

SCHEDULE 10 – FORM OF DEED OF UNDERTAKING & INDEMNITY

Parties

Wiley & Co Pty Ltd ABN 40 010 604 869 (Wiley)

and

The party named in item 1 of the schedule to this deed (sub-subcontractor)

Background

- A. Wiley is the head contractor under a contract to deliver the project stated in item 2 of the schedule to this deed.
- B. Wiley has entered into a subcontract with the subcontractor stated in item 3 of schedule 1 to this deed (**subcontractor**).
- C. The subcontractor has engaged the sub-subcontractor to perform the sub-subcontract works stated at item 4 of the schedule to this deed.
- D. The sub-subcontractor has agreed to give Wiley the undertakings and indemnities stated in this deed in relation to the sub-subcontractor accessing the site to perform its works.

Operative part

The sub-subcontractor's acknowledgment

- 1 The sub-subcontractor acknowledges each of the following:
 - 1.1 Wiley is responsible for Workplace Health and Safety in relation to all works under the Head Contract at the site of the project, including the sub-subcontract works.
 - 1.2 The sub-subcontractor is subject to, and must comply with, the reasonable instructions of Wiley in relation to Workplace Health and Safety.
 - 1.3 The sub-subcontractor has inspected all applicable Wiley target project programs.
 - 1.4 The sub-subcontractor agrees to be bound by all the provisions of the subcontract between Wiley and the subcontractor in respect of the Sub-Subcontract works.
 - 1.5 The sub-subcontractor must perform its work to avoid causing Wiley delay by reference to any applicable target project program published by Wiley whilst the sub-subcontractor is performing its work on the site.
 - 1.6 Wiley controls access to and use of the site.

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The sub-subcontractor's undertakings

- 2 The sub-subcontractor undertakes to Wiley to comply with Wiley's reasonable instructions given in relation to any of the following:
 - 2.1 Workplace health and safety of all workers on site, visitors to the site and members of the public.
 - 2.2 The sub-subcontractor's access to, and use of, the site.
 - 2.3 The sub-subcontractor's compliance with Wiley's applicable target project program.

The sub-subcontractor's indemnities

- 3 The sub-subcontractor indemnifies, and must continue to indemnify Wiley against any liability incurred by Wiley as a consequence of any of the following:
 - 3.1 The sub-subcontractor's failure to comply with any instruction given under clause 2.
 - 3.2 Any breach by the sub-subcontractor of its obligations under the applicable workplace health and safety legislation.
 - 3.3 Any delay that the sub-subcontractor causes Wiley by reference to any applicable Wiley target project program.

Goods and services tax

- 4 Where a party (**supplier**) makes a taxable supply to another party (**recipient**), the recipient must pay to the supplier an additional amount equal to the GST payable by the supplier (unless the consideration for that taxable supply is expressed to include GST). The additional amount must be paid when any consideration for the taxable supply is first paid or provided. The supplier must provide to the recipient a tax invoice at the time of payment.
 - 4.1 Where a party indemnifies, reimburses or makes a contribution (**contribution**) to the other party, and the other party can obtain an input tax credit on an acquisition associated with the contribution, the amount of the contribution for the first party is reduced by the amount of that input tax credit. The reduction is to be made before any increase under clause 4.
 - 4.2 Where terms are used in this clause they have the meanings given to them in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Governing law and jurisdiction

- 5 The law applicable under the subcontract governs this deed. The parties submit to the non-exclusive jurisdiction of its courts and courts of appeal. The parties will not object to the exercise of jurisdiction by those courts on any basis.

Interpretation

- 6 In the interpretation of this document, the following provisions apply unless the context otherwise requires:

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- 6.1 Headings are inserted for convenience only and do not affect the interpretation of this document.
- 6.2 A reference in this document to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Brisbane, Queensland.
- 6.3 If the day on which any act, matter or thing is to be done under this document is not a business day, the act, matter or thing must be done on the next business day.
- 6.4 A reference in this document to dollars or \$ means Australian dollars and all amounts payable under this document are payable in Australian dollars.
- 6.5 A reference in this document to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- 6.6 A reference in this document to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced.
- 6.7 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this document.
- 6.8 An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- 6.9 Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- 6.10 A word which denotes the singular also denotes the plural, a word which denotes the plural also denotes the singular, and a reference to any gender also denotes the other genders.
- 6.11 A reference to the word 'include' or 'including' is to be construed without limitation.
- 6.12 A reference to this document includes the agreement recorded in this document.
- 6.13 Any schedules and attachments form part of this document.

Schedule to sub-subcontractor's deed of undertaking and indemnity

- 1. Sub-subcontractor:**
- 2. Project:**
- 3. Subcontractor:**
- 4. Sub-subcontract works:**

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Execution and date of sub-subcontractor’s deed of undertaking and indemnity

Executed as a deed.

Dated by Wiley & Co Pty Ltd _____

Executed by Wiley & Co Pty Ltd ABN 40 010 604
869 by its duly authorised representative who)
warrants that he or she has the authority to bind)
Wiley to this deed in the presence of:)

.....
Signature of Wiley’s authorised representative

.....
Signature of witness

.....
Print name of Wiley’s authorised representative

.....
Print name of witness

Dated by the sub-subcontractor _____

Executed by the sub-subcontractor by its duly)
authorised representative who warrants that he)
or she has the authority to bind the sub-)
subcontractor to this deed in the presence of:)

.....
Signature of subcontractor’s authorised
representative

.....
Signature of witness

.....
Print name of subcontractor’s authorised
representative

.....
Print name of witness

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