

Translation of Questionnaires – Terms and Conditions

GENERAL TERMS

1 INTERPRETATION

1.1 Definitions

The following definitions apply:

Intellectual Property Rights means any and all registered and unregistered rights in relation to existing and future copyright, trademarks, designs, know-how, patents, plant varieties, confidential information, circuit layouts, business and domain names and trade secrets (including the right to apply for registration of any such rights), and other results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields anywhere in the world.

Moral Rights means the right of attribution of authorship of a work, the right of integrity of authorship and the right not to have authorship of a work falsely attributed, which rights are created by the *Copyright Act 1968* (Cth), and if any work is used in any jurisdiction other than in Australia, any similar rights capable of protections under the laws of that jurisdiction.

Specified Acts means:

- (a) failure to identify the authorship of any Translated Materials, or any content in the Translated Materials (including without limitation literary, dramatic, artistic work and cinematograph films within the meaning of the *Copyright Act 1968* (Cth));
- (b) materially altering the style, format, colours, content or layout of the Translated Materials and dealing in any way with the altered Translated Materials or infringing copies (within the meaning of the *Copyright Act 1968* (Cth));
- (c) reproducing, communicating, adapting, publishing or exhibiting any Translated Materials, including dealing with infringing copies, within the meaning of the *Copyright Act 1968* (Cth), without attributing the authorship or falsely attributing authorship; or
- (d) adding any additional content or information to the Translated Materials.

Translated Materials means any and all versions, including working versions, drafts and the final version, of the Materials that have been translated into the Language by the Assignor.

1.2 Rules for interpreting Terms and Conditions

Headings are for convenience only and do not affect interpretation. The following rules also apply in interpreting Terms and Conditions.

- (a) A reference to:
 - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced;
 - (ii) a document, deed or agreement (including these Terms and Conditions) or a provision of a document, deed or agreement (including these Terms and Conditions), is to that document, deed, agreement or provision as amended, supplemented or replaced;
 - (iii) a party to this document or to any other agreement, deed or document includes a successor in title, permitted substitute or a permitted assign of that party;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal entity, and any executor, administrator or successor in law of the person; and
 - (v) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.

- (c) If a word or phrase is defined, any other grammatical form of that word or phrase 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.

2 ASSIGNMENT

2.1 Assignment

- (a) With effect from the Effective Date of this document, the Assignor assigns absolutely to the University throughout the world all existing and future rights (including Intellectual Property Rights), title and interest in and to the Translated Materials.
- (b) The assignment set out in clause 2.1(a) includes all existing and accrued rights to bring legal action, seek injunctive relief or recover damages (and other remedies) in respect of any infringement of, or cause of action related to, any Intellectual Property Rights in the Translated Materials, occurring prior to the date of the assignment.

2.2 Further assurance

The Assignor undertakes to do all things necessary including executing any document, that Macquarie may reasonably require to:

- (a) give full effect to the assignment in clause 2.1; and
- (b) to further assure the right (including Intellectual Property Rights), title and interest of the University in, and in relation to, the Translated Materials.

2.3 Ownership of Translated Materials

The Assignor acknowledges and agrees that the assignment in clause 2.1 gives the University full ownership of all Intellectual Property Rights in the Translated Materials, and the Assignor will not have a claim to any royalties or licence fees or any other fees for those Intellectual Property Rights and any other related rights in the Translated Materials.

3 Ownership of Materials

The Assignor acknowledges and agrees that at all times, the University remains the absolute owner of all rights (including Intellectual Property Rights), title and interest in and to the Materials and nothing in this agreement constitutes a transfer or licence of any Intellectual Property Rights in the Materials.

4 Warranty and Indemnity

4.1 Warranty

The Assignor warrants and represents to the University that:

- (a) the Assignor is the sole author and creator of the Translated Materials;
- (b) the Assignor is the sole legal and beneficial owner of all the rights (including Intellectual Property Rights), title and interest in and to the Translated Materials;
- (c) the Assignor has all rights and authority required to enter into this agreement and grant the assignment in clause 2.1;
- (d) the Assignor has not dealt with, encumbered or granted to any person any rights in respect of the Translated Materials, including by way of licence, grant of a security, or in any other way; and
- (e) the Translated Materials and its use by or on behalf of the University (its successors, assigns, licensees and authorised users), will not infringe the Intellectual Property Rights or Moral Rights of any person or give rise to payment by the University (its successors, assigns, licensees and authorised users), of any royalty to any person (including the Assignor or to any liability to pay compensation).

4.2 Indemnity

The Assignor indemnifies and agrees to keep indemnified the University, its officers, employees and agents from and against any and all loss, cost and expense (including legal costs on a solicitor/own client basis), damages, harm, or liability howsoever arising that the University may suffer, incur or sustain in relation to any breaches by the Assignor of any of the warranties set out in clause 4.1.

5 Moral Rights

5.1 Consent to use of Moral Rights

To the extent permitted by the *Copyright Act 1968* (Cth), and for the benefit of the University (its successors, assigns, licensees and authorised users) the Assignor:

- (a) consents to the performance of the Specified Acts by the University (its successors, assigns, licensees and authorised users) whether those Specified Acts occur before or after this consent is given;
- (b) agrees not to commence, maintain or support any claim or proceeding for infringement of the Assignor's Moral Rights against the University (its successors, assigns, licensees and authorised users) in respect of the Translated Materials; and
- (c) waives all Moral Rights in the Translated Materials outside Australia.

6 GENERAL

6.1 Entire agreement

These Terms and Conditions constitute the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter to this deed.

6.2 Costs

Each party agrees to pay their own legal and other costs and expenses in connection with the preparation and signing of this deed and any other related documentation.

6.3 No association

Neither party will use any other party's name or the name of any other party's employee or refer to any matters the subject of this deed in any public manner whatsoever including in any capital raising, business, advertising or other promotional material without the approval of the other party, which may be withheld in the other party's absolute discretion, or granted subject to conditions or subsequently withdrawn in the other party's absolute discretion.

6.4 Construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this deed or any part of it.

6.5 Governing law

This deed is governed by the law in force in New South Wales, Australia and any dispute relating to it must only be referred to the courts of New South Wales and the federal courts of Australia.