

HARRIS CARLSON



THE PARTIES LISTED IN SCHEDULE 1

(collectively referred to as the "**Lenders**")

and

**GUARDIAN VAULTS HOLDINGS PTY LTD
ACN 138 618 176**

(**"Borrower"** or **"GVH"**)

Loan Agreement

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“Default Rate” means 10%.

“Encumbrance” means an interest or power:

- (a) reserved in or over any interest in any asset including, but not limited to, any retention of title; or
- (b) created or otherwise arising in or over any interest in any asset under a bill of sale, mortgage, charge (whether fixed or floating), hypothecation, lien, pledge, caveat, trust or power,

by way of security for the payment of debt or any other monetary obligation or the performance of any other obligation and includes, but is not limited to, any agreement to grant or create any of the above.

“Event of Default” means:

- (a) the Borrower, or any subsidiary of the Borrower, fails to observe or perform any of its other obligations under this Agreement or any other agreement or instrument in connection with it and, if, in the reasonable opinion of the relevant Lender alleging the failure, such failure is capable of remedy, it is not remedied to the reasonable satisfaction of such Lenders within 14 days of receipt by the Borrower, or any subsidiary of the Borrower, of Notice from such Lender of such failure;
- (b) the Borrower sells or otherwise divests the share capital of any of its subsidiaries, or the Borrower and / or any subsidiary sells or otherwise divests the whole or any material part of the Business, other than in accordance with the Shareholders’ Deed; or
- (c) the Borrower, or any subsidiary of the Borrower, enters into any form of bankruptcy or insolvency administration.

“Loan” means and includes, in respect of each Lender, all loans advances or financial accommodation of any nature whatsoever from such Lender to the Borrower and shall include without limitation the Principal and all moneys, debts and liabilities of any nature whatsoever due or owing or which may become owing at some future date by the Borrower to such Lender.

“Notice” means any notice, demand, request, certificate, approval, consent or other communication for the purposes of this Agreement.

“Noteholder Lenders Amounts” has the meaning given to this term in clause A of the Recitals.

“Noteholder Lenders” means, collectively, the Lenders specified in columns 1 to 5 of Schedule 1.

“Other Lender” means the Lender specified in column 7 of Schedule 1.

“Other Lender Amount” has the meaning given in clause C of the Recitals.

“Principal” means:

- (a) in respect of each of the Noteholder Lenders, the Noteholder Lenders Amount specified in Row B of Schedule 1; and
- (b) in respect of the Other Lender, the Other Lender Amount specified in Row A of Schedule 1.

“Purpose” means:

- (a) in respect of each of the Noteholder Lenders, for the purpose of enabling the Borrower to meet its repayment obligations to such Noteholder Lender in respect of the Noteholder Lenders Amount specified in Row B of Schedule 1; and
- (b) in respect of the Other Lender, for the purpose of enabling the Borrower to meet its repayment obligations to the Other Lender in respect of the Other Lender Amount specified in Row A of Schedule 1.

“Security” means a general security deed in the form attached as Annexure A.

“Shareholders’ Deed” means the shareholders’ deed in respect of the Borrower dated on or around the date of this Agreement.

“Taxes” means present and future taxes, levies, imposts, deductions, charges, fees, rates, duties or withholdings (including, without limitation, stamp and transaction duties) (together with interest, penalties, fines and expenses in connection with them) or goods and services taxes levied or imposed by a governmental authority except if imposed on the overall net income of the Lenders, and except an amount payable under a covenant or stipulation which is void under the *Income Tax Assessment Act 1936* (Cth) and the *Income Tax Assessment Act 1997* (Cth).

1.2 Interpretation

In this Agreement, unless the context otherwise requires:

- (a) headings are for convenience only and do not affect interpretation;
- (b) the singular includes the plural and conversely;
- (c) the gender includes all genders;
- (d) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (e) an agreement, representation or warranty on the part of two or more persons binds them, and is for the benefit of them, jointly and severally;
- (f) a reference to a person includes any body corporate, unincorporated body or other entity and conversely;
- (g) a reference to a clause is to a clause of this Agreement;
- (h) a reference to any party to this Agreement or any other agreement or document includes the party’s executors, administrators, substitutes, successors and permitted assigns;
- (i) a reference to any agreement or document is to that agreement or document as amended, notated, supplemented, varied or replaced from time to time, where applicable, in accordance with this Agreement or that other agreement or document;
- (j) a reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision

substituted for it and all regulations and statutory instruments issued under it;

- (k) a reference to conduct includes, without limitation, any omissions, statement or undertaking, whether or not in writing;
- (l) all references to \$ are to Australian dollars; and
- (m) “including”, when introducing a list of items does not limit the meaning of the words to which the list relates to those items or to items of a similar kind.

2. THE LOAN

- 2.1 Each of the Lenders agrees to loan their respective Principal to the Borrower on the date of this Agreement, solely for use by the Borrower for the Purpose.
- 2.2 The Other Lender acknowledges and agrees that in consideration for the Borrower agreeing to repay the Other Lender Amount in accordance with the terms of this Agreement, the Other Lender waives any entitlement which it previously had, under its previous loan arrangements with the Borrower prior to entering into this Agreement, to convert amounts to it by the Borrower into shares in the issued capital of the Borrower.
- 2.3 The Borrower acknowledges and agrees that it will use the Principal from each of the Lenders only for the Purpose and will otherwise fully comply with the terms of this Agreement.
- 2.4 Unless such time as the full amount of each Loan is repaid or converted into shares in accordance with this agreement, each Loan shall be deemed for all purposes to be “stapled” to the shares in the capital of the Borrower held by each relevant Lender at any time and from time. As such, the parties agree that:
 - (a) No Lender may assign its Loan unless that Lender simultaneously transfers to the assignee all the shares in the capital of the Borrower held by that Lender; and
 - (b) If the Borrower buys back the shares in the capital of the Borrower held by a Lender, then the Borrower must simultaneously repay the full amount of that Lender’s Loan.

3. INTEREST

Each of the Lenders agrees that for such period that no Event of Default has occurred, the Loan in respect of each Lender is provided to the Borrower on an interest free basis. On and from the date of any Event of Default, interest will accrue on the Loan in respect of each Lender at the Default Rate.

4. REPAYMENT

When repayment to be made

- 4.1 In respect of each of the Lenders, the Borrower must repay the Loan in respect of that Lender:
 - (a) by paying the repayment amounts specified in rows K – O of Schedule 1 (inclusive) in respect of that Lender and on the payment dates specified in rows K – O of Schedule 1 (inclusive) (“**Repayments**”); and

- (b) in respect of each of the Noteholder Lenders only and subject to the Borrower having received a written notice from that Noteholder Lender (“**Conversion Notice**”), not less than 20 Business Days prior to the date specified in row E of Schedule 1, that such Noteholder Lender elects to convert the entire amount specified in row E of Schedule 1 in respect of that Noteholder Lender into shares in the issued share capital of the Borrower in accordance with row F of Schedule 1, by repaying the conversion amount specified in row E of Schedule 1 in respect of that Noteholder Lender by allotting shares in the issued share capital of the Borrower to that Noteholder Lender on the date specified in row E of Schedule 1, in accordance with the number of conversion shares specified in respect of that Noteholder Lender in row F of Schedule 1. For the avoidance of doubt, in the event that the Borrower does not receive a Conversion Notice from a Noteholder Lender in accordance with this clause 4.1(b), the amount specified in row E of Schedule 1 in respect of that Noteholder Lender must be repaid on the same date and in the same manner as the repayment amount specified in row O of Schedule 1 in respect of that Noteholder Lender.
- 4.2 If, before conversion or repayment, there is a reorganisation of the issued share capital of the Borrower (including by way of subdivision, consolidation or reduction), a proportional adjustment will be made to the number of the shares into which the Loan is convertible so as to reflect the effect of that reconstruction of the Company’s issued capital in a manner which will not result in additional benefits being conferred on the Noteholder Lenders which are not conferred on shareholders, but in all other respects the terms for conversion shall remain unchanged.
- 4.3 Subject to clause 4.4, nothing in this Agreement precludes the Borrower from repaying the Loans or any portion of such Loans to the Lenders earlier than required under this Agreement provided that any such early repayment of Loans:
- (a) are made to each of the Lenders on a pari passu basis; and
- (b) are made in respect of the amounts specified in rows K – O of Schedule 1 (inclusive) rather than the conversion amounts specified in row E of Schedule 1.
- 4.4 Notwithstanding clause 4.1 and subject to clause 4.5, the Lenders acknowledge and agree that the Borrower is not required to make a Repayment in accordance with clause 4.1(a) if doing so would cause the Borrower to be in breach of its third party lending arrangements including, but not limited to, the ‘Binding Indicative Term Sheet’ provided to the Borrower by the Australia and New Zealand Banking Group Limited on or about 4 August 2017, which have been approved by the Lenders (“**Third Party Lending Arrangements**”) and such failure to make a Repayment will not be considered to be an Event of Default for the purposes of this Agreement.
- 4.5 Where the Borrower fails to make a Repayment for the reasons described in clause 4.4 above, the Borrower will make such Repayment immediately upon the Lenders being reasonably satisfied that making such Repayment will no longer cause the Borrower to be in breach of its Third Party Lending Arrangements and giving written consent to the making of such Repayment.
- 4.6 In the event that that the Borrower repays the Loans earlier than required under this Agreement, in accordance with clause 4.3 and in a manner such

that all of the amounts specified in rows K – O of Schedule 1 (inclusive) have been paid in full without causing the Borrower to be in breach of its Third Party Lending Arrangements, then notwithstanding the provisions of clause 4.1(b) the following provisions shall apply:

- (a) at any time prior to the date specified in row E of Schedule 1, each of the Noteholder Lenders may:
 - (i) convert the entire amount specified in row E of Schedule 1 in respect of that Noteholder Lender into shares in the issued share capital of the Borrower in accordance with row F of Schedule 1 by issuing a written notice to the Borrower; or
 - (ii) require repayment of the entire amount specified in row E of Schedule 1 in respect of that Noteholder Lender within 60 days by issuing a written notice to the Borrower,

PROVIDED ALWAYS that any such conversion or repayment does not cause the Borrower to be in breach of its Third Party Lending Arrangements.

Payment in gross

- 4.7 Notwithstanding anything else contained in this Agreement, the Borrower must make all payments due under this Agreement without:
- (a) any set-off, reduction, counterclaim or condition; and
 - (b) any deduction or withholding for any Taxes or any other reason, unless the Borrower is required to make a deduction or withholding by applicable law.

Method of payment

- 4.8 Any repayment made under this Agreement (excluding repayments made in accordance with clause 4.1(b)) must be made by bank cheque or electronic funds transfer or otherwise in cleared funds to an account nominated by the relevant Lender which may be in the name of the relevant Lender or the relevant Lender's nominee.

5. SECURITY

- 5.1 To better secure the repayment of the Loans, the Borrower grants the Security to the Lenders, subject to any prior securities which may be registered as at the date of this Agreement including, but not limited to, any security registered in favour of the Australia and New Zealand Banking Group Limited ABN 11 005 357 522.
- 5.2 The Lenders agree that they will release and discharge (including the execution and lodgement of all required documents with the Personal Property Securities Register (“PPSR”)), the Security upon full payment of the Loans.
- 5.3 The Lenders shall be responsible for taking all necessary steps and paying all required fees in order to complete the registration of the Security on the PPSR.

6. GST

6.1 Payments GST exclusive

Despite any other provision of this Agreement, any amount payable to a Lender under this Agreement does not include any goods and services tax or similar tax by whatever name (including GST as defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth), as amended from time to time, ("the **GST law**"). Terms defined in the GST law have the same meaning in this document.

6.2 Increase if taxable supply

To the extent that any supply under or in connection with this Agreement by a Lender constitutes a taxable supply, the consideration payable will automatically be increased to include an additional amount on account of GST. That amount will be the product of the value of the consideration for the supply and the prevailing GST rate.

6.3 Input tax credits

Despite any other provision in this Agreement if, for the purposes of GST law, a Lender is not entitled to an input tax credit in respect of the whole or part of any GST payable on a supply acquired by a Lender in connection, whether directly or indirectly, with this Agreement, such Lender may increase the amounts paid or payable under this Agreement to the extent necessary to recoup the input tax incurred by the Lender in connection with that supply.

7. REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to each of the Lenders that:

- (a) it is a duly incorporated corporation validly existing and in good standing;
- (b) it has full power, authority and legal right to own its property, undertaking and assets, to execute and deliver this Agreement and to exercise its rights and perform its obligations under this Agreement;
- (c) no Event of Default or event which with the giving of notice, lapse of time or fulfilment of any condition would be likely to become an Event of Default continues unremedied;
- (d) to the best of the Borrower's knowledge and belief, there is no pending or threatened action or proceeding materially affecting the Borrower's assets before a governmental authority, court, commission or arbitrator;
- (e) it has good title to its property, assets and undertaking free of any other third party right or interest or Encumbrance whatsoever other than any existing Encumbrance notified to the Lenders by the Borrower prior to the parties entering into this Agreement and those created by this Agreement or otherwise agreed to by the Lenders in writing;
- (f) any shares in the issued share capital of the Borrower which are issued and allotted to Noteholder Lenders in accordance with clause 4.1(b) will, upon issue and allotment, be fully paid and title in such shares will pass to the relevant Noteholder Lender free of any Encumbrances and will rank equally with all other issued shares in the capital of the Borrower; and

- (g) it has fully disclosed in writing to the Lenders all material facts relating to the Borrower which is material to the decision of the Lenders to enter into this Agreement and provide financial accommodation to the Borrower,

and the Borrower acknowledges that the Lenders have relied upon these representations and warranties in entering into this Agreement and in making or continuing to loan their respective Loans to the Borrower.

8. BORROWER'S UNDERTAKINGS

Until each of the Loans have been repaid in full in accordance with the terms of this Agreement, the Borrower must:

- (a) ensure that no payment of dividends or other form of return of capital in the broadest possible sense are made by the Borrower to its shareholders unless all of the Lenders give their prior written consent;
- (b) promptly give to the relevant Lender any other information in the Borrower's possession or control relating to the financial condition of the Borrower and its property, assets and undertakings that the relevant Lender reasonably requests from time to time;
- (c) notify the relevant Lender promptly after it occurs of full details of an Event of Default or any event which with the giving of notice, lapse of time or fulfilment of any condition would be likely to become an Event of Default, and the steps taken to remedy it;
- (d) duly and punctually comply with all laws binding upon it and all other obligations under this Agreement; and
- (e) for any purpose relating to this Agreement do everything within its power and control to provide all necessary information and assistance to the relevant Lender.

9. NOTICES

9.1 Mode of address

A Notice:

- (a) must be in writing; and
- (b) must be left at the address of the addressee or sent by prepaid ordinary post (airmail if outside Australia) to the address of the addressee or by facsimile to the facsimile number of the addressee (where this has been notified) or if the addressee notifies another address or facsimile number then to that address or facsimile number

9.2 Effective date

Unless a later time is specified in it, a Notice takes effect from the time it is received.

9.3 Time of receipt

A Notice is taken to be received:

- (a) in the case of a Notice delivered by hand, when so delivered;

- (b) in the case of a Notice sent by pre-paid post, on the third clear Business Day after the date of posting; and
- (c) in the case of a Notice sent by facsimile, upon the receipt by the sender of a transmission report from the despatching facsimile machine which confirms that all of the pages comprised in the Notice have been successfully sent to the receiving party's facsimile number.

10. ASSIGNMENT AND ENCUMBRANCE

- (a) The Borrower must not assign, transfer or encumber its rights under this Agreement without the prior consent of all Lenders.
- (b) A Lender must not encumber its rights under this Agreement without the prior consent of the Borrower.
- (c) A Lender must not assign or transfer its rights under this Agreement except in accordance with clause 2.4.

11. GENERAL

11.1 Entire Understanding

This Agreement supersedes all prior representations, arrangements, understandings and agreement between the parties relating to the subject matter of this Agreement and sets out the entire and exclusive agreement and understanding between the parties relating to the subject matter of this Agreement.

11.2 Counterparts

This Agreement may consist of a number of counterparts and the counterparts taken together constitute one and the same instrument.

11.3 Waiver or Variation

No waiver or variation of any provision of this Agreement is effective unless it is in writing and signed by each of parties to be bound.

11.4 Severability

If any provision of this Agreement is or is determined to be illegal, invalid, void or voidable, the legality or validity of the remainder of this Agreement will not be affected and the remainder of this Agreement will continue in full force and effect.

11.5 Set-off

Each of the Lenders may apply, at their sole discretion and without notice, any credit balance in any currency in any account of the Borrower with the relevant Lender towards satisfaction of any amount then payable by the Borrower to the relevant Lender under this Agreement or otherwise. The Borrower authorises each Lender, in the name of the Borrower or the relevant Lender, to do anything (including, without limitation, to execute any document) that is required for that purpose.

11.6 Approvals and Consent

Each of the Lenders may give conditionally or unconditionally, or withhold, its

approval or consent in its absolute discretion, unless this Agreement expressly provides otherwise.

11.7 Time of the essence

Time is of the essence in this Agreement in respect of any obligation of the Borrower to pay money.

11.8 Further Assurance

At the request of a Lender, the Borrower must, at its own expense, execute and cause its successors to execute all documents and do everything necessary or appropriate to bind the Borrower and its successors under this Agreement and use its best endeavours to cause relevant third parties to do likewise.

11.9 Governing Law

This Agreement is governed by the laws of Victoria, Australia.

11.10 Jurisdiction

The Borrower irrevocably and unconditionally:

- (a) submits to the non-exclusive jurisdiction of the Courts of Victoria; and
- (b) waives, without limitation, any claim or objection based on the absence of jurisdiction or inconvenient forum.

EXECUTED as an Agreement

EXECUTED for and on behalf of)
GUARDIAN VAULTS HOLDINGS PTY)
LTD ACN 138 618 176 by authority of the)
directors:)

Name: Neil Royston Tremaine
Sole Director and Secretary

SIGNED, SEALED AND DELIVERED by)
HENRY JAMES MILLAR LOWE and)
SUZANNE KAY LOWE (as trustees for)
and on behalf of **J & S LOWE**
SUPERANNUATION FUND) in the
presence of:

Name: Henry James Millar Lowe
Trustee

Name: Suzanne Kay Lowe
Trustee

Witness

Witness

SIGNED, SEALED AND DELIVERED by)
ROBERT SANSOM (as trustee for and on)
behalf of **JSRN SUPERANNUATION**)
FUND) in the presence of:

Signature of Witness

Name: Robert Sansom
Trustee

Name of Witness in full

EXECUTED for and on behalf of **JAWESS**)
PTY LTD ACN 153 318 864 (ATF the)
Kent Family Super Fund) by authority of)
the directors:

Name:
Director

Name:
Director/Secretary

EXECUTED for and on behalf of)
KAZAKCO PTY LTD ACN 056 742 226)
(ATF the Kent Family Trust) by authority)
of the directors:

Name:
Director

Name:
Director/Secretary

EXECUTED for and on behalf of)
KANAHOOKA HOLDINGS PTY LTD)
ACN 050 134 999 by authority of the)
directors:

Name: Christopher Marcus Marsh
Director

Name: Fiona Jane Marsh
Director

EXECUTED by **TREMAINE CAPITAL**)
PTY LTD ACN 165 882 842 (as trustee)
for the Tremain Capital Trust) by)
authority of the directors:

Name: Fergus Tremain
Director

Name: Siobhan Tremain
Director/Secretary

SCHEDULE 1 - LENDERS

Row	Column	1	2	3	4	5	6	7
	Lender	J & S Lowe Superannuation Fund c/- Perpetual Trustee Company Limited, Level 35, Rialto South Tower, 525 Collins Street, Melbourne, Victoria 3000	JSRN Superannuation Fund c/- 32 Sutherland Road, Armadale, Victoria 3143	Kazakco Pty Ltd ACN 056 742 226 (ATF the Kent Family Trust) of Level 1, 123 Camberwell Road, Hawthorn East, Victoria 3123	Jawess Pty Ltd ACN 153 318 864 (ATF the Kent Family Super Fund) of Level 1, 123 Camberwell Road, Hawthorn East, Victoria 3123	Kanahooka Holdings Pty Ltd ACN 050 134 999 of 29 Guilford Road, Surrey Hills, Victoria 3127	Total (for all Noteholder Lenders)	Tremaine Capital Pty Ltd ACN 165 882 842 (ATF the Tremaine Capital Trust) c/- 714 Main Road, Eltham, Victoria 3095
A	Amount outstanding under previous loan arrangements	N/A	N/A	N/A	N/A	N/A	N/A	\$1,243,741
B	Total amount to be repaid under this Loan Agreement (following the issue of GVH shares on the 'Expiry Date' referred to in the Deed of Acknowledgment)	\$1,574,467	\$624,628	\$874,365	\$1,015,282	\$963,258	\$5,052,000	N/A
C	Existing GVH shareholdings as at the date of this Agreement (following the	146,794	58,183	83,559	92,359	93,105	474,000	N/A

	issue of GVH shares under the Deed of Acknowledgment)							
D	% of total GVH shares held at the date of this Agreement (following the issue of GVH shares under the Deed of Acknowledgment)	14.68%	5.82%	8.36%	9.23%	9.31%	47.4%	N/A
E	Amount able to be converted into GVH shares on 29 November 2022 in accordance with clause 4.1(b)	\$194,579	\$77,124	\$110,760	\$122,425	\$123,413	\$628,301	N/A
F	Number of GVH shares allotted upon conversion per Row E	2,294,040	909,270	1,305,830	1,443,355	1,455,011	7,407,506	N/A
G	Total number of GVH shares held following the allotment per Row F (C + F)	2,440,834	967,453	1,389,389	1,535,714	1,548,116	7,881,506	N/A
H	Increase in GVH shareholding as a result of the allotment of further GVH shares per Row F	9.73%	3.85%	5.54%	6.12%	6.17%	31.41%	N/A
I	% of total GVH	24.41%	9.67%	13.90%	15.35%	15.48%	78.81%	N/A

	shares held following the allotment per Row F (D + H)							
J	Amount to be repaid by way of repayment instalments (B – E)	\$1,379,888	\$547,504	\$763,605	\$892,857	\$839,845	\$4,423,699	N/A
K	Repayment due 29/11/18	\$206,983	\$82,126	\$114,540.78	\$133,928.57	\$125,976.73	\$663,555	\$186,561
L	Repayment due 29/11/19	\$241,480	\$95,813	\$133,630.91	\$156,250	\$146,972.85	\$774,147	\$217,655
M	Repayment due 29/11/20	\$275,977	\$109,501	\$152,721.04	\$178,571.43	\$167,968.97	\$884,740	\$248,748
N	Repayment due 29/11/21	\$310,475	\$123,188	\$171,811.17	\$200,892.86	\$188,965.09	\$995,332	\$279,842
O	Repayment due 29/11/22	\$344,973	\$136,876	\$190,901.30	\$223,214.29	\$209,961.21	\$1,105,925	\$310,935
P	Total repayments made under Rows K - O	\$1,379,888	\$547,504	\$763,605	\$892,857	\$839,845	\$4,423,699	\$1,243,741
Q	% of total repayments made under Rows K – O	24.35%	9.66%	13.47%	15.75%	14.82%	78.05%	21.95%

ANNEXURE A – GENERAL SECURITY DEED

HARRIS CARLSON



**GUARDIAN VAULTS HOLDINGS PTY LTD
ACN 138 618 176**

("Grantor")

and

THE PARTIES LISTED IN SCHEDULE 2

(collectively referred to as the "**Secured Party**")

GENERAL SECURITY DEED

Harris Carlson Lawyers
Level 14, 350 Queen Street
Melbourne Victoria 3000
Telephone: +61 3 8680 5380
Facsimile: + 61 3 8680 5340
Our Ref: AH:AL:212606
E-mail: aharris@harris-carlson.com.au

GENERAL SECURITY DEED

DATED

2017

PARTIES:

GUARDIAN VAULTS HOLDINGS PTY LTD ACN 138 618 176 c/- 100-110 William Street, Melbourne, Victoria 3000 ("**Grantor**")

and

THE PARTIES LISTED IN SCHEDULE 2 (collectively referred to as the "**Secured Party**")

RECITALS

A. The Grantor agrees to:

- (i) grant the Secured Party a Security Interest in its Personal Property; and
- (ii) charge to the Secured Party its Other Property,

to secure payment of the Secured Money and performance of its obligations under the Finance Documents.

B. The Grantor does this in return for the Secured Party entering into the Finance Documents, the transactions contemplated by those documents and other valuable consideration.

AGREED TERMS

1. DEFINED MEANINGS & INTERPRETATION

1.1 Defined Meanings

"**Attorney**" means an attorney appointed by the Grantor under this Deed.

"**Authorisation**" means any consent, authorisation, registration, filing, agreement, notarisation, certificate, permit, licence, approval, authority or exemption of, from or required by a Government Agency or required by law. Where intervention or action of a Government Agency within a specified period would fully or partly prohibit or restrict something by law, **Authorisation** includes the expiry of that period without that intervention or action.

"**Authorised Representative**" means, in respect of a party, a director or company secretary, or a person it notifies to the other party as being authorised to act as its authorised representative for the purposes of the Finance Documents.

"**Avoidance**" has the meaning given to that term in clause 16.5.

"**Business Day**" means a day not being a Saturday, Sunday or a proclaimed public holiday in Victoria.

“Circulating Asset” means:

- (a) stock-in-trade;
- (b) currency of any country (other than currency whose disposal is otherwise restricted by a Finance Document); and
- (c) an ADI account (other than a term deposit or an ADI account whose disposal is otherwise restricted by a Finance Document).

“Corporations Act” means the *Corporations Act 2001 (Cth)*.

“Default” means an event or circumstance specified in clause 7.1.

“Encumbrance” means an interest or power:

- (a) reserved in or over any interest in any asset including, but not limited to, any retention of title; or
- (b) created or otherwise arising in or over any interest in any asset under a bill of sale, mortgage, charge, lien, pledge, trust or power, by way of security for the payment of a debt, any monetary obligation or the performance of any other obligation, and includes, but is not limited to, any agreement to grant or create any of the above.

“Environmental Law” means a standard set by a Government Agency or law concerning any aspect of health, safety, planning or the use, protection, conservation or contamination of the environment.

“Environmental Liability” means any obligation imposed on, or Loss of, the Grantor (or any of its officers), the Secured Party (or any of its officers), a Receiver or any occupier of Real Property under an Environmental Law, due to activities carried on during the ownership or occupation of the Real Property by any person at any time.

“Excluded Tax” means a Tax imposed by a jurisdiction on, or calculated by reference to, the net income of the Secured Party in a jurisdiction because the Secured Party has a connection with that jurisdiction, other than a Tax:

- (a) calculated by reference to the gross amount of a payment (without allowing for any deduction) derived by the Secured Party under a Finance Document or any other document referred to in a Finance Document; or
- (b) imposed because the Secured Party is taken to be connected with that jurisdiction solely by being a party to a Finance Document or a transaction contemplated by a Finance Document.

“External Administrator” means an administrator, controller or managing controller (each as defined in the Corporations Act) trustee, provisional liquidator, liquidator or any other person (however described) holding or appointed to on analogous office or acting or purporting to act in an analogous capacity.

“Finance Documents” means, collectively:

- (a) the Loan Agreement;
- (b) any other document which the parties agree is a ‘Finance Document’; and
- (c) a document entered into or given under or in connection with, or for the purpose of amending or novating, any document referred to in (a) or (b) above.

“Government Agency” means any government or governmental, semi-governmental, administrative, public, regulatory or judicial entity, body, department, agency or authority.

“grants a Security Interest” includes to charge, mortgage, pledge, encumber, assign by way of security and transfer by way of security.

“GST” has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

“Insolvency Event” means:

- (a) a controller, trustee, administrator, or similar officer is appointed in respect of a person or any asset of a person;
- (b) a liquidator or provisional liquidator is appointed in respect of a corporation;
- (c) any application (not being an application withdrawn or dismissed within 7 days) is made to a court, tribunal or government agency for an order, or an order is made, or a meeting is convened, or a resolution is passed, or a decision is made for the purpose of:
 - (i) appointing a person referred to in paragraphs (a) or (b);
 - (ii) winding up or deregistering a corporation; or
 - (iii) proposing or implementing a scheme or arrangement;
- (d) any event or conduct occurs which would enable a court to grant a petition, or an order is made, for the bankruptcy of an individual or his estate;
- (e) a moratorium of any debts of a person, a personal insolvency agreement or any other assignment, composition or arrangement (formal or informal) with a person’s creditors or any similar proceeding or arrangement by which the assets of a person are subjected conditionally or unconditionally to the control of that person’s creditors or a trustee, is ordered, declared or agreed to, or is applied for and the application is not withdrawn or dismissed within 7 days;
- (f) a person becomes, or admits in writing that it is, or is declared to be, or is taken under any applicable law to be, insolvent or unable to pay its debts; or

- (g) any writ of execution, garnishee order, injunction or similar order, attachment, distress or other process is made, levied or issued against or in relation to any asset of a person.

“Liquidation” means:

- (a) a winding up, deregistration, liquidation, provisional liquidation, administration, bankruptcy or other proceeding for which an External Administrator is appointed, or an analogous or equivalent event in any jurisdiction; or
- (b) an arrangement, moratorium, assignment or composition with or for the benefit of all creditors or any class or group of them.

“Loan” has the meaning given to this term in the Loan Agreement.

“Loan Agreement” means the loan agreement entered into by the parties on the date of this Deed.

“Loss” means a loss, claim, action, damage, liability, cost, charge, expense, penalty, compensation, fine or outgoing suffered, paid or incurred.

“Marketable Security” means:

- (a) a marketable security as defined in the Corporations Act;
- (b) a negotiable instrument (within the ordinary meaning of that term);
- (c) a unit or other interest in a trust or partnership; and
- (d) a right or an option in respect of any of the above, whether issued or unissued.

“Notice” means a notice, demand, consent, approval or communication given in accordance with clause 14.

“Other Property” means all of the Grantor’s present and future property, assets and undertaking wherever situated, but excluding any Personal Property.

“Permitted Disposal” means a sale or other disposal of any of:

- (a) the Secured Property:
 - (i) that is expressly permitted by another Finance Document; or
 - (ii) to which the Secured Party has given its prior written consent; or
- (b) the Grantor’s Circulating Assets in the ordinary course of the Grantor’s ordinary business.

“Permitted Security Interest” means:

- (a) each Security; or

- (b) a deemed security interest under section 12(3) of the PPSA which does not secure payment or performance of an obligation.

“Personal Property” means all of the Grantor’s present and after-acquired personal property to which the PPSA applies, and all of the Grantor’s present and future rights in relation to any personal property to which the PPSA applies, including all ‘PPSA retention of title property’ (as defined in the Corporations Act).

“Potential Default” means any event, thing or circumstance which would become a Default with the giving of notice, the making of a determination under a Finance Document or the passage of time (or any combination of those things).

“Power” means any right, power, discretion or remedy of the Secured Party, a Receiver or an Attorney under any Finance Document or applicable law.

“PPS Law” means:

- (a) the PPSA and any regulation made at any time under the PPSA, including the PPS Regulations (each as amended from time to time);
- (b) any amendment made at any time to any other legislation as a consequence of a law or regulation referred to in (a) above.

“PPS Regulations” means the *Personal Property Securities Regulations 2010* (Cth).

“PPSA” means the *Personal Property Securities Act 2009* (Cth).

“Real Property” means all of the Grantor’s present and future estates and interests in freehold and leasehold land and in all buildings, structures and fixtures from time to time on that land.

“Receiver” means a receiver or receiver and manager appointed under this Deed.

“Records” means, in relation to a person, all information relating in any way to that person’s business or any transaction entered into by the person, whether recorded electronically, magnetically or otherwise.

“Related Body” means, regardless of any body’s trustee or other capacity, a body corporate which would be related under section 50 of the Corporations Act on the basis that the term ‘subsidiary’ in that section had the meaning given in this Deed.

“Secured Money” means all money that the Grantor is or may become liable at any time (presently, prospectively or contingently) to pay to or for the account of the Secured Party (whether alone or not and in any capacity) including:

- (a) under or in connection with a Finance Document;
- (b) by way of principal;
- (c) interest;

- (d) fees;
- (e) costs;
- (f) charges;
- (g) expenses;
- (h) debts;
- (i) indemnities;
- (j) guarantee obligations or damages; and
- (k) money which a person would be liable to pay but for an Insolvency Event in respect of that person;

and for which the Grantor grants a Security Interest and charges in favour of the Secured Party in accordance with clause 2.

“Secured Property” means the Personal Property and the Other Property, and includes any part of it.

“Security” means:

- (a) this Deed; and
- (b) each other present or future Security Interest, guarantee, indemnity or other document or agreement created or entered into as security (directly or indirectly) for the payment of any Secured Money or the performance of any obligation in favour of the Secured Party under a Finance Document.

“Security Interest” means any:

- (a) ‘security interest’ as defined in the PPS Law;
- (b) security for any payment of money, performance of obligations or protection against default (including a mortgage, bill of sale, charge, lien, pledge, trust, power or title retention arrangement, right of set-off, assignment of income, garnishee order or monetary claim and flawed deposit arrangements); and
- (c) thing or preferential interest or arrangement of any kind giving a person priority or preference over claims of other persons or creditors with respect to any property or asset;

and includes any agreement to create any of them or allow them to exist.

“Serial Numbered Property” means personal property that may or must be described by serial number in a financing statement under the PPSA or the PPS Regulations.

“Taxes” means any tax, levy, duty, rate, impost or charge imposed, levied or assessed by a Government Agency, and any related penalty, fine, fee or interest. It includes stamp duty, GST and transaction taxes and duties.

“Title Documents” means each certificate, confirmation, grant, assurance, conveyance, deed and other document of title or evidencing title to, or rights to acquire, possess, use or dispose of, any Secured Property.

1.2 PPSA Terms Incorporated

In this Deed, unless the context required otherwise, the following words and expressions (and grammatical variations of them) have the same meanings given to them in the PPSA or the PPS Regulations (as applicable): **accession, ADI, ADI account, advance, after-acquired property, amendment demand, attach, chattel paper, consumer property, control, documents of title, financing change statement, financing statement, future advance, goods, inventory, investment instrument, land, negotiable instrument, personal property, purchase money security interest, serial number and verification statement.**

2. GRANT OF SECURITY

2.1 Security interest and charge

To secure payment of the Secured Money and for performance of the Grantor’s obligations under the Finance Documents, the Grantor:

- (a) **(security interest over Personal Property)** grants a security interest in all of its present and after-acquired property (including, but not limited to, its Personal Property) to the Secured Party; and
- (b) **(charge over Other Property)** charges to the Secured Party its Other Property.

2.2 Nature of charge in relation to Other Property

The charge created under this Deed is a fixed charge in relation to Other Property. However, if that charge is not legally and fully effective as a fixed charge then, for so long as and to the extent it may not be so legally and fully effective, that charge is a floating charge until such time as it becomes a fixed charge by virtue of clause 2.3.

2.3 Crystallisation of floating charge

Any floating charge created under this Deed will become a fixed charge:

- (a) **(without notice)** automatically, without the need for any notice or action by the Secured Party, immediately prior to or, if that would not result in the fixed charge being legally and fully effective, contemporaneously with, the occurrence of any Default; or
- (b) **(with notice)** on notice from the Secured Party to the Grantor, in respect of such of the Other Property subject to that floating charge as is specified in the notice, if in the Secured Party’s opinion, any of that Other Property is or might be or become sized or taken, subject to any Security Interest other than a Permitted Security Interest, or otherwise in jeopardy.

2.4 Continuing security and obligations

The Security Interest granted under this Deed is a continuing security until the Secured Party releases all Secured Property from the Security Interest, despite any intermediate payment, discharge, settlement, release or other matter. The Grantor's obligations under this Deed continue despite any full or partial release of the Secured Property and no full or partial release of Secured Property will release the Grantor from personal liability under this Deed until all Secured Money has in fact been received by the Secured Party and is not liable to be disgorged.

3. PRIORITY

3.1 Priority of Security Interest in Secured Property

- (a) The parties intend that the Security Interest created under this Deed:
 - (i) takes priority over all other Security Interests and other interests in the Secured Property at any time other than any Permitted Security Interest as agreed in writing by the Secured Party or as mandatorily preferred by law; and
 - (ii) has the same priority in relation to all Secured Money, including future advances.
- (b) Nothing in this clause 3.1 restricts the Secured Party from claiming that the Security Interest granted under this Deed is a purchase money security interest in respect of all or part of the Secured Property.

3.2 No agreement or consent to subordination, attachment or accessions

Nothing in this Deed may be construed as an agreement or consent by the Secured Party to:

- (a) **(subordination)** subordinate the Security Interest created under this Deed in favour of any person;
- (b) **(security)** any Security Interest other than any Permitted Security Interest attaching to or being created in any Secured Property;
- (c) **(deferral of attachment)** defer or postpone the date of attachment of the Security Interest created under this Deed in any Personal Property;
- (d) **(accessions to Personal Property)** any personal property that is not Personal Property becoming an accession to any Personal Property; or
- (e) **(accessions to non-Secured Property)** any Personal Property becoming an accession or affixed to any asset that is not Secured Property.

3.3 Contrary agreements

This clause 3 is subject to any express written agreement to the contrary between the parties, including the overriding provisions of any subordination

and/or priority agreement entered into by the Secured Party in respect of any other holder of security.

3.4 **Priority amongst the Secured Parties**

(a) **Priorities**

Subject to clause 3.5, the Secured Parties agree that they each hold priority in the Secured Property and any proceeds of any nature relating to that Secured Property (including any 'proceeds' as defined in the PPSA) in proportion to their respective Loan.

(b) **Enforcement costs to be paid first**

Any proceeds of enforcement of a Security Interest are to be applied in payment of:

- (i) first, all losses, liabilities and expenses incurred by a Secured Party or a Receiver in relation to a Security Interest;
- (ii) secondly, any reasonable outgoings that the relevant Secured Party or Receiver thinks fit to pay; and
- (iii) thirdly, any remuneration payable to the relevant Receiver (including by way of commission),

before being applied in accordance with clause 3.4(b).

3.5 **Matters not affecting priority**

The order of priority set out in clause 3.4(b) applies despite anything that, but for this subclause, would affect that order of priority, including:

- (a) the fact **that** a Secured Party has notice of any other **Security** Interest;
- (b) when money secured by any Security Interest becomes owing;
- (c) the repayment of any money secured by any Security Interest or the re-advance of any money repaid, any fluctuation in the amount secured or any change in the nature of any monetary obligations secured by a Security Interest;
- (d) anything contained in this Deed;
- (e) the grant by a Secured Party or any other person of any time, waiver or other indulgence or concession;
- (f) the discharge or release of the Grantor or any other person, whether in whole or in part;
- (g) the failure by a Secured Party to give notice to any other Secured Party or the Grantor of any default by any person;
- (h) the appointment of a Receiver to the Grantor or any of its assets;
- (i) any laches, acquiescence, delay, act, omission or mistake on the part of or suffered by a Secured Party or any other person in relation to this deed, any Security Interest or any other document or agreement;
- (j) any rule of law or equity to the contrary; or
- (k) any other matter or thing.

4. GENERAL SECURITY PROVISIONS

4.1 Security continuing and independent

Each of this Deed, the Security Interest created under it and each Security is:

- (a) in addition to and enforceable independently of any other Security Interest or Security; and
- (b) to remain in full force and effect (whether or not at any given time the Grantor is indebted to the Secured Party) until the execution by the Secured Party and delivery to the Grantor of an unconditional release of this Deed and each Security.

4.2 Collateral Securities

This Deed is collateral to each other Security. This Deed and each other Security will be read and construed together so that:

- (a) a default under one of them will be deemed to be a default under each of them; and
- (b) the Secured Party may exercise any of its rights under any one or more of them separately or concurrently or not at all, and in such order as it chooses.

4.3 Release of Secured Property

The Grantor may require the Secured Party to release the Secured Property from this Deed or the Security Interest created under it if the Secured Party is satisfied that:

- (a) all Secured Money has been irrevocably paid in full and all commitments which might give rise to Secured Money have terminated;
- (b) the Grantor has complied with all of its obligations under each Finance Document;
- (c) no amount will subsequently become Secured Money due to an Avoidance; and
- (d) if a Default has occurred, the Secured Party has not sold or agreed to sell any Personal Property and is not deemed to have taken any Personal Property in satisfaction of the Secured Money.

5. REPRESENTATIONS AND WARRANTIES

5.1 Representations and warranties

The Grantor represents and warrants to the Secured Party, except as to matters disclosed by it to the Secured Party and accepted by the Secured Party in writing, that:

- (a) **(other representations and warranties)** all of its representations and warranties in the Finance Documents are true, correct and not

misleading when made or repeated (or if not yet made, will be true, correct and not misleading when made or repeated);

- (b) **(details of Grantor)** all information in the 'Parties' Details' section of this Deed is true, correct and complete;
- (c) **(no foreign property)** all the Secured Property is situated in Australia;
- (d) **(Serial Numbered Property):**
 - (i) the information in Schedule 1 is, at the date of this Deed, true and correct and includes the details of all of the Grantor's Serial Numbered Property; and
 - (ii) the information provided as a consequence of:
 - (A) the Grantor's obligation under clause 6.1(e)(v); or
 - (B) the Secured Party's request under clause 6.3(c)(ii),is true and correct and includes all the details of all of the Grantor's Serial Numbered Property;
- (e) **(consumer property)** none of its Personal Property is consumer property;
- (f) **(ownership of Secured Property)** it is the sole legal owner and, subject to any trust which is specified in this Deed, the sole beneficial owner of the Secured Property, and it will be the sole legal owner and, subject to any such trust, sole beneficial owner of any property or asset it acquires as Secured Property; and
- (g) **(Security Interests)** the Secured Property is free from any Security Interest other than a Permitted Security Interest.

5.2 Repetition

The Grantor repeats each representation and warranty in clauses 5.1(f) and 5.1(g) in respect of any Secured Property (including after-acquired property) which comes into existence, or in which the Grantor acquires rights or an interest, after the date of this Deed, at the time that Secured Property comes into existence or the Grantor acquires rights or an interest in it.

5.3 Reliance and survival

The Grantor acknowledges that:

- (a) the Secured Party has entered into the Finance Documents in reliance on the representations and warranties in this clause 5; and
- (b) those representations and warranties survive execution and delivery of the Finance Documents and the provision of financial accommodation under them.

6. UNDERTAKINGS

6.1 General undertakings

The Grantor must:

- (a) **(Secured Money)** pay the Secured Money at the times and in the way specified in the Finance Documents, or if no time for payment is specified, on demand;
- (b) **(no set-off)** not directly or indirectly claim, exercise or attempt to exercise a right of set-off or counterclaim (whether its or any other person's right) against the Secured Party;
- (c) **(other obligations)** fully and punctually perform and satisfy all of its obligations under the Finance Documents;
- (d) **(details of Grantor):**
 - (i) without limiting any restrictions contained in the Finance Documents, not change any of its details as set out in the 'Parties' Details' section of this Deed without giving the Secured Party 14 days' prior written notice; and
 - (ii) provide to the Secured Party, on request, a certified copy of each source or source document necessary (in the Secured Party's opinion), for the purposes of the PPS Regulations, to verify the information in the 'Parties' Details' section of this Deed (or any part of it) or to otherwise register one or more financing statements in relation to any Security Interest in Personal Property created by any Finance Document;
- (e) **(notify details of or changes relating to Secured Property)** notify the Secured Party promptly:
 - (i) if any Secured Property becomes a fixture;
 - (ii) if any personal property which is not Secured Property and which is subject to a Security Interest that has attached becomes an accession to any Secured Property;
 - (iii) on the Secured Party's request, of the present location of any Secured Property;
 - (iv) if it acquires or enters into an agreement to acquire, any intermediated securities, investment instruments, negotiable instruments or chattel paper;
 - (v) of the acquisition of any Serial Numbered Property which forms part of the Grantor's assets and, in respect of that Serial Numbered Property, all the details referred to in Schedule 1; and
 - (vi) on the Secured Party's request, of the details of each purchase money security interest and each Security Interest perfected by control in any of the Grantor's Personal Property;

- (f) **(no Default)** ensure that no Default occurs; and
- (g) **(prior consent)** obtain the prior written consent of the Secured Party before taking any of the following actions:
 - (i) amending its constitution;
 - (ii) establishing or purchasing any subsidiary or any new business or entering into any form of partnership or joint venture agreement;
 - (iii) issuing any shares, debentures, convertible notes, options or other equity or debt securities;
 - (iv) issuing any dividend on its shares or any other form of profit distribution;
 - (v) incurring any debt or permitting any Encumbrance over any of its assets in excess of \$10,000;
 - (vi) making any purchase or acquisition for a cost in excess of \$10,000; and
 - (vii) entering into or becoming liable under any guarantee or indemnity or similar arrangement under which it may incur liability in respect of the financial obligation of any other person, in excess of \$10,000.

6.2 Dealings with Secured Property

Except for a Permitted Disposal, the Grantor must not, and must not agree or attempt to, sell, assign, transfer, dispose or part with possession of, lease, licence or otherwise deal with, any of the Secured Property.

6.3 Undertakings relating to Secured Property

The Grantor must:

- (a) **(other Security Interests)** comply with the terms of each Security Interest binding on it in respect of the Secured Property from time to time, and unless the Secured Party first consents in writing:
 - (i) not create or permit to exist any Security Interest over any Secured Property, other than a Permitted Security Interest (or if by law its creation cannot be restricted, the Grantor must procure that the holder of the Security Interest first enters into a priority arrangement in form and substance acceptable to the Secured Party); and
 - (ii) ensure that there is no increase in the amount secured under a Security Interest held by someone other than the Secured Party in respect of the Secured Property;
- (b) **(accessories and fixtures)** not allow any Personal Property to become an accession or fixture to any asset (other than land) that is not Secured Property (or otherwise subject to a Security Interest in

favour of the Secured Party) or to be affixed to any land (other than any freehold interest in land in respect of which the Secured Party has a first-ranking registered mortgage);

- (c) **(Serial Numbered Property)**;
 - (i) not change any serial number in respect of any Serial Numbered Property; and
 - (ii) if, at the time this Deed is signed by the Grantor, or if the Secured Party so requests, at the time of that request, the Personal Property includes any Serial Numbered Property, complete Schedule 1 and provide it to the Secured Party;
- (d) **(compliance with laws)** comply with all laws and requirements of Government Agencies in respect of the Secured Property, and ensure that any person occupying or using any Secured Property does the same;
- (e) **(Title Documents)** unless the Secured Party agrees otherwise in writing, deposit with the Secured Party all Title Documents relating to the Grantor's interests in the Secured Property as soon as they are available to the Grantor or its agents;
- (f) **(delivery of Secured Property)** without limiting paragraph (e), on request by the Secured Party, deliver to the Secured Party, or ensure the Secured Party has possession of all chattel paper, negotiable instruments, Title Documents and all other documents of title to the Secured Property where possession of that Secured Property by a third party could have the result that the interest of that third party in that Secured Property would defeat or have priority over the Security Interest of the Secured Party (except to the extent that such documents or evidence of title are in the possession of the holder of a Permitted Security Interest for the purpose of giving effect to that Permitted Security Interest);
- (g) **(protect title)** protect and enforce its title to, and the Secured Party's title as Secured Party and mortgagee of, the Secured Property;
- (h) **(income)** if the Secured Party directs, ensure that rent and other income from the Secured Property is paid to the Secured Party (or that the Grantor pays over such amounts to the Secured Party), to be applied in accordance with clause 11.2;
- (i) **(perform obligations, Taxes)** pay on time all rates, Taxes, calls for payment, instalments and any other amounts for which it is liable as owner of the Secured Property;
- (j) **(access and inspection)** ensure that the Secured Property and the Grantor's Records relating to the Secured Property are available for inspection (and in the case of Records, for copying) by the Secured Party and persons authorised by the Secured Party;
 - (i) during business hours on giving reasonable notice; and

- (ii) at any time without prior notice while a Default subsists or while an event or circumstance subsists that the Secured Party believes exposes a substantial part of the Secured Property to risk of loss, damage or material reduction in value,

and in each case the Grantor must assist with each inspection (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same;

- (k) **(condition and protection)** keep all Secured Property in good working order and condition and protected from loss, theft and damage; and
- (l) **(maintain value)** not do, allow or omit anything which is likely to lower the value of the Secured Property.

6.4 Further assurances

The Grantor must do (and must procure that anyone else who has an interest in the Secured Property or who claims under or in trust for the Grantor does) whatever the Secured Party requires to:

- (a) better secure the Secured Property for payment of the Secured Money and performance of the Grantor's other obligations under the Finance Documents, and to enable the better exercise of any Power (including the granting of further specific security in the form required by the Secured Party and depositing with the Secured Party documents or evidence of titles and transfers in relation to investment instruments); and
- (b) perfect, preserve, maintain, protect, or otherwise give full effect to the Secured Property, this Deed or the Security Interest intended to be created under this Deed, and the priority of that Security Interest required by the Secured Party.

This includes:

- (c) anything the Secured Party requires in order for it to:
 - (i) register and maintain (including renew before expiry) one or more financing statements in relation to any Security Interest in Personal Property created by any Finance Document;
 - (ii) remove any financing statement which is registered against the Grantor or any caveat which is lodged against land which is Other Property in relation to any Security Interest which is not a Permitted Security Interest; or
 - (iii) obtain possession or control of any Secured Property for the purpose of perfecting the Secured Party's Security Interest in that Secured Property by possession or control;
- (d) providing details of the Secured Property;
- (e) procuring that any other person holding a Security Interest in all or any part of the Secured Property provides to the Secured Party such

information in relation to that Security Interest as the Secured Party may reasonably request;

- (f) granting an all-obligations mortgage in the form required by the Secured Party over such of the Grantor's interests in any Real Property which forms part of the Secured Property as the Secured Party may require, and delivering to the Secured Party any document, and doing any other thing, which the Secured Party requires in order to register any such mortgage;
- (g) perfecting or improving the Grantor's title to, or other right or interest in, all or any part of the Secured Property;
- (h) facilitating the exercise of any right by the Secured Party or any Receiver or Attorney at any time or the realisation of the Secured Property following the occurrence of a Default, including the exercise of all rights of inspection, requesting all Records and taking all necessary copies, which the Grantor is entitled to exercise, request or take;
- (i) paying any Taxes on this Deed;
- (j) executing and delivering to the Secured Party transfer forms in relation to any of the Secured Property, undated and blank as to transferee and consideration; and
- (k) otherwise enabling the Secured Party to obtain the full benefit of the provisions of any Finance Document.

7. DEFAULT AND CONSEQUENCES

7.1 Specified Defaults

A Default occurs if:

- (a) the Grantor breaches any term of condition of this Deed including, but not limited to, any warranty given under clause 5 of this Deed or any undertaking given under clause 6 of this Deed; or
- (b) an event or circumstance specified as a 'Default' or 'Event of Default' (however described) in a Finance Document occurs (whether or not within the Grantor's control (within the ordinary meaning of that term)).

7.2 Consequences of Default

If a Default occurs:

- (a) **(acceleration of Secured Money)** the Secured Party may by notice to the Grantor declare that all or any part of the Secured Money is immediately due and payable. On receipt of that notice, the Grantor immediately must pay that Secured Money to the Secured Party;
- (b) **(Security Interest)** the Security Interest created under this Deed will become immediately enforceable; and

- (c) **(floating charge)** the floating charge created under this Deed will become a fixed charge in accordance with clause 2.3(a), to the extent that it is not already fixed.

7.3 **Secured Party's general powers**

While a Default subsists, regardless of whether the Secured Party has appointed a Receiver, the Secured Party may, without demand or notice to anyone (unless notice is required as described in clause 16.1), do all things that a secured party with a Security Interest in, or a mortgagee or an absolute owner of, the Secured Property can do, and exercise all rights, powers and remedies:

- (a) of a secured party with a Security Interest in, or a mortgagee or an absolute owner of, the Secured Property;
- (b) given to a Receiver under the Corporations Act; and
- (c) specified in clause 7.5.

7.4 **Secured Party's PPSA powers – sections 123 and 128**

Without limiting any other provision of this Deed, any Security or any other Finance Document, the Grantor agrees that, at any time while a Default subsists, the Secured Party may:

- (a) seize any Personal Property; and/or
- (b) dispose of any Personal Property in such manner and generally on such terms and conditions as the Secured Party thinks desirable,

and otherwise do anything that the Grantor could do in relation to the Personal Property.

7.5 **Secured Party's specific powers**

While a Default subsists, the Secured Party may do any or all of the following in connection with its Powers, whether in its or the Grantor's name or otherwise and whether or not it has possession of the Secured Property:

- (a) **(recover, possess and control)** access, recover, manage, take or give up possession or control (within the ordinary meaning of that term and as defined in the PPSA) of, and surrender or release, any Secured Property);
- (b) **(receive income and profits)** receive the income and profits of the Secured Property;
- (c) **(carry on business)** carry on, promote, restructure or participate in the Grantor's business in relation to the Secured Property, and access the land or premises of that business;
- (d) **(insurance)** insure the Secured Property and settle and compromise insurance claims;

- (e) **(improve or invest)** maintain, invest, deposit, improve or alter the Secured Property to improve its value or saleability or to obtain income or returns from it;
- (f) **(sell, assign or exchange)** sell, assign or help sell all or any Secured Property to any person or exchange it for any other property or rights, on terms as the Secured Party thinks fit, with or without other property;
- (g) **(deposited documents)** complete and deal with any document deposited with the Secured Party relating to Secured Property, including any transfer in blank;
- (h) **(options, rights)** grant, acquire, renew, vary, accept the surrender of or terminate an option or other right over the Secured Property on the terms it thinks fit, and with or without any other property;
- (i) **(hive off)** promote the formation of any company to acquire any Secured Property or assume obligations of the Grantor or both;
- (j) **(accounts)** operate bank accounts forming part of the Secured Property and open and operate further bank accounts in the Grantor's name and to the Grantor's exclusion;
- (k) **(contracts, instruments and rights)** perform or observe the Grantor's obligations or enforce or exercise the Grantor's rights, powers, discretions or remedies (or refrain from doing so) under:
 - (i) a contract, instrument, arrangement or Marketable Security forming part of the Secured Property (including voting and proxy rights); or
 - (ii) a Finance Document (including to cure a Default) or other document entered into by the Secured Party or a Receiver in exercise of a Power,
 and vary, terminate or rescind any of them or novate or otherwise transfer to any person the Grantor's obligations under any of them;
- (l) **(make calls)** make calls on the members of the Grantor for uncalled capital forming part of the Secured Property;
- (m) **(Liquidation)** initiate and participate in any Liquidation of any person (including voting at meetings and appointing proxies);
- (n) **(proceedings)** commence, prosecute, defend, discontinue, compromise, submit to arbitration and settle proceedings in connection with this Deed or the Secured Property, whether in or before a Government Agency;
- (o) **(raise money)** obtain financial accommodation (including from the Secured Party or its associate) and give Guarantees, in each case with or without granting a Security Interest over the Secured Property and regardless of priority ranking;
- (p) **(receipts)** give receipts for money and other property it receives;

- (q) **(employ and delegate)** employ and discharge staff, professional advisers, consultants, contractors, agents and auctioneers for the purposes of this Deed, and at the remuneration that the Secured Party thinks fit, and to delegate to any person any of its Powers (including this right of delegation);
- (r) **(Authorisations)** apply for any Authorisation which is necessary or desirable in connection with the exercise of a Power; and
- (s) **(incidental power)** do anything expedient or incidental to exercise any of its Powers, without limiting those Powers.

7.6 **Discharge or acquire prior Security Interest**

While a Default subsists, the Secured Party may do any one or more of the following:

- (a) purchase a debt or liability secured by a prior Security Interest (including a debt secured by a Permitted Security Interest);
- (b) pay the amount required to discharge or satisfy that debt or liability; and
- (c) take a transfer or assignment of that Security Interest and any Guarantee, document or right ancillary or collateral to it.

If the Secured Party exercises its rights in this clause:

- (d) the Grantor is indebted to the Secured Party for the same amount paid by the Secured Party or the amount of the debt or liability acquired (whichever is higher) and that amount is immediately payable to the Secured Party and forms part of the Secured Money;
- (e) the Secured Party may rely on a written notice from the holder of a prior Security Interest (**Prior Secured Party**), or on an ancillary or collateral document, as to the amount and property secured by that prior Security Interest;
- (f) the Prior Secured Party need not enquire whether any amount is owing under a Finance Document; and
- (g) the Grantor irrevocably directs any such Prior Secured Party to give the Secured Party any information it requires in connection with the prior Security Interest.

7.7 **Co-operation in exercise of power of sale**

If the Secured Party or a Receiver wishes to exercise a right to sell any Secured Property, the Grantor must do or cause to be done all things necessary to enable an expeditious sale and transfer to the purchaser for the value as estimated by the Secured Party, in the manner and on terms the Secured Party thinks fit.

7.8 **Appoint Receivers**

- (a) While a Default subsists, the Secured Party may do any one or more

of the following:

- (i) appoint one or more persons (severally, unless specified otherwise in the instrument of appointment) to be a receiver or receiver and manager of all or any of the Secured Property;
 - (ii) fix and vary the Receiver's remuneration at an amount agreed between the Secured Party and the Receiver from time to time;
 - (iii) terminate a receivership or remove or replace a Receiver; and
 - (iv) appoint an additional Receiver.
- (b) The Secured Party may do any of these things even if a resolution or order for the Grantor's Liquidation has been passed or made.
- (c) Each party agrees that if a Receiver is appointed under this Deed on the basis of a Default which subsequently ceases to subsist, the Default is taken to continue to subsist for the purposes of the Receiver's appointment under this Deed.

7.9 Agency of Receiver

To the extent permitted by law, a Receiver is the agent of the Grantor and the Grantor alone is responsible for the Receiver's costs, expenses, remuneration, acts, omissions and defaults. The Secured Party is not liable to the Grantor for the acts or omissions of the Receiver. To the extent that a Receiver is not, or ceases to be, the agent of the Grantor as a result of a resolution or order for the Grantor's Liquidation or by operation of law, the Receiver immediately becomes the agent of the Secured Party.

7.10 Receiver's powers

Unless the terms of a Receiver's appointment say otherwise, the Receiver has the following rights and powers over the Secured Property which the Receiver is appointed to deal with:

- (a) all the rights, powers, discretions or remedies given by law to mortgagees in possession, receivers or receivers and managers;
- (b) all of the Secured Party's Powers under this Deed and at law (other than the power to appoint receivers or receivers and managers); and
- (c) power to obtain financial accommodation from the Secured Party and give Guarantees on terms that the Receiver considers expedient in connection with the Secured Property, in each case whether alone or together with any other person, and with or without granting a Security Interest (regardless of priority ranking) over the Secured Property.

The Receiver may exercise these rights and powers in the name of the Grantor or otherwise.

7.11 Appointment of Attorney

The Grantor for valuable consideration, to secure the performance of its obligations under each Finance Document, irrevocably appoints the Secured

Party, each Authorised Representative of the Secured Party and each Receiver separately as its attorney to do any or all of the following on the Grantor's behalf and in the Grantor's or the attorney's name after a Default occurs:

- (a) anything which the Grantor must do under a Finance Document or under law in connection with a Finance Document;
- (b) anything which the Attorney considers necessary or expedient to give effect to a Power or exercise of a Power, or to perfect any Finance Document, including by signing any document for that purpose; and
- (c) anything which an Attorney is expressly empowered to do under a Finance Document on the Grantor's behalf.

The Grantor agrees to ratify anything done by its Attorney under this power of attorney. An Attorney may delegate its powers (including the power to delegate) to any person for any period and may revoke the delegation at any time by written notice.

7.12 Investigating Experts

The Secured Party may, at any time while a Default or Potential Default subsists, appoint accountants, insolvency practitioners or other experts (**Investigating Experts**) to investigate and report on the affairs and financial position of the Grantor. The Grantor:

- (a) authorises, and agrees to give all reasonable assistance to, the Investigating Experts to undertake the investigation, and must pay the Investigating Experts' costs on demand by the Secured Party; and
- (b) authorises the disclosure to the Secured Party and its advisers of all information and documentation in connection with the investigation.

8. COSTS, TAXES AND GENERAL INDEMNITY

8.1 Transaction Expenses

The Grantor must pay or reimburse on demand by the Secured Party all reasonable costs and expenses of the Secured Party, a Receiver and an Attorney (and any of their respective officers, employees and agents) in connection with:

- (a) the negotiation, preparation, execution, delivery, registration and completion of, and payment of Taxes on, the Finance Documents;
- (b) a variation, release or discharge of any Finance Document and the production of any Title Document;
- (c) preparing, registering and maintaining any financing statement or financing change statement (including pursuant to section 167 of the PPSA);
- (d) complying with any amendment demand in accordance with Part 5.6 of the PPSA;

- (e) giving a consent or approval or waiving a requirement in connection with a Finance Document; and
- (f) surveying, valuing, inspecting or reporting on the Secured Property.

This includes legal costs and expenses (on a full indemnity basis), any professional consultant's fees and the costs (calculated on a time employed basis) of in-house legal counsel.

8.2 Enforcement and other expenses

The Grantor must pay or reimburse on demand by the Secured Party all costs and expenses of the Secured Party, a Receiver and an Attorney (and any of their respective officers, employees and agents) in connection with:

- (a) enforcing a Finance Document, or exercising, enforcing or protecting a Power, or attempting to do so;
- (b) obtaining or receiving payment of, and distributing, any Secured Money;
- (c) a breach of, obtaining or procuring performance or satisfaction of the Grantor's obligations under any Finance Document;
- (d) a Default or Potential Default;
- (e) any Government Agency enquiry concerning the Grantor or an Obligor or any of its Related Bodies, or the involvement of the Secured Party in the Finance Documents;
- (f) maintaining, preserving or protecting the Secured Property; and
- (g) obtaining professional advice from a person or consultant about any matter of concern to the Secured Party, a Receiver or an Attorney in connection with a Finance Document or the Secured Property.

This includes any legal costs and expenses (on a full indemnity basis), any professional consultant's fees and the costs (calculated on a time employed basis) of in-house legal counsel.

8.3 Costs and expenses of Grantor

The Grantor will pay its own costs and expenses in connection with this Deed.

8.4 Taxes, fees and charges

The Grantor must pay all:

- (a) Taxes, fees and charges in connection with any Finance Document or any payment, receipt, supply or other transaction carried out pursuant to, or contemplated by, any Finance Document, including Taxes passed on to the Secured Party by another financial institution or supplier of goods and services; and
- (b) fines and penalties for late payment or non-payment of those amounts, except where the Grantor places the Secured Party in cleared funds to

make the payment not less than five Business Days before the due date and the Secured Party fails to make the payment.

The Grantor must pay or reimburse the Secured Party on demand for all such amounts which are payable or which the Secured Party determines in good faith to be payable.

8.5 Tax indemnity

- (a) Subject to paragraph (b), the Grantor indemnifies the Secured Party, against, and must pay to the Secured Party on demand amounts equal to, any Loss which the Secured Party determines will be or has been (directly or indirectly) suffered by the Secured Party for or on account of Tax in respect of this Deed or a transaction or payment under this Deed.
- (b) Paragraph (a) does not apply:
 - (i) with respect to any Excluded Tax; or
 - (ii) to the extent the relevant Loss is compensated for by payment of an additional amount under clause 10.2.

8.6 General indemnity

The Grantor indemnifies the Secured Party, any Receiver and any Attorney (and their respective officers, employees and agents) against, and must pay to the Secured Party on demand amounts equal to, any Loss arising as a result of or in connection with:

- (a) an indemnity given by the Secured Party to a Receiver or administrator of the Grantor;
- (b) this Deed or the Secured Property;
- (c) a Default;
- (d) any payment required under this Deed not being made on its due date;
- (e) the exercise or attempted exercise of any Power;
- (f) any Environmental Liability;
- (g) the Secured Party acting or relying in good faith on any Notice or other communication from, or genuinely believed to be from, the Grantor; and
- (h) the Secured Party relying on information supplied by or on behalf of the Grantor which proves to be a misrepresentation or to be misleading or deceptive (including by omission of other information),

including any legal costs and expenses (on a full indemnity basis) and any professional consultant's fees in connection with the above.

9. INTEREST ON OVERDUE AMOUNTS

9.1 Accrual and calculation

Unless another Finance Document already obliges the Grantor to pay interest on an unpaid amount that is due and payable by it under a Finance Document, interest on that overdue amount (including on unpaid interest under this clause) will accrue daily:

- (a) from and including the due date (or, for an amount payable by reimbursement or indemnity, any earlier date the amount was incurred), up to but excluding the date of actual payment; and
- (b) subject to clause 9.2, at the rate determined by the Secured Party as the sum of 2% per year plus the rate applicable to the overdue amount immediately before the due date (or if no such rate applied, plus the Secured Party's cost of funding the overdue amount).

9.2 Judgment or order

If the Grantor's liability under a Finance Document is the subject of a judgment or order:

- (a) its obligation to pay interest under clause 9.1 is separate from, and continues despite, the judgment or order; and
- (b) the interest accrues both before and after judgment at the higher of the rate determined under clause 9.1 and the rate payable under that judgment or order.

9.3 Payment

The Grantor must pay to the Secured Party accrued interest under this clause 9 on the last Business Day of each calendar month and on demand.

10. PAYMENTS

10.1 Payment requirements

All payments by the Grantor under this Deed must be made:

- (a) by 12.00 noon on the due date (or, if not a Business Day, on the next Business Day in the same calendar month or, if none, the preceding Business Day);
- (b) to the Secured Party by payment to an account nominated by the Secured Party or as the Secured Party otherwise directs;
- (c) in Australian dollars, in immediately available funds, and in full without set-off, counterclaim or, subject to clause 10.2, deduction or withholding; and
- (d) if no date for payment is specified in this Deed, on demand by the Secured Party.

10.2 Deduction or withholding

If the Grantor is required by law to deduct or withhold Taxes from a payment to the Secured Party in connection with this Deed, it must:

- (a) make that deduction or withholding (and any further deductions or withholdings contemplated by paragraph (b) below), pay to the appropriate Government Agency an amount equal to the full amount deducted and/or withheld as required by law and give the Secured Party the original receipt for the payment; and
- (b) unless the Tax is an Excluded Tax, pay additional amounts to the Secured Party which will result in the Secured Party receiving at the time the payment is due (after deduction or withholding of any Taxes in respect of any additional amount) the full amount which the Secured Party would have received if no deduction or withholding had been required.

10.3 GST

- (a) In this clause 10.3:
 - (i) terms defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) apply;
 - (ii) reference to a person includes the representative member of any GST group of which the relevant person is a member;
 - (iii) a **Finance Supply** means a supply made or to be made by the Secured Party under or in connection with a Finance Document where the consideration for the supply is not stated to include an amount in respect of GST on the supply; and
 - (iv) **GST Amount** means the amount of any GST payable on a Finance Supply.
- (b) All Finance Supply amounts have been calculated without regard to GST. If GST is or will be imposed on any Finance Supply, the payment to the supplier for that supply will be increased by the GST Amount. Each recipient of a Finance Supply indemnifies the supplier against, and must pay to the supplier on demand amounts equal to, any Loss arising as a result of or in connection with the supplier failing to receive the increased payment amount.
- (c) If a party (**Payer**) is liable under a Finance Document to reimburse or indemnify the Secured Party for any Loss, the reimbursement or indemnity amount will be for the full GST inclusive amount of that Loss less any input tax credit to which the Secured Party determines it is entitled with respect to that Loss, plus any increased amount for GST payable under clause (b). To the extent that the Secured Party is not entitled to an input tax credit for the GST payable on any supply acquired by or expenditure incurred by the Secured Party directly or indirectly in connection with a Finance Document, the Payer must reimburse the Secured Party for the amount of that unrecoverable GST.

- (d) The supplier of a Finance Supply that is a taxable supply must issue a tax invoice to the recipient no later than 14 days following payment of the GST Amount pursuant to this clause 10.3.
- (e) If it is determined on reasonable grounds that the amount of GST paid or payable to the Commissioner of Taxation by the supplier in connection with a Finance Supply differs for any reason from the GST amount paid or payable to the supplier by the recipient pursuant to clause (b), the amount of the difference must be paid by, refunded to or credited to (as applicable), the recipient promptly, and the supplier must issue an adjustment note to the recipient.
- (f) If the GST payable in relation to a Finance Supply is less than the amount that the recipient has paid the supplier under clause (b), the supplier is only obligated to pay a refund of GST to the recipient to the extent the supplier receives a refund of that GST from the Commissioner of Taxation. This clause (f) does not apply in relation to adjustment events.

11. RECEIPT OF MONEY AND APPLICATION

11.1 Credit of received payment

The Grantor is only credited with a payment of Secured Money from the date of actual receipt in cleared funds by the Secured Party (whether received from the Grantor or a Receiver).

11.2 Applying or appropriating money received

The Secured Party may apply or appropriate all money received under this Deed (even if insufficient to discharge all of the Grantor's obligations at that time) to reduce the Secured Money in the order, and to satisfy any part of the Secured Money, as the Secured Party sees fit (including as between principal, interest and other amounts owing to the Secured Party and including so as to enable the Secured Party to preserve any purchase money security interest). An application or appropriation by the Secured Party will override any appropriation made by the Grantor. For the purposes of section 14(6)(a) of the PPSA, this clause 11.2 constitutes the method of payment application agreed by the parties.

11.3 Suspense account

- (a) The Secured Party may credit money received in or towards satisfaction of the Secured Money (including dividends received in any Liquidation) to a suspense account. The Secured Party may keep the money in that account for as long as, and at whatever interest rate, the Secured Party thinks fit. The Secured Party may apply the money (including interest) to reduce the Secured Money whenever the Secured Party thinks fit.
- (b) If the Secured Money has been fully and finally paid or discharged and the Secured Party is satisfied that such payment or discharge is not liable to be set aside, avoided or reversed, then the balance standing to the credit of the suspense account and any accrued interest must be paid to or for the account of the Grantor and the Secured Party will not have any further liability in relation to it.

11.4 **Surplus proceeds**

If the Secured Party, a Receiver or an Attorney (as the case may be) holds any surplus money after:

- (a) payment of the Secured Money in full and the application of proceeds in accordance with clause 11.2; and
- (b) the making of all payments that the Secured Party, Receiver or Attorney has the right or obligation to make under the Finance Documents or at law,

then:

- (c) no trust arises, or interest accrues, over that surplus money; and
- (d) the Secured Party, Receiver or Attorney may pay that money to an account in the name of the Grantor with any bank, in which case the Secured Party, Receiver or Attorney will have no further liability in relation to that money.

11.5 **Payments after notice of subsequent Security Interests**

Effective from the time at which the Secured Party receives actual or constructive notice of a subsequent Security Interest in respect of any Other Property:

- (a) the Secured Party and the Grantor agree that for all purposes there is opened a new account in the name of the Grantor in the Secured Party's books;
- (b) all payments made by the Grantor to the Secured Party and all accommodation and advances made by the Secured Party to the Grantor, are to be credited or debited (as applicable) to that new account; and
- (c) all payments credited to the new account must be applied first towards reduction of any debit balance in the new account, and then towards reduction of any other Secured Money.

This clause is subject to the Secured Party's general rights of appropriation under clauses 11.1 and 11.2.

11.6 **Foreign currency amounts**

If for any reason the Secured Party receives or recovers any amount under or in relation to this Deed in a currency other than Australian dollars (**Foreign Currency Amount**), the amount which the Secured Party will be taken to have received or recovered for the purposes of the Finance Documents will be the Australian dollar amount to which the Secured Party could have converted the Foreign Currency Amount (in accordance with its normal procedures) at the time of the receipt or recovery, less the costs of the conversion.

12. PPSA

12.1 Waiver

Without limiting any other provision of this Deed, any Security or any other Finance Document, the Grantor waives its right to receive any verification statement (or notice of any verification statement) in respect of any financing statement or financing change statement relating to any Security Interest created under this Deed or any other Finance Document.

12.2 Chapter 4 and additional rights

Without limiting clause 16.1, the Grantor and the Secured Party agree that, to the extent permitted by law and in respect of each Finance Document and each Security Interest created under a Finance Document or a Security:

- (a) the Grantor and the Secured Party contract out of:
 - (i) the Secured Party's obligation to:
 - (A) dispose of or retain Personal Property under section 125 of the PPSA; and
 - (B) include details of amounts paid to other secured parties in a statement of account under section 132(3)(d) of the PPSA;
 - (ii) (without limiting clause 4.3) section 142 of the PPSA; and
 - (iii) section 143 of the PPSA;
- (b) the Grantor and the Secured Party contract out of the Grantor's rights to (and the Grantor waives its rights to):
 - (i) receive notice of the removal of an accession under section 95 of the PPSA;
 - (ii) receive notice of the decision of the Secured Party to enforce any Security Interest in accordance with land law decisions under section 118 of the PPSA;
 - (iii) receive notice of any action of the Secured Party to enforce any Security Interest in liquid assets under section 121(4) of the PPSA;
 - (iv) receive notice of the Secured Party's proposal to dispose of Personal Property under section 130 of the PPSA;
 - (v) receive a statement of account under section 132(4) of the PPSA; and
 - (vi) any other provision of the PPSA notified to the Grantor by the Secured Party after the date of this Deed; and
- (c) the Grantor and the Secured Party contract out of the application of Part 4.3 of the PPSA (other than sections 126, 128, 129(1), 133,

134(1), 138B and 138C) if that Part would apply by virtue of section 116(2) of the PPSA.

12.3 Other rights

Where the Secured Party has Powers in addition to, or existing separately from, those in Chapter 4 of the PPSA, those Powers will continue to apply and are not limited or excluded (or otherwise adversely affected) by the PPSA. This is despite clause 12.2 or any other provision of a Finance Document.

12.4 Confidentiality agreement

The Grantor and the Secured Party agree that the Grantor and the Secured Party will not disclose any of the information set out in section 275(1) of the PPSA in relation to this Deed or any Security Interest created under any Finance Document to any person (except that the Secured Party may do so where required due to the operation of section 275(7) of the PPSA or in accordance with another provision of a Finance Document).

13. ASSIGNMENT

13.1 By Grantor

The Grantor may not assign, transfer or otherwise deal with its rights, interests or obligations under this Deed without the Secured Party's prior written consent.

13.2 By Secured Party

Subject to the Finance Documents, the Secured Party may assign, transfer, novate or otherwise deal with its rights, interests and obligations under this Deed without the consent of, or notice to, the Grantor, and may disclose to a proposed party to such assignment or dealing any information the Secured Party considers appropriate about the Grantor, the Finance Documents and any transaction in connection with any of them.

13.3 Assistance

The Grantor agrees to do or execute anything reasonably requested by the Secured Party to effect an assignment, transfer, novation or other dealing under this clause 13.

14. NOTICES, DEMANDS AND COMMUNICATIONS

14.1 Service

A notice, demand, consent, approval or communication (**Notice**) given by a party in connection with a Finance Document must be:

- (a) in writing, in English and signed by an Authorised Representative of the party; and
- (b) hand delivered or sent by prepaid post (or airmail if applicable) to the recipient's address for notices specified in the 'Parties' Details' section of this Deed, as varied by any Notice given by the recipient to the party.

14.2 Effective on receipt

A Notice given in accordance with clause 14.1 takes effect when received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery; or
- (b) if sent by prepaid post, on the second Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia),

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm (addressee's time) on a Business Day, the Notice is taken to be received at 9.00am (addressee's time) on the next Business Day.

14.3 Copy via email

The issuer of a notice sent by prepaid post in accordance with clause 14.1 must email to the recipient a copy of that notice no later than 24 hours after posting the notice.

15. PROTECTION OF THIRD PARTIES

15.1 Receipt of Secured Party, Receiver

A receipt given by the Secured Party, a Receiver or an Attorney (or of their Authorised Representative) for any money payable to it, or any asset receivable by it, relieves the person paying that money or delivering the asset from all liability to enquire as to the dealing with, or application of, that money or asset.

15.2 Third parties need not enquire

A person dealing with the Secured Party, a Receiver or an Attorney is protected from any impropriety or irregularity of that dealing, and need not enquire whether:

- (a) any of them has been properly appointed or has executed or registered an instrument or exercised a Power properly or with authority; or
- (b) any Secured Money has become due, a Finance Document is enforceable or a default (however described) has occurred under a Finance Document.

16. PROTECTION OF SECURED PARTY, RECEIVER

16.1 Notice, demand or lapse of time required by law

If a notice, demand or lapse of time is required by law before the Secured Party can exercise a Power, then for the purposes of this Deed:

- (a) that notice, demand or lapse of time is dispensed with to the extent allowed by that law; or

- (b) if not allowed to be dispensed with, but the period of notice, demand or lapse of time is allowed by that law to be shortened or fixed, it is shortened and fixed to one day.

16.2 **Secured Party, Receiver not restricted**

The Secured Party or a Receiver need not:

- (a) exercise a Power, give a consent or make a decision under this Deed unless a Finance Document expressly provides otherwise; or
- (b) resort to a Security or Power before resorting to any other of them.

16.3 **Secured Party, Receiver not mortgagee in possession or liable**

To the extent permitted by law, the Secured party, a Receiver and any Attorney will:

- (a) not be, nor account or be liable as, mortgagee in possession due to exercise of a Power; or
- (b) not be liable to anyone for any Loss in relation to an exercise or attempted exercise of a Power, or a failure or delay in exercising a Power.

16.4 **Secured Party may set off**

At any time while a Default subsists, the Secured Party may, without any demand or notice, set off and apply indebtedness it owes to the Grantor (whatever the currency) against any money owing to it by the Grantor under any Finance Document, whether or not the amount owed by the Secured Party or the Grantor is immediately payable or is owed alone or with any other person. The Grantor irrevocably authorises the Secured Party to do anything necessary (including to sign any document and effect appropriate currency exchanges) for that purpose.

16.5 **Reinstating avoided transaction**

The Grantor agrees that if a payment or other transaction relating to the Secured Money is void, voidable, unenforceable or defective for any reason or a related claim is upheld, conceded or settled (each an **Avoidance**), then even though the Secured Party knew or should have known of the Avoidance:

- (a) each Power and the Grantor's liability under each Finance Document will be what it would have been, and will continue, as if the payment or transaction the subject of the Avoidance had not occurred; and
- (b) the Grantor will immediately execute and do anything required by the Secured Party to restore the Secured Party to its position immediately before the Avoidance (including reinstating any Finance Document).

This clause survives any termination or full or partial discharge or release of any Finance Document.

16.6 Authorised Representatives and communications

The Grantor irrevocably authorises the Secured Party to rely on a certificate by any person purporting to be its director or company secretary as to the identity and signatures of its Authorised Representatives, and to rely on any Notice or other document contemplated by any Finance Document which bears the purported signature (whether given by facsimile or otherwise) of its Authorised Representative. The Grantor warrants that those persons have been authorised to give notices and communications under or in connection with the Finance Documents.

16.7 Secured Party's opinion

An opinion or view of the Secured Party for the purposes of this Deed may be formed or held on its behalf by its Authorised Representative, its board of directors or by any other person it authorises to act on its behalf in relation to the Finance Documents.

17. GENERAL PROVISIONS

17.1 Prompt performance

If a time is not specified for the performance by the Grantor of an obligation under this Deed, it must be performed promptly.

17.2 Performance of Grantor's obligations by Secured Party

The Secured Party may do anything which the Grantor fails to do as required by, or in accordance with, this Deed. This does not limit or exclude the Secured Party's Powers in any way.

17.3 Powers

Powers under the Finance Documents are cumulative and do not limit or exclude Powers under law. Full or partial exercise of a Power does not prevent a further exercise of that or any other Power. No failure or delay in exercising a Power operates as a waiver or representation. Unless expressly provided in a Finance Document, no Power or Finance Document merges in, limits or excludes any other Power, Finance Document or judgment which the Secured Party or a Receiver (or anyone claiming through it) may have or obtain.

17.4 Consent and waivers

A consent or waiver by the Secured Party or a Receiver in relation to this Deed is effective only if in writing. If given subject to conditions, the consent or waiver only takes effect subject to compliance with those conditions to the Secured Party's or Receiver's satisfaction.

17.5 Indemnities and reimbursement obligations

The Secured Party or a Receiver need not incur an expense or make a payment before enforcing an indemnity or reimbursement obligation in a Finance Document. Unless otherwise stated, each such indemnity or reimbursement obligation is separate and independent of each other obligation of the party giving it, is absolute, irrevocable, unconditional and

payable on demand and continues despite any settlement of account, termination of any Finance Document or anything else.

17.6 Notices or demands as evidence

A notice or certificate from or demand by the Secured Party stating that a Default has occurred, or that a specified sum of money is owing or payable under a Finance Document or stating any other fact or determination relevant to the rights or obligations of the Secured Party or the Grantor under a Finance Document, is taken to be correct unless proved incorrect.

17.7 Law and legislation

To the extent permitted by law:

- (a) each Finance Document to which the Grantor is a party prevails to the extent of inconsistency with any law; and
- (b) any present or future legislation operating to reduce the Grantor's obligations under a Finance Document or the effectiveness of the Powers is excluded.

17.8 Severability

A provision of this Deed that is illegal, invalid or unenforceable in a jurisdiction is ineffective in that jurisdiction to the extent of the illegality, invalidity or unenforceability. This does not affect the validity or enforceability of that provision in any other jurisdiction, nor the remainder of this Deed in any jurisdiction.

17.9 Variation

A variation of this Deed must be in writing and signed by or on behalf of each party to it.

17.10 Governing law – security agreement

This Deed is governed by the laws of Victoria.

17.11 Governing law – Security Interest

- (a) Subject to paragraph (b), the Security Interest created under this Deed is governed by the laws of Victoria.
- (b) Paragraph (a) does not apply to the extent that a Security Interest is created under this Deed in any personal property described in section 237(2) of the PPSA, in which case the law determined by the PPSA will govern the Security Interest in that property.

17.12 Jurisdiction

Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria (and any court of appeal) and waives any right to object to an action being brought in those courts, including on the basis of an inconvenient forum or those courts not having jurisdiction.

17.13 **Service of process**

Without preventing any other mode of service, any document in an action or process may be served on any party by being delivered to or left for that party at its address for service of Notices under this Deed.

17.14 **Counterparts**

This Deed may be executed in any number of counterparts. Each counterpart constitutes an original of this Deed, all of which together constitute one instrument. A party who has executed a counterpart of this Deed may exchange it with another party by faxing, or by emailing a pdf (portable document format) copy of, the executed counterpart to that other party, and if requested by that other party, will promptly deliver the original by hand or post. Failure to make that delivery will not affect the validity of this Deed.

SCHEDULE 1 - SERIAL NUMBERED PROPERTY

Serial Numbered Property (including motor vehicle(s), aircraft, watercraft, design(s), patent(s), plant breeder's right(s) and trade mark(s)):

Terms used in this Schedule have the same meaning as in the PPSA and the PPS Regulations (as applicable).

Motor vehicles

Complete if any Serial Numbered Property consists of any motor vehicle(s):

vehicle identification number (if any)	chassis number (if any)	manufacturer's number

Aircraft

Complete if any Serial Numbered Property consists of any aircraft:

nationality*	registration mark*	manufacturer's serial number	manufacturer's name	manufacturer's model description

* to be included in the case of small aircraft and to be assigned by the Chicago Convention

Watercraft

Complete if any Serial Numbered Property consists of any watercraft:

manufacturer's number*	official number (if any)	hull identification number

* to be included in the case of an outboard motor

Designs

Complete if any Serial Numbered Property consists of any design(s):

design number*
(if any)

design application number*

* as issued by IP Australia

Patents

Complete if any Serial Numbered Property consists of any patent(s):

patent number*
(if any)

patent application number*
(if any)

PCT number

* as issued by IP Australia

Trade marks

Complete if any Serial Numbered Property consists of any trade mark(s):

trade mark number*
(if any)

trade mark application number*

* as issued by IP Australia

SCHEDULE 2 – SECURED PARTY LIST

Secured Party	Address
J & S Lowe Superannuation Fund	c/- Perpetual Trustee Company Limited, Level 35, Rialto South Tower, 525 Collins Street, Melbourne, Victoria 3000
JSRN Superannuation Fund	c/- 32 Sutherland Road, Armadale, Victoria 3143
Kazakco Pty Ltd ACN 056 742 226 (ATF the Kent Family Trust)	of Level 1, 123 Camberwell Road, Hawthorn East, Victoria 3123
Jawess Pty Ltd ACN 153 318 864 (ATF the Kent Family Super Fund)	of Level 1, 123 Camberwell Road, Hawthorn East, Victoria 3123
Kanahooka Holdings Pty Ltd ACN 050 134 999	of 29 Guilford Road, Surrey Hills, Victoria 3127
Tremaine Capital Pty Ltd ACN 165 882 842 (ATF the Tremaine Capital Trust)	c/- 714 Main Road, Eltham, Victoria 3095

EXECUTED AS A DEED

EXECUTED for and on behalf of)
GUARDIAN VAULTS HOLDINGS PTY)
LTD ACN 138 618 176 by authority of the)
directors:)

Name: Neil Royston Tremaine
Sole Director and Secretary

SIGNED, SEALED AND DELIVERED by)
HENRY JAMES MILLAR LOWE and)
SUZANNE KAY LOWE (as trustees for)
and on behalf of **J & S LOWE**
SUPERANNUATION FUND) in the
presence of:

Name: Henry James Millar Lowe
Trustee

Name: Suzanne Kay Lowe
Trustee

Witness

Witness

SIGNED, SEALED AND DELIVERED by)
ROBERT SANSOM (as trustee for and on)
behalf of **JSRN SUPERANNUATION**)
FUND) in the presence of:

Signature of Witness

Name: Robert Sansom
Trustee

Name of Witness in full

EXECUTED for and on behalf of **JAWESS**)
PTY LTD ACN 153 318 864 (ATF the)
Kent Family Super Fund) by authority of)
the directors:

Name:
Director

Name:
Director/Secretary

EXECUTED for and on behalf of)
KAZAKCO PTY LTD ACN 056 742 226)
(ATF the Kent Family Trust) by authority)
of the directors:

Name:
Director

Name:
Director/Secretary

EXECUTED for and on behalf of)
KANAHOOKA HOLDINGS PTY LTD)
ACN 050 134 999 by authority of the)
directors:

Name: Christopher Marcus Marsh
Director

Name: Fiona Jane Marsh
Director

EXECUTED by **TREMAINE CAPITAL**)
PTY LTD ACN 165 882 842 (as trustee)
for the Tremain Capital Trust) by)
authority of the directors:

Name: Fergus Tremain
Director

Name: Siobhan Tremain
Director/Secretary