notice of the relevant variation(s). In all other cases, details of material changes will be posted to the Event Website. The Sponsor is responsible for checking for such notifications/alerts prior to the Event.

## **17.2. Sponsor's entitlement to refund in certain cases**

If the Event is postponed, moved to a different primary venue or converted to a fully on-line or "virtual" event, the Sponsor may notify Us within 14 days of cancellation of the Sponsorship and a full refund will be provided within 30 days of the end of the Event. If the Sponsor does not notify Us of such cancellation within the aforementioned 14-day period, the Sponsor is deemed to have accepted the variation and the Sponsorship remains on foot and the Sponsorship Contribution is payable in full.

## **18. ASSIGNMENT AND NOVATION**

### **18.1. Sponsor not to assign etc.**

The Sponsor must not assign or novate this Agreement without Our prior written consent. We may novate or assign this Agreement to any party nominated by Us. If We wish to assign or novate this Agreement, We will give written notice to the Sponsor and will provide an assignment or novation deed or agreement, which provides, among other things, that:

- (a) the Sponsor consents to the assignment or novation as the case may be;
- (b) the assignee/novatee agrees to comply with any provisions of this Agreement and perform any outstanding obligations under this Agreement; and
- (c) the Sponsor releases Us from further liability under this Agreement and in connection with the Event, and the Sponsor must duly execute and deliver that document promptly to Us.

## **19. NOTICES**

### **19.1. How given**

Any notice, approvals, request or demand or other communication ("notice") to be given under this Agreement must be in writing and must be delivered by email. Notices to Us must be sent to the following addresses:

**Email:** kim@laevents.com.au

**Attention:** Kim Murray

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

### **19.2. When served**

A notice given:

- (a) 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

(b) 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.

## **20. FURTHER ASSURANCES**

### **20.1. Parties to do all things necessary**

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

## **21. COVID-19 SAFETY**

### **21.1. Relevant Persons must not attend the Event in certain circumstances**

A Relevant Person must not attend the Event if he/she:

(a) has been diagnosed as having COVID-19, is feeling unwell with symptoms that may indicate infection with COVID-19, such as fever, cough, shortness of breath, sore throat or unusual levels of fatigue (in this clause, "COVID Symptoms");

(b) has been in contact, in the 14-day period before the Event, with any person that has tested positive to COVID-19 or has displayed COVID Symptoms; or

(c) has travelled, in the 14-day period before the Event, to Australia from overseas, to the place of the venue from a COVID-19 declared hotspot, or from a state or territory whose borders have been closed or restricted due to COVID-19.

### **21.2. On entry and while attending**

At entry to and while attending the Event, the Sponsor must ensure that each Relevant Person:

(a) complies with all applicable laws and health directives concerning COVID-19;

(b) complies with and submits to contact tracing protocols and procedures for COVID-19 safety;

(c) strictly practise social distancing by ensuring that he/she remains at least 1.5 meters from persons not known to him/her;

(d) wash his/her hands regularly and use hand-sanitiser made available at the Event; and

(e) reports, to Event staff any symptoms that may indicate infection with COVID-19, such as fever, cough, shortness of breath, sore throat or unusual levels of fatigue, and follows all reasonable directions given by Event staff. If requested to leave the venue, he/she must comply with that request.

### **21.3. After the Event**

If, after the Event, any Relevant Person is diagnosed with COVID-19, he/she must promptly advise Us and his/her medical practitioner of his/her attendance at this Event and comply with all lawful contact-tracing requirements.

## **22. GOVERNING LAW AND JURISDICTION**

### **22.1. Tasmanian law and jurisdiction**

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

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“A”

**This is annexure “A” to the Exhibitor Application completed and submitted by the Exhibitor**

## **EXHIBITOR AGREEMENT**

### **PARTIES:**

**LEISHMAN ASSOCIATES PTY LTD (ABN 22 103 078 897) ("We", "Us". "Our"), as agent for and on behalf of The Australasian Cytometry Society, ABN 68 355 872 685 (“Host”) and**

**THE EXHIBITOR IDENTIFIED IN THE SCHEDULE ("Exhibitor")**

### **BACKGROUND:**

The Exhibitor wishes to exhibit its products or services at the Event on the terms and conditions contained in this Agreement, and, in response to the Exhibition Prospectus, has submitted an Exhibitor Application to Us.

### **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 Exhibitor Application.
<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.

<b>Event</b>	The conference or event identified in the Exhibition Prospectus and the Exhibitor Application.
<b>Exhibition</b>	The Exhibitor's exhibition stand, booth, stall or other promotional structure, installation or presence at the Event.
<b>Exhibition Fee</b>	The sum(s) of money that the Exhibitor must to pay under this Agreement, as specified in the Exhibition Prospectus.
<b>Exhibition Manual</b>	The document, if any, that We provide to the Exhibitor at any time prior to the Event, setting out rules and requirements for the Exhibition and other related matters.
<b>Exhibition Materials</b>	All things and materials that the Exhibitor and/or its 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 Application</b>	The form entitled "Exhibitor Application" completed and submitted to Us, to which this Agreement comprises Annexure "A".
<b>Exhibitor Entitlements</b>	The benefits to be provided to the Exhibitor, in exchange for the Exhibition Fee under this Agreement as specified in the Exhibition Prospectus.
<b>Exhibition Prospectus</b>	The document inviting exhibitors to participate in the Event, in response to which the Exhibitor has submitted its Exhibitor Application.
<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>Relevant Persons</b>	All officers, employees, agents, contractors and guests of the Exhibitor.
<b>Venue</b>	The primary venue for the Event as specified in the Exhibition Prospectus and the Exhibitor Application, at which the Exhibition will be located.
<b>Venue Rules</b>	All rules applicable to the installation, presentation, presence, removal and use of the Exhibition and Exhibition Materials and to the conduct and attire of exhibitors, attendees and Relevant Persons 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 covenant clause or word mentioned herein shall not be restricted by reference to any other covenant clause or word mentioned herein or by the juxtaposition of the same;
- (j) This Agreement constitutes the entire agreement between the parties concerning the subject matter herein and no discussion or correspondence referring to that subject matter shall be binding unless incorporated in this document; and
- (k) 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. EXHIBITOR ENTERS INTO THIS AGREEMENT FOR ITSELF AND RELEVANT PERSONS**

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

The Exhibitor acknowledges and agrees that We enter into this Agreement in Our capacity as agent for and on behalf of the Host and a reference to Us includes a reference to the Host and vice versa. 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 (including but not limited to any limitation of liability), 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 Exhibitor agent for and must ensure compliance by all Relevant Persons**

The Exhibitor acknowledges and agrees that it enters into this Agreement for itself and as duly authorised agent for all Relevant Persons. In addition, the Exhibitor must ensure that all Relevant Persons comply with this Agreement in all respects.

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

#### **3.1 This Agreement applies if We accept the Exhibitor Application**

This Agreement applies if and commences when We the Exhibitor clicks the acceptance button at the end of this document and if We accept the Exhibitor Application submitted to Us. We may reject an Exhibitor Application for any reason We deem fit, including that any exhibition package has been sold out (or that that there is insufficient Venue space), or that We consider that the Exhibitor is inappropriate for the Event.

#### **3.2 Exhibitor's warranty re Exhibition Prospectus and Exhibitor Application**

The Exhibitor warrants, acknowledges and agrees that:

- (a) the Exhibitor has received and read the Exhibition Prospectus and the Exhibition Manual thoroughly;
- (b) the information provided by the Exhibitor in the Exhibitor Application is true and correct in all respects; and
- (c) the Exhibitor is not aware of any fact or circumstance, whether actual or potential, that would cause the Exhibitor to breach any of the provisions of this Agreement, or that may entitle Us to terminate it, including for breach of clause 15.2 (termination for disrepute);

### **4. EXHIBITOR ENTITLEMENTS**

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

The Exhibitor Entitlements will be provided to the Exhibitor:

- (a) subject to the Exhibitor's compliance with, and on the terms and conditions of, this Agreement and, if applicable, the Exhibition Manual;
- (b) as specified in the Exhibition Prospectus and the Exhibitor Application;
- (c) subject to the provision of information as provided in this Agreement and on completion of any milestones or pre-requisites specified in the Exhibition Prospectus and the Exhibition Manual; and
- (d) subject to the Exhibitor's compliance with, and in accordance with, the Venue Rules.

#### **4.2 Exhibitor acknowledgement re positioning of Exhibition**

The Exhibitor acknowledges and agrees that, except as expressly provided in the Exhibition Prospectus, the location and positioning of the Exhibition is at Our discretion.

#### **4.3 Exhibitor Entitlements not exclusive**

Except as expressly specified to the contrary in the Exhibition Prospectus, neither this Agreement nor the Exhibitor Entitlements are exclusive to the Exhibitor in any respect.

#### **4.4 Inconsistency**

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

### **5. VENUE RULES**

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

The Exhibitor:

- (a) agrees that provision of the Exhibitor Entitlements is subject to, and to compliance by the Exhibitor and all Relevant Persons with the Venue Rules;
- (b) warrants that the Exhibitor has received a copy of the Venue Rules, or otherwise accessed them, and have thoroughly acquainted itself, its staff, contractors and all Relevant Persons with their requirements and, where necessary, have given a copy of the Venue Rules to them;
- (c) must at all times comply with the Venue Rules all lawful directions of Venue staff and must ensure and procure that all Relevant Persons also comply with them;
- (d) must comply, and must ensure and procure that its employees and contractors and all Relevant Persons comply, with any directions given by Venue staff or any authorised contractor of the operator of the Venue; and
- (e) must notify Us immediately in writing and provide such information as We require, if We, the Venue operator, or the Exhibitor become aware of any breach of the Venue Rules.

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

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

The Exhibitor acknowledges and agrees that We do not make and have not 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 the Exhibitor may obtain as a result of its Exhibition.

Any predictions We may make or have made concerning the Event, or information or statistics that We may provide or have provided concerning previous events, are/were provided in good faith, but they are not binding upon Us. The Exhibitor acknowledges and agrees that it has not relied and does not rely on such predictions, statistics or information.

## **7. EXHIBITION FEES**

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

The Exhibitor must pay the Exhibition Fee and any applicable GST in the sum(s) of money, in the manner, and by the dates and times or subject to completion of the milestones or prerequisites, if any, specified in the Exhibition Prospectus and in all cases:

- (a) as to 50% of the Exhibition Fee, within 14 days of the date of Our tax invoice, or 30 days before the commencement of the Event, whichever is earlier; and
- (b) as to the remaining 50% of the Exhibition Fee, within 14 days of the date of Our payment reminder, or 30 days before the commencement of the Event, whichever is earlier,

## **8. GST**

### **8.1 Exhibitor must pay GST**

The Exhibition Fee and other payments under this Agreement and in the Exhibition Prospectus and the Exhibitor Application are expressed exclusive of GST unless otherwise specified. The Exhibitor 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 on those payments, at the then-prevailing GST rate.



## **9. ADDITIONAL OBLIGATIONS OF EXHIBITOR**

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

The Exhibitor agrees that:

- (a) the Exhibitor, and any contractor it engages, must access the Venue at such times and dates as We may notify, to bring Exhibition Materials into the Venue and construct the Exhibition. The Exhibitor 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 14; and
- (b) on conclusion or cancellation of the Event, or on termination of this Agreement, the Exhibitor must, by the date and time We notify, ensure that the Exhibition is dismantled and that it and all Exhibition 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. If the Exhibitor fails to comply with this paragraph (b), We may remove the relevant property and will store it and return it subject to full payment of Our actual storage costs, plus a ten percent (10%) fee, plus GST.

### **9.2 Exhibition and Exhibition Materials are at Exhibitor's risk**

The Exhibition, Exhibition Materials and all other property that is brought onto the Venue whether by the Exhibitor or by its contractors or any Relevant Person, are at the Exhibitor's sole risk and the Exhibitor is solely responsible for its care and security. We are not liable for any loss of or damage to the Exhibition, the Exhibition Materials or any other property of the Exhibitor or any Relevant Person, howsoever caused.

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

At all relevant times the Exhibitor must (and must also ensure that each Relevant Person complies with the following):

- (a) comply promptly with Our reasonable and lawful directions and those of the authorised staff of the Venue and Our contractors, and with the Venue Rules;
- (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 each Relevant Person wears and displays 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) consume alcohol (if permitted at all, and if consumed) 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 or health of any person(s) at the Event at risk;
- (j) not cause personal injury to, or defame, or damage the property of, any person;
- (k) be respectful towards suppliers, other exhibitors, sponsors, speakers and others and refrain from causing a nuisance or interrupting or disrupting programme content, whether by making noise or otherwise; and
- (l) comply promptly with the COVID-19 protocols set out in clause 27.

### **9.4 Virtual Events**

If the Event is wholly or partly to be conducted by virtual (i.e., online) means:

- (a) the provisions in this Agreement that, in practice, can only apply to a “face-to-face” event, do not apply to the virtual or on-line component of the Event; and
- (b) the Exhibitor 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 Exhibitor**

The Exhibitor warrants and agrees that:

- (a) the Exhibitor and all Relevant Persons have received and reviewed the Venue Rules and the Exhibition does not and will not breach the Venue Rules; and
- (b) if the Exhibition is to be constructed by the Exhibitor or its contractors, the Exhibitor 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 in compliance with all applicable laws, industry and building codes, safety rules and guidelines;
- (d) the Exhibition Materials and the Exhibition:
  - (i) and its 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) are not and will not be considered offensive to a reasonable person, or otherwise inappropriate for display at the Event, and will not damage Our reputation, or that of the Event, the Venue, or any other participant in the Event;
  - (v) comply with all applicable laws and any applicable code of conduct, of which notice is given to the Exhibitor 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; and
  - (viii) are not and will not be derogatory or defamatory of any person, organisation or product of any kind.

### **10.2 Breach of Exhibitor warranties**

If the Exhibitor breaches any of the warranties contained in this clause 10, We may exercise Our rights under clause 14, or, if (in Our discretion) We request, the Exhibitor must modify the Exhibitor and/or its Exhibition Materials so as to comply with clause 10.1.

## **11. EXHIBITOR TO PROVIDE PARTICULARS OF EXHIBITION MATERIALS AND INFORMATION**

### **11.1 Exhibitor to provide information on request**

The Exhibitor must, when We or the Venue operator request, promptly provide particulars of all Exhibition Materials and any information concerning the Exhibition or its construction. We are not liable for any delay in or failure to provide Exhibitor Entitlements if the Exhibitor does not comply promptly with this clause.

## **12. CANCELLATION, POSTPONEMENTS AND CONVERSION TO VIRTUAL EVENT**

### **12.1 We/Host may cancel the Event**

The Exhibitor acknowledges and agrees that the Event may be cancelled at any time for any reason, including but not limited to circumstances beyond Our control or the control of the operator of the Venue.

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

Subject to clause 12.4, the Exhibitor agrees that We are not liable for any losses, costs or expenses, damage, liability or claim caused to the Exhibitor directly or indirectly by cancellation of the Event for any reason whatsoever. For the avoidance of doubt, We are not liable for design or construction costs related to the Exhibition, or travel or accommodation costs of the Exhibitor or any Relevant Person.

### **12.3 Postponed Event; different venue or conversion to partly "virtual" Event**

If We determine to postpone the Event, to convene it at a different venue, or to convert it to a partly "virtual", or on-line event, the Event is deemed not to have been cancelled and clause 13 applies.

### **12.4 Consequences of Event cancellation or conversion to a fully "virtual" Event**

If the Event is cancelled (but not postponed), or is converted to a fully "virtual", or on-line event:

- (a) We will notify the Exhibitor by email;
- (b) unless the Exhibitor notifies Us, by email, that it wishes to participate as a "virtual" Exhibitor (if We offer that option), all Exhibition Fees received will be refunded in full. If the Exhibitor notifies Us that it wishes to participate as a "virtual" Exhibitor, the Exhibitor must pay the Exhibition Fee We advertise for "virtual" Exhibition at the Event and We will refund the difference between that sum and any monies paid to date.

### **12.5 Cancellation of Exhibition by Exhibitor**

- (a) Subject to paragraph (b), the Exhibitor may, by email to Us, cancel its Exhibition for any reason at any time, up to the date that is 30 days before the commencement of the Event (but not later), whereupon:
  - (i) if, at the date of the Exhibitor's cancellation notice, the Exhibitor has paid the Exhibition Fee in full, We will refund 50% of that sum; and
  - (ii) if, at the date of the Exhibitor's cancellation notice, the Exhibitor has paid 50% of the Exhibition Fee, the Exhibitor is relieved of its liability to pay the remainder of the Exhibition Fee; and
  - (iii) if, at the date of the Exhibitor's notice, the Exhibitor has not paid any of the Exhibition Fee, the Exhibitor must pay 50% of the Exhibition Fee.

For the avoidance of doubt, the Exhibitor may not cancel its Exhibition, other than for Force Majeure, after the date that is 30 days before the commencement of the Event and the Exhibitor must pay the Exhibition Fee in full and no refund will be given.

- (b) For the purposes of this clause 12.5(b):
  - (i) "Force Majeure" includes (but only if it has a Relevant Effect), 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, epidemic or pandemic (including COVID-19); and

- (ii) "Relevant Effect" means that the Force Majeure has (or will, with reasonable certainty, have) the direct effect of making it unlawful or practically impossible for the Exhibitor to install or have the Exhibition installed, or from operating or "manning" the Exhibition during the Event.

If Force Majeure occurs, the Exhibitor may, at any time before the commencement of the Event, notify Us that the Exhibitor wishes to cancel its Exhibition, giving particulars of the Force Majeure circumstances and the Relevant Effects (a "Force Majeure Cancellation Notice"). Upon receipt of a Force Majeure Cancellation Notice, We will consider it in good faith and if, acting reasonably, We accept the particulars given, We will refund Exhibition Fees We have received under this Agreement, less a fee of five hundred dollars (\$500) including GST, to cover administration and other costs.

### **13. VARIATION AND POSTPONEMENT OF EVENT**

#### **13.1 We may vary the Event**

The Exhibitor acknowledges and agrees that the Event is subject to variation at any time and from time to time, without liability (save only as provided in clause 12.4) to the Exhibitor or any Relevant Person, including but not limited to changes to:

- (a) the primary venue or the location of the Event or components of the Event within the venue;
- (b) the date(s) of the Event;
- (c) programme content, its order or session times;
- (d) the method of delivery of the Event and We may convert it to a partly or fully "virtual" or on-line event;
- (e) the speakers, entertainers and other presenters;
- (f) the social programme and any venue for dinners and other social events.

If (and only if) the Event is postponed or moved to a different primary venue, or converted to a fully on-line or "virtual" Event, We will notify the Exhibitor by email. In all other cases, details of material changes will be posted to the Event Website. The Exhibitor is responsible for checking for such notifications/alerts prior to the Event.

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

#### **14.1 Our rights**

If We, acting reasonably, consider that there is any reasonable cause, or if We consider that the Exhibitor is in breach of this Agreement in any material respect, including if the Exhibition Fee or any part of it is not paid in full by the due date, We may:

- (a) suspend provision of the Exhibitor Entitlements; and/or
- (b) refuse the Exhibitor and Relevant Persons from access or entry into the Venue, deny entry of Exhibition Materials, or eject any of the foregoing from the Venue,
- (c) require the Exhibitor to dismantle and remove the Exhibition from the Venue and if the Exhibitor does not comply with a direction given under this paragraph (c), We may do so, and store and retain that property, by way of lien, at the risk and cost of the Exhibitor, until the Exhibitor pays Us Our costs of so doing, plus a ten percent (10%) fee, and any other losses We incur; and
- (d) recover all costs of exercising Our rights under this clause, including removal and storage costs actually incurred and legal costs and disbursements, on a full indemnity basis.

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

## **15. TERMINATION OF THIS AGREEMENT**

### **15.1 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 7 days, or such lesser reasonable period, given the proximity of the breach to the Event date(s), after receipt of a notice by the Terminating 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.

### **15.2 Termination for disrepute**

We may terminate this Agreement with immediate effect by written notice to the Exhibitor if the Exhibitor 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 Event or Venue.

### **15.3 Sole rights of termination**

The rights of termination in this clause 15 and otherwise expressly set out in this Agreement are the sole rights of termination exercisable by the parties, but in all other respects the common law rights and remedies of the parties are preserved. For example, on termination of this Agreement for default, a party may exercise its right to claim damages from the defaulting party except as otherwise expressly excluded or limited under this Agreement.

### **15.4 Consequences of termination**

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

- (a) all Exhibitor Entitlements cease immediately and the Exhibitor must, at a date and time nominated by Us in writing, remove all Exhibition Materials, if any, from the Venue, as provided in clause 9;
- (b) excepting only in the case of valid termination by the Exhibitor under clause 15.1, the Exhibitor must pay all Exhibition Fees;
- (c) the Exhibitor must cease referring to itself as an exhibitor at the Event, and must not publish any derogatory comment or opinion of Us or the Event in any medium;
- (d) We will, to the extent practicable, cease making further use of the Intellectual Property of the Exhibitor; and
- (e) such termination is without prejudice to any and all rights and remedies which had accrued to the benefit of the parties to the date of termination and all rights and obligations of the parties survive such termination if they are, by express provision, or by reasonable implication, intended to so survive.

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

### **16.1 Losses recoverable by Us**

The Exhibitor acknowledges and agrees that:

- (a) the negligence or other tort, breach of statutory duty, or breach of this Agreement or of the Venue Rules by the Exhibitor or any Relevant Person may cause Us to be in breach of contractual obligations (including indemnities) or other duties or obligations that We 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 the Venue operator or any other third party, as a direct or indirect consequence of any negligence or other tort, breach of statutory duty, or breach of this Agreement or of the Venue Rules by the Exhibitor or any Relevant Person, is a reasonably foreseeable loss recoverable by Us from the Exhibitor.

## **17. INTELLECTUAL PROPERTY**

### **17.1 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.

### **17.2 Licence of Exhibitor's Intellectual Property to Us**

- (a) The Exhibitor grants Us a licence (in this clause 17.2, the "Licence") to use the Exhibitor's 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 by Us, 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) The Exhibitor warrants that Our use of the Exhibitor's Intellectual Property under the Licence will not infringe the Intellectual Property rights or other legal rights of any person.

## **18. CONFIDENTIAL INFORMATION AND PRIVACY**

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

A party must not disclose any Confidential Information to a third party, unless the disclosure is:

- (a) reasonably made by Us for the purposes of providing the Exhibitor Entitlements;
- (b) legally compelled by a court or other authority of competent jurisdiction;
- (c) made to a legal adviser, accountant, patent attorney 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.

### **18.2 Privacy**

At all relevant times the parties must comply with all applicable privacy laws.

### **18.3 Consent of Exhibitor**

The Exhibitor grants its irrevocable consent to Our disclosure of the Exhibitor's Confidential Information and personal information to the Host.

## **19. ANNOUNCEMENTS AND PUBLICATIONS**

### **19.1 Announcements**

The Exhibitor agrees that We may make announcements or publish materials at any time, referring to the Exhibitor, the Exhibitor's products and services for the reasonable promotion of the Event. With the sole exception of the reasonable and accurate promotion of the Exhibitor's participation in the Event as an exhibitor, the Exhibitor must not make announcements or publish materials referring to Us, or the Event, without Our prior written approval, which approval will not be unreasonably withheld.

## **20. HEALTH AND SAFETY**

### **20.1 Exhibitor Responsible for Health and Safety**

The Exhibitor acknowledges and agrees that the Exhibitor is responsible for ensuring that the Exhibition and the construction, installation, display and removal of the 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) the Exhibitor agrees that the Exhibitor is the "principal contractor" and must discharge the duties of a principal contractor for the purposes of all work, health and safety laws and obligations.

## **21. INDEMNITY AND RELEASE**

### **21.1 Indemnity and release**

The Exhibitor must indemnify, and hereby release Us from and against all claims, actions, demands, losses, liability, cost or expenses sustained by Us, including any claims, actions or demands made or brought by the Venue operator, attendees of the Event and other third parties, caused in whole or in part by, or arising in connection with:

- (a) the Exhibitor's breach of this Agreement;
- (b) the Exhibitor's negligence or other tort or that of any Relevant Person;
- (c) breach of the Venue Rules by the Exhibitor or any Relevant Person;
- (d) breach of any other legal duty or obligation by the Exhibitor or any Relevant Person;
- (e) the transportation, construction, installation, display or removal of the Exhibition or the Exhibition Materials by the Exhibitor or any Relevant Person,
- (f) the presence, use or display of Exhibition or the Exhibition Materials;

and for the avoidance of doubt this indemnity applies to:

- (g) claims, actions and demands made on the basis of any cause of action;
- (h) claims, actions and demands for loss of any kind including personal injury, loss of or damage to property of any person (including but not limited to the Venue and the Exhibition Materials), loss of the kind referred to in clause 16, infringement of Intellectual Property rights, reputational damage, economic loss, indirect loss and consequential losses; and
- (i) legal costs and disbursements on a full indemnity basis.

This indemnity is not Our sole remedy for the matters referred to in this clause. We may, in addition, or in the alternative, pursue any other remedy under this Agreement or under the law.

## **22. INSURANCE**

### **22.1 Exhibitor to hold certain insurances**

The Exhibitor must hold (and must ensure that any contractor engaged by the Exhibitor, for the purposes of the Exhibition, holds), for the duration of this Agreement, the following policies of insurance with reputable insurers, namely:

- (a) public liability and (if relevant to the Exhibitor's business) products liability insurance for a reasonable and prudent sum;
- (b) insurance required by law; and
- (c) any other insurance required under the Exhibition Prospectus and/or the Venue Rules.

When We request, the Exhibitor 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.

## **23. LIMITATION OF LIABILITY**

### **23.1 Limitation of Our liability**

- (a) Our total aggregate liability and the liability of Our employees, agents and contractors, for breach of this Agreement, for negligence or other tort and any other cause of action will not exceed a sum being the equivalent of the total of the Exhibition Fees.
- (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, whether such liability arose in Tasmania or in some other jurisdiction and for any loss (including personal injury), damage or expense (including legal costs and disbursements).
- (c) Where Our liability arises in connection with the supply of services under statute (including but not limited to the *Competition and Consumer Act 2010 (Cth)*), then to the extent permissible by law, Our liability is limited (at Our option), in aggregate, to supplying those services or Exhibitor Entitlements again, or the cost of supplying those services again.

## **24. ASSIGNMENT AND NOVATION**

### **24.1 Exhibitor not to assign etc**

The Exhibitor must not assign or novate this Agreement without Our prior written consent.

### **24.2 We may novate or assign**

We may novate or assign this Agreement to any party nominated by Us, including to any conference organiser or event-manager that We may engage. We will give written notice to the Exhibitor and will provide an assignment or novation deed or agreement, which provides, among other things, that:

- (a) the Exhibitor consents to the assignment or novation as the case may be;
- (b) the assignee agrees to comply with and provisions of this Agreement and perform any outstanding obligations under this Agreement; and
- (c) Our further liability is released,

and the Exhibitor must duly execute and deliver that document promptly to Us.

## **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 by email. Notices to Us must be sent to the following addresses:

**Email:** kim@laevents.com.au

**Attention:** *Kim Murray*

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

## **26.2 When served**

A notice given:

- (a) 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
- (b) 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 Tasmanian law and jurisdiction**

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

## **27. COVID-19 SAFETY**

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

A Relevant Person must not attend the Event if he/she:

- (a) has been diagnosed as having COVID-19, is feeling unwell with symptoms that may indicate infection with COVID-19, such as fever, cough, shortness of breath, sore throat or unusual levels of fatigue (in this clause, “COVID Symptoms”);
- (b) has been in contact, in the 14-day period before the Event, with any person that has tested positive to COVID-19 or has displayed COVID Symptoms; or
- (c) has travelled, in the 14-day period before the Event, to Australia from overseas, to the place of the venue from a COVID-19 declared hotspot, or from a state or territory whose borders have been closed or restricted due to COVID-19.

### **27.2 On entry and while attending**

At entry to and while attending the Event, each Relevant Person must:

- (a) comply with all applicable laws and health directives concerning COVID-19;
- (b) comply with and submit to contact-tracing protocols and procedures for COVID-19 safety, including the use of contact-tracing mobile device “apps”, and if applicable, submit to temperature testing;
- (c) strictly practise social distancing by ensuring that he/she remains at least 1.5 metres from persons not known to him/her;
- (d) wash his/her hands regularly and use hand-sanitiser made available at the Event; and

- (e) if he/she experiences any symptoms that may indicate infection with COVID-19, such as fever, cough, shortness of breath, sore throat or unusual levels of fatigue, he/she must immediately report to Event staff and follow all reasonable directions given by Event staff or health professionals present. If requested to leave the venue, he/she must comply with that request.

**27.3 After the Event**

If, after the Event, any individual who represents a Relevant Person is diagnosed with COVID-19, he/she must advise his/her medical practitioner of his/her attendance at this Event. If the medical practitioner considers that the Relevant Person may have become infected before or at the Event, he/she must permit the medical practitioner to notify health authorities and comply with all applicable laws, health orders or government recommendations for the purposes of preventing or reducing the spread of COVID-19.

**28. FURTHER ASSURANCES**

**28.1 Parties to do all things necessary**

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