



**Chief Executive Officer Attachments**  
**ORDINARY COUNCIL MEETING**  
**Wednesday, 15 November 2017**

<b>REPORT NUMBER</b>	<b>REPORT TITLE AND ATTACHMENT DESCRIPTION</b>	<b>PAGE NUMBER(S)</b>
<b>9.4.1</b>	<b>Nominations to Council Committees, Advisory Groups and External Organisations</b> 1. "DRAFT" Council Committees, Advisory Groups" booklet	1 – 36
<b>9.4.4</b>	<b>Deed of Lease: 21 Binda Place, Bindoon</b> 1. Lease 21 Binda Place, Bindoon (dated 25 October 2017)	37 – 86

# Council Committee and Advisory Groups



**OFFICE USE ONLY:**

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**ADOPTED:**

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**AMENDED:**

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**RESOLUTION NO:**

---

**FILE REFERENCE**      04/06/0001

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**NO:**

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**DOCUMENT REF**

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**NO:**

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## TABLE OF CONTENTS

<b>INTRODUCTION</b> .....	<b>4</b>
<b>PART 1 – COUNCIL COMMITTEES</b> .....	<b>4</b>
1.1 Types of Committees .....	4
1.2 Appointment of Committee Members .....	4
1.3 Tenure of Committee Membership .....	5
1.4 Elected members obligation when appointed by Council .....	5
1.5 Election of Presiding Member and Deputies .....	5
1.6 Quorum .....	5
1.7 Presiding at Committee meetings.....	6
1.8 Delegation of some powers and duties to certain committees.....	6
1.9 Limits on the delegation of powers and duties to certain committees.....	6
1.10 Statutory compliance .....	7
1.11 Audit Committee.....	7
1.11.1 Membership .....	7
1.11.2 Terms of Reference .....	7
1.11.3 Function.....	7
1.12 Chittering Bush Fire Advisory Committee.....	12
1.12.1 Membership .....	12
1.12.2 Terms of Reference .....	12
1.12.3 Function.....	12
1.13 Local Emergency Management Committee.....	17
1.13.1 Membership .....	17
1.13.2 Terms of Reference .....	17
1.13.3 Functions .....	17
<b>PART 2 – COUNCIL PORTFOLIOS</b> .....	<b>21</b>
<b>PART 3 – ADVISORY GROUPS</b> .....	<b>22</b>
3.1 Advisory Group Membership and Objectives .....	22
3.1.1 Chittering Community Planning Advisory Group .....	22
3.1.2 Chittering Community Support Funding Advisory Group.....	24
3.1.3 Chittering Education Scholarship Advisory Group .....	25
3.1.4 Chittering Mining Advisory Group.....	26
3.1.5 Chittering Health Advisory Group .....	28
3.1.6 Chittering Youth Krew Advisory Group .....	29
3.2 Advisory Groups Terms of Reference .....	30
<b>PART 4 – COUNCIL REPRESENTATION ON EXTERNAL ORGANISATIONS</b> .....	<b>33</b>



## INTRODUCTION

This booklet contains details of:

1. Council Committees
  2. Portfolios – Elected Members
  3. Working Groups
  4. Other Committees
  5. Representation on external organisations
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## PART 1 – COUNCIL COMMITTEES

*Section 5.8* of the *Local Government Act 1995* provides that Council can establish committees of three (3) or more persons. An **Absolute Majority** decision is required.

### 1.1 *Types of Committees*

*Section 5.9* provides that a committee can comprise:

- a) Council Members only
- b) Council Members and Employees
- c) Council Members and Employees and other persons
- d) Council Members and other persons
- e) Other persons only

### 1.2 *Appointment of Committee Members*

*Section 5.10* provides for the appointment of committee members. A decision to appoint committee members requires an **Absolute Majority** decision of Council.

At any given time each Council member is entitled to be a member of at least one (1) committee that comprises Council members only, or Council members and employees. If a Council member nominates himself/herself to be a member of such committee/s, the Council is to include that Council member to at least one of those committees as the Council determines.

If the Council is to make an appointment to a committee that has or could have a Council member as a member and the President informs Council of his/her wish to be a member of the committee, the Council is to appoint the President to be a member of the committee.



If the Council is to make an appointment to a committee that has or will have an employee as a member and the Chief Executive Officer informs the Council of his/her wish:

- a) to be a member of the committee, or
  - b) that a representative of the Chief Executive Officer be a member of the committee
- the Council is to appoint the Chief Executive Officer or the Chief Executive Officer's representative, as the case may be, to be a member of the committee.

### 1.3 *Tenure of Committee Membership*

Where a person is appointed as a member of a committee under *section 5.10(4) or (5)* (i.e. the sections relating to appointing the President and the Chief Executive Officer or the Chief Executive Officer's representative to a committee), the person's membership of the committee is valid until:

- a) *the person no longer holds the office by virtue of which the person becomes a member, or is no longer the Chief Executive Officer, or the Chief Executive Officer's representative, as the case may be,*
  - b) *the person resigns from membership of the committee,*
  - c) *the committee is disbanded, or*
  - d) *the next ordinary elections day,*
- whichever happens first.*

Where a person is appointed as a member of a committee other than under *section 5.10(4) or (5)*, the person's membership of the committee continues until:

- a) *the term of the person's appointment as a committee member expires,*
  - b) *the Council removes the person from the office of committee member or the office of committee member otherwise becomes vacant,*
  - c) *the committee is disbanded, or*
  - d) *the next ordinary elections day,*
- whichever happens first.*

### 1.4 *Elected members obligation when appointed by Council*

Councillors are to represent the views of Council, as deemed by resolution Policy or strategic objectives, when attending Committee meetings and Working Groups that include "**other persons**".

*"Other Persons" means a person who is not a Council member or employee*

### 1.5 *Election of Presiding Member and Deputies*

The members of a committee are to elect a presiding member and deputy presiding member from amongst themselves in accordance with *section 5.12*.

### 1.6 *Quorum*

The quorum for a meeting of a committee is at least 50% of the number of offices (whether vacant or not) or member of the committee.

The Council may, with an absolute majority decision, reduce the number of offices of committee members required for a quorum at a committee meeting specified by the Council if there would not otherwise be a quorum for the meeting.



### 1.7 *Presiding at Committee meetings*

The presiding member elected by the committee is to preside at meetings of the committee.

If, in relation to the presiding member of a committee:

- a) the office of presiding member is vacant, or
- b) the presiding member is not available or is unable or unwilling to perform the functions of presiding member,

then the deputy presiding member, if any, may perform the functions of presiding member.

If, in relation to the presiding member of a committee:

- a) the office of presiding member and the office of deputy presiding member are vacant, or
- b) the presiding member and the deputy presiding member, if any, are not available or are unable or unwilling to perform the functions of presiding member,

then the committee members present at the meeting are to choose one of themselves to preside at the meeting.

### 1.8 *Delegation of some powers and duties to certain committees*

Under and subject to *section 5.17*, Council may delegate to a committee any of its powers and duties other than the power of delegation. An **Absolute Majority** decision of Council is required.

A delegation is to be in writing and may be general or as otherwise provided in the instrument of delegation.

A delegation has effect for the period of time specified in the delegation or if no period has been specified, indefinitely.

Any decision to amend or revoke a delegation is to be made by an **Absolute Majority**.

Although Council may have delegated authority to a committee, nothing prevents the Council from performing any of its functions by acting through another person.

### 1.9 *Limits on the delegation of powers and duties to certain committees*

The Council can delegate:

- a) to a committee comprising Council members only, any of the Council's powers or duties under the Act except:
  - i. any power or duty that requires a decision of an absolute majority or a 75% majority of the Council; and
  - ii. any other power or duty that is prescribed;
- b) to a committee comprising Council members and employees, any of the council's powers or duties that can be delegated to the Chief Executive Officer; and
- c) to a committee comprising Council members, employees and other persons, Council members and other persons, and employees and other persons, any of the council's powers or duties that are necessary or convenient for the proper management of:
  - i. the Council's property; or
  - ii. an event in which the Council is involved.



The Council cannot delegate any of its powers or duties to a committee comprising “other persons only”.

## 1.10 *Statutory compliance*

The Presiding Member, deputy presiding member, committee members and the Council officer responsible for the committee are to make themselves fully conversant with all of the provision of the *Local Government Act 1995* and Council’s Standing Orders relating to committees and committee meetings.

Council has resolved to formally establish the following committees with the membership and other relevant information as shown.

## 1.11 *Audit Committee*

### 1.11.1 *Membership*

As at 25 October 2017:

Members
<b>Shire President (Presiding Member)</b> Cr Gordon Houston
<b>Deputy Shire President</b> Cr Peter Osborn
Cr Don Gibson
Cr Aaron King
Cr Carmel Ross
Cr George Tilbury
Cr Mary Angus

#### **Quorum**

4 members

### 1.11.2 *Terms of Reference*

*Adopted by Council on 19 October 2011*

### 1.11.3 *Function*

#### 1.11.3.1 **NAME**

The name of the Committee shall be the Shire of Chittering Audit Committee hereinafter referred to in its abbreviated form as SOCAC.

#### 1.11.3.2 **DISTRICT**

The SOCAC shall operate within the local government boundaries of the Shire of Chittering.





### 1.11.3.3 GUIDING PRINCIPLES

The guiding principles are in accordance with the *Local Government Operational Guidelines (No 9) for Audit Committees in Local Government – Their appointment, function and responsibilities*.

### 1.11.3.4 ESTABLISHMENT

The Committee is established pursuant to *Section 5.8* of the *Local Government Act 1995*.

### 1.11.3.5 OBJECTIVES

The primary objective of the SOCAC is to accept responsibility for the annual external audit and liaise with the local government's auditor so that Council can be satisfied with the performance of the local government in managing its financial affairs.

Reports from the committee will assist Council in discharging its legislative responsibilities of controlling the local government's affairs, determining the local government's policies and overseeing the allocation of the local government's finances and resources. The committee will ensure openness in the local government's financial reporting and will liaise with the Chief Executive Officer to ensure the effective and efficient management of local government's financial accounting systems and compliance with legislation.

The committee is to facilitate:

- (a) the enhancement of the credibility of external financial reporting
- (b) compliance with laws and regulations as well as use of best practise guidelines relative to auditing
- (c) the provision of an effective means of communication between the external auditor, the Chief Executive Officer and the Council.

### 1.11.3.6 POWERS OF THE AUDIT COMMITTEE

The SOCAC is a formally appointed committee of Council and is responsible to that body. The committee does not have executive powers or authority to implement actions in areas over which the Chief Executive Officer has legislative responsibility and does not have any delegated financial responsibility. The committee does not have any management functions and cannot involve itself in management processes or procedures.

The committee is to report to Council and provide appropriate advice and recommendations on matters relevant to its term of reference in order to facilitate informed decision-making by Council in relation to the legislative functions and duties of the local government that have not been delegated to the Chief Executive Officer.

### 1.11.3.7 MEMBERSHIP

The committee shall consist of all elected members. All members shall have full voting rights.

The Chief Executive Officer and employees are not members of the committee.

The Chief Executive Officer and Executive Manager Corporate Services (or their nominee) is to attend all meetings to provide advice and guidance to the committee.

The local government shall provide secretarial and administrative support to the committee.



#### 1.11.3.8 **REPORTING**

Reports and recommendations of each committee meeting shall be presented to the next ordinary meeting of the Council.

#### 1.11.3.9 **DUTIES AND RESPONSIBILITIES**

The duties and responsibilities of the SOCAC will be to—

- (a) Provide guidance and assistance to Council as to the carrying out the functions of the local government in relation to audits.
- (b) Develop and recommend to Council an appropriate process for the selection and appointment of a person as the local government's auditor.
- (c) Develop and recommend to Council—
  - i. a list of those matters to be audited,
  - ii. the scope to be undertaken.
- (d) Recommend to Council the person or persons to be appointed as auditor.
- (e) Develop and recommend to Council a written agreement for the appointment of the auditor. The agreement is to include—
  - i. the objectives of the audit,
  - ii. the scope of the audit,
  - iii. a plan of the audit,
  - iv. details of the remuneration and expenses to be paid to the auditor,
  - v. the method to be used by the local government to communicate with, and supply information to, the auditor.
- (f) Liaise with the Chief Executive Officer to ensure that the local government does everything in its power to—
  - i. assist the auditor to conduct the audit and carry out his or her other duties under the *Local Government Act 1995*,
  - ii. ensure that audits are conducted successfully and expeditiously.
- (g) Examine the reports of the auditor after receiving a report from the Chief Executive Officer on the matters and—
  - i. determine if any matters raised require action to be taken by the local government,
  - ii. ensure that appropriate action is taken in respect of those matters.
- (h) Review the report prepared by the Chief Executive Officer on any actions taken in respect of any matters raised in the report of the auditor and presenting the report to Council for adoption prior to the end of the next financial year or six months after the last report prepared by the auditor is received, whichever is the latest in time.
- (i) Review the scope of the audit plan and program and its effectiveness.
- (j) Address issues brought to the attention of the Committee, including responding to requests from Council for advice that are within the parameters of the Committee's "Terms of Reference".
- (k) Seek information or obtain expert advice through the Chief Executive Officer on matters of concern within the scope of the Committee's "Terms of Reference" following authorisation from the Council.



### 1.11.3.10 TENURE OF MEMBERSHIP

Shall be in accordance with the *Local Government Act 1995, section 5.11*.

- (1) *Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until—*
  - (a) *the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be;*
  - (b) *the person resigns from membership of the committee;*
  - (c) *the committee is disbanded; or*
  - (d) *the next ordinary elections day,**whichever happens first.*
- (2) *Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until—*
  - (a) *the term of the person's appointment as a committee member expires;*
  - (b) *the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant;*
  - (c) *the committee is disbanded; or*
  - (d) *the next ordinary elections day,**whichever happens first.*

### 1.11.3.11 DELEGATED AUTHORITY

Nil

### 1.11.3.12 COMMITTEE

#### Chairperson

The members shall appoint the Chairperson of the SOCAC.

#### Secretary

A Shire staff officer will fulfil the role of non-voting Secretary.

#### Standing Ex-Officio Members

Nil

### 1.11.3.13 MEETINGS

#### Annual General Meeting

Nil

#### Committee meetings

The SOCAC shall meet at least annually. Additional meetings shall be convened at the discretion of the presiding person.

#### Quorum

The quorum at any meeting shall be half plus one of the number of offices. Therefore the number for a quorum shall be four (4) voting members.

#### Voting

Shall be in accordance with the *Local Government Act 1995, Section 5.21*.

**5.21 Voting**

- (1) *Each council member and each member of a committee who is present at a meeting of the council or committee is entitled to one vote.*
- (2) *Subject to section 5.67, each council member and each member of a committee to which a local government power or duty has been delegated who is present at a meeting of the council or committee is to vote.*
- (3) *If the votes of a member present at a council or a committee meeting are equally divided, the person presiding is to cast a second vote.*
- (4) *If a member of a council or a committee specifically requests that there be recorded —*
  - (a) *his or her vote; or*
  - (b) *the vote of all members present**On a matter voted on at a meeting of the council or the committee, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the minutes.*
- (5) *A person who fails to comply with subsection (2) or (3) commits an offence.*

**Minutes**

Shall be in accordance with the ***Local Government Act 1995, Section 5.22.***

**5.22 Minutes of council and committee meetings**

- (1) *The person presiding at a meeting of a council or a committee is to cause minutes to be kept of the meeting's proceedings.*
- (2) *The minutes of a meeting of a council or a committee are to be submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.*
- (3) *The person presiding at the meeting at which the minutes are confirmed is to sign the minutes and certify the confirmation.*

**Who acts if no presiding member?**

Shall be in accordance with the ***Local Government Act 1995, Section 5.14.***

**5.14 Who acts if no presiding member**

- (1) *If, in relation to the presiding member of a committee —*
  - (a) *the office of presiding member and the office of deputy presiding member are vacant; or*
  - (b) *the presiding member and the deputy presiding member, if any, are not available or are unable or willing to perform the functions of presiding member,**then the committee members present at the meeting are to choose one of themselves to preside at the meeting.*

**Meetings**

Meetings shall be generally open to the public pursuant to the ***Local Government Act 1995, Section 5.23*** and include question time for members of the pursuant to the ***Local Government Act 1995, Section 5.24.***

**Members interests to be disclosed**

Members of the Committee are bound by the provisions of the ***Local Government Act 1995, Section 5.65*** with respect to disclosure of financial, impartiality or proximity interests.



## 1.12 Chittering Bush Fire Advisory Committee

### 1.12.1 Membership

As at 17 August 2017:

Members	Deputies
Shire of Chittering Councillor	Shire of Chittering Councillor
Chief Executive Officer Alan Sheridan	Nil
Community Emergency Services Manager / Chief Bush Fire Control Officer David Carroll	Nil
Deputy Chief Bush Fire Control Officer Southern Region David Wilson	Nil
Deputy Chief Bush Fire Control Officer Northern Region Gregory Cocking	Nil
Deputy Chief Bush Fire Control Officer Central Region Phillip Humphry	Nil
Muchea Brigade representative Peter Hall	Muchea Brigade representative Arthur Blewitt
Lower Chittering Brigade representative Jeff Reeves	Lower Chittering Brigade representative Max Brown
Upper Chittering Brigade representative Gordon Carter	Upper Chittering Brigade representative David Wilson
Bindoon Brigade representative Matthew Whelan	Bindoon Brigade representative Peter Watterston
Wannamal Brigade representative Kim Haeusler	Wannamal Brigade representative Richard Rose
Incident Support Brigade representative Paul Groves	Incident Support Brigade representative Sam Murray Whelan

#### QUORUM

6 members

### 1.12.2 Terms of Reference

*Adopted by Council on 20 July 2011*

### 1.12.3 Function

#### 1.12.3.1 NAME

The name of the Committee shall be the Chittering Bush Fire Advisory Committee hereinafter referred to in its abbreviated form as CBFAC.



#### 1.12.3.2 **DISTRICT**

The CBFAC shall operate within the local government boundaries of the Shire of Chittering.

#### 1.12.3.3 **VISION**

Our vision is for the Shire of Chittering to have an efficient and responsive fire service and as a Committee to educate and inform the community of the dangers of fire.

#### 1.12.3.4 **GUIDING PRINCIPLES**

Nil

#### 1.12.3.5 **ESTABLISHMENT**

The CBFAC is established pursuant to the *Local Government Act 1995, Section 5.8* and the *Bush Fires Act 1954, Section 67*.

#### 1.12.3.6 **OBJECTIVES**

To make recommendations and advise Council on all matters relating to the *Bush Fires Act 1954, Section 67(1)*.

To liaise with other emergency organisations and relevant bodies with regard to Fire and Emergency Management within the Shire of Chittering

The Committee will advise the local government all matters relating to:

- (a) Preventing, controlling and extinguishing of bush fires
- (b) The planning of the layout of fire-breaks in the district
- (c) Prosecutions for breaches of the *Bush Fire Act 1954*
- (d) The formation of bush fire brigades and the grouping thereof under group brigade officers
- (e) The ensuring of co-operation and co-ordination of bush fire brigades in their efforts and activities
- (f) Any other matter relating to bush fire control whether of the same kind, as, or a different kind from, those specified.

#### 1.12.3.7 **MEMBERSHIP**

##### Membership

- (a) One (1) Shire of Chittering Councillor as member and one (1) Councillor as deputy
- (b) Chief Executive Officer as member
- (c) Community Emergency Services Manager/Chief Bush Fire Control Officer as member and Manager Human Resources as deputy
- (d) Deputy Chief Bush Fire Control Officer Southern Region as member
- (e) Deputy Chief Bush Fire Control Officer Northern Region as member
- (f) Deputy Chief Bush Fire Control Officer Central Region as member
- (g) Muchea Brigade
  - i. one (1) Bush Fire Control Officer as member and
  - ii. one (1) Bush Fire Control Officer as deputy
- (h) Lower Chittering Brigade
  - i. one (1) Bush Fire Control Officer as member and
  - ii. one (1) Bush Fire Control Officer as deputy



- (i) Upper Chittering Brigade
  - i. one (1) Bush Fire Control Officer as member and
  - ii. one (1) Bush Fire Control Officer as deputy
- (j) Bindoon Brigade
  - i. one (1) Bush Fire Control Officer as member and
  - ii. one (1) Bush Fire Control Officer as deputy
- (k) Wannamal Brigade
  - i. one (1) Bush Fire Control Officer as member and
  - ii. one (1) Bush Fire Control Officer as deputy
- (l) Incident Support Brigade
  - i. one (1) Bush Fire Control Officer as member
  - ii. one (1) Bush Fire Control Officer as deputy

Tenure of Membership

Shall be in accordance with the *Local Government Act 1995, Section 5.11*.

1.12.3.8 **ATTENDANCE BY GOVERNMENT AGENCIES**

The following are invited (non-voting) to attend meetings of the CBFAC:

- (a) DFES Fire Services Manager Perth North Coastal
- (b) DEC Conservation and Land Management Officer

1.12.3.9 **DELEGATED AUTHORITY**

Nil

1.12.3.10 **COMMITTEE**

Chairperson

The members shall appoint the Chairperson of the CBFAC.

Secretary

A Shire staff officer will fulfil the role of Secretary (non-voting).

Standing Ex-Officio Members

Nil

1.12.3.11 **MEETINGS**

Annual General Meeting

Nil

Committee meetings

Meetings shall be as determined by the CBFAC.

Quorum

At least 50% of the members of the Committee.



### Voting

Shall be in accordance with the *Local Government Act 1995, Section 5.21*.

- (1) *Each council member and each member of a committee who is present at a meeting of the council or committee is entitled to one vote.*
- (2) *Subject to section 5.67, each council member and each member of a committee to which a local government power or duty has been delegated who is present at a meeting of the council or committee is to vote.*
- (3) *If the votes of members present at a council or a committee meeting are equally divided, the person presiding is to cast a second vote.*
- (4) *If a member of a council or a committee specifically requests that there be recorded —*
  - (a) *his or her vote; or*
  - (b) *the vote of all members present,**on a matter voted on at a meeting of the council or the committee, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the minutes.*
- (5) *A person who fails to comply with subsection (2) or (3) commits an offence.*

Members are to vote by secret ballot on the Election of Positions to be recommended to Council as if they were electors voting at an election.

### Minutes

Shall be in accordance with the *Local Government Act 1995, Section 5.22(1)*.

- (1) *The person presiding at a meeting is to ensure that minutes are kept of the meeting's proceedings.*

A copy of the unconfirmed minutes shall be forwarded to all CBFAC members within fourteen (14) days of the meeting for endorsement at the next meeting.

CBFAC recommendations arising from the minutes shall be presented to Council in the next available Council agenda for endorsement and/or action.

The person presiding at the meeting at which the minutes are confirmed is to sign the minutes and certify confirmation.

### Who acts if no presiding member?

In accordance with the provisions of the *Local Government Act 1995, Section 5.14*.

*If, in relation to the presiding member of a committee—  
the office of a presiding member and the office of deputy presiding member are vacant; or the presiding member and the deputy presiding member, if any, are not available or are unable or unwilling to perform the functions of the presiding member, then the committee members present at the meeting are to choose one of themselves to preside at the meeting.*

### Meetings

Meetings shall be open to the public pursuant to the *Local Government Act 1995, Section 5.23* and is not required to have questions from the public as there are no Council delegations.

### Brigade and Shire Training Coordinator reports

Each member brigade shall provide a brigade report to the meeting. The Shire Training Coordinator shall provide a report to the Chief Bush Fire Control for presentation at the meeting.

### Working groups

The CBFAC may appoint any of its members to a working group to carry out specific tasks. A working group will undertake only those duties specified by the committee.





Deputations

The CBFAC may invite any person or organisation to attend any meetings but such persons shall not be entitled to vote on any decision arising from such meetings.

Power of the Council

Nothing herein contained shall restrict the powers of Council.



## 1.13 Local Emergency Management Committee

### 1.13.1 Membership

As at 21 June 2017:

Members	Deputies
<b>Shire President</b> <i>Cr Gordon Houston</i>	<b>Shire Deputy President</b> <i>Cr Peter Osborn</i>
<b>Chief Executive Officer</b>	
<b>Community Emergency Services Manager Chief Bush Fire Control Officer</b>	<b>Deputy Chief Bush Fire Control Officer Southern/Northern Region</b>
<b>Executive Manager Technical Services</b>	
<b>Executive Manager Corporate Services</b>	
<b>Executive Manager Development Services</b>	
<b>Principal Building Surveyor</b>	
<b>Principal Environmental Health Officer</b>	
<b>St John Ambulance Gingin/Chittering</b>	
<b>St John Ambulance Bullsbrook</b>	
<b>WA Police – Gingin</b>	
<b>Department of Fire and Emergency Services</b>	
<b>Department for Communities</b>	
<b>Australian Defence Force</b>	
<b>WA Meat Industry Authority</b>	

#### Quorum

7 Members

### 1.13.2 Terms of Reference

*Adopted by Council on 18 November 2015*

### 1.13.3 Functions

#### 1.13.3.1 NAME

The name of the Committee shall be the Local Emergency Management Committee hereinafter referred to in its abbreviated form as LEMC.



#### 1.13.3.2 DISTRICT

The LEMC shall operate within the local government boundaries of the Shire of Chittering.

#### 1.13.3.3 VISION

Our vision is for the Shire of Chittering to have an efficient and responsive emergency management.

#### 1.13.3.4 GUIDING PRINCIPLES

Nil

#### 1.13.3.5 ESTABLISHMENT

The LEMC is established pursuant to *Section 5.8* of the *Local Government Act 1995* and *Section 38* of the *Emergency Management Act 2005*.

#### 1.13.3.6 OBJECTIVES

- (a) To plan, administer and test the Local Emergency Management Arrangements.
- (b) To keep up to date the Contact details in the Local Emergency Management Arrangements.
- (c) Meet and produce post-incident reports.
- (d) Meet and produce post-exercise reports.
- (e) Produce an Annual report.
- (f) Produce and approve and Annual Business Plan.

The Committee will advise the local government all matters relating to Emergency Management.

Shall be in accordance with the *Emergency Management Act 2005, Section 39*.

*The functions of a local emergency management committee are, in relation to its district or the area for which it is established —*

- (a) *to advise and assist the local government in ensuring that local emergency management arrangements are established for its district;*
- (b) *to liaise with public authorities and other persons in the development, review and testing of local emergency management arrangements; and*
- (c) *to carry out other emergency management activities as directed by the SEMC or prescribed by the regulations.*

#### 1.13.3.7 MEMBERSHIP

##### Membership

Membership of the LEMC is representative of agencies, community groups, non-government organisations and expertise relevant to the identified community hazards and risks and emergency management arrangements.

<b>Chair</b>	Councillor
<b>Deputy Chair</b>	Deputy Councillor
<b>Executive Officer</b>	Community Emergency Services Manager / Chief Bush Fire Control Officer



<b>Members</b>	<p>SoC Local Recovery Coordinator          SoC President          St Johns Ambulance Gingin/Chittering          St Johns Ambulance Bullsbrook          SoC Principal Environmental Health Officer          SoC Principal Building Surveyor          SoC Executive Manager Development Services          SoC Executive Manager Corporate Services          SoC Executive Manager Technical Services          SoC Deputy Chief Bush Fire Control Officers          SoC Local Welfare Liaison Officer          WA Police – Gingin representative          Department for Communities representative          DFES District Manager North East          RAAF Defence representative          Western Australian Meat Industry Authority representative</p>
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Tenure of Membership

Shall be in accordance with the *Local Government Act 1995, Section 5.11.*

1.13.3.8 **ATTENDANCE BY GOVERNMENT AGENCIES**

Department of Fire and Emergency Services  
 Department for Communities

1.13.3.9 **DELEGATED AUTHORITY**

Nil

1.13.3.10 **COMMITTEE**

Presiding Member

Shire of Chittering Councillor

Secretary

A Shire staff officer will fulfil the role of Secretary (non-voting)

Standing Ex-Officio Members

Nil

1.13.3.11 **MEETINGS**

Annual General Meeting

Nil

Committee meetings

Meetings shall be held quarterly

Quorum

At least 50% of the members of the Committee.



### Voting

Shall be in accordance with the **Local Government Act 1995, Section 5.21**.

- (1) *Each council member and each member of a committee who is present at a meeting of the council or committee is entitled to one vote.*
- (2) *Subject to section 5.67, each council member and each member of a committee to which a local government power or duty has been delegated who is present at a meeting of the council or committee is to vote.*
- (3) *If the votes of members present at a council or a committee meeting are equally divided, the person presiding is to cast a second vote.*
- (4) *If a member of a council or a committee specifically requests that there be recorded —*
  - (a) *his or her vote; or*
  - (b) *the vote of all members present,**on a matter voted on at a meeting of the council or the committee, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the minutes.*
- (5) *A person who fails to comply with subsection (2) or (3) commits an offence.*

### Minutes

Shall be in accordance with the **Local Government Act 1995, Section 5.22(1)**.

- (1) *The person presiding at a meeting is to ensure that minutes are kept of the meeting's proceedings.*

A copy of the unconfirmed minutes shall be forwarded to all LEMC members within fourteen (14) days of the meeting for endorsement at the next meeting.

LEMC recommendations arising from the minutes shall be presented to Council in the next available Council agenda for endorsement and/or action.

The person presiding at the meeting at which the minutes are confirmed is to sign the minutes and certify confirmation.

### Who acts if no presiding member?

In accordance with the provisions of the **Local Government Act 1995, Section 5.14**.

*If, in relation to the presiding member of a committee—  
the office of a presiding member and the office of deputy presiding member are vacant; or the presiding member and the deputy presiding member, if any, are not available or are unable or unwilling to perform the functions of the presiding member, then the committee members present at the meeting are to choose one of themselves to preside at the meeting.*

### Meetings

Meetings shall be open to the public pursuant to the **Local Government Act 1995, Section 5.23** and is not required to have questions from the public as there are no Council delegations.

### Working groups

The LEMC may appoint any of its members to a working group to carry out specific tasks. A working group will undertake only those duties specified by the committee.

### Power of the Council

Nothing herein contained shall restrict the powers of Council.



## PART 2 – COUNCIL PORTFOLIOS

Councillors may choose to hold one (1) or more portfolios in relation to a particular matter that is of interest to Council. An Elected Member may be delegated by Council the function of monitoring and providing elected member reports to Council on items of interest to Council.

Elected Members of Council holding a particular portfolio may be requested by the Council or Chief Executive Officer to attend various meetings in relation to the portfolio, and provide input from the Shire of Chittering's perspective taking into consideration the corporate goals and policies of Council.

No sitting fee shall be paid in connection with an allocated portfolio; however any bona fide expense shall be reimbursed. Should a portfolio holder meet with a Minister in relation to the portfolio, the President in the first instance or Deputy President of the Council shall be invited to attend.

Council has resolved to formally establish the following portfolios with the membership and other relevant information as shown:

Description	Membership
<b>Community Development</b> <ul style="list-style-type: none"> <li>● Health and aged care</li> <li>● Youth and related services</li> <li>● Sport and recreation</li> </ul>	
<b>Natural Environment</b> <ul style="list-style-type: none"> <li>● Chittering Landcare</li> <li>● Waste management</li> <li>● Catchment management</li> </ul>	
<b>Built Environment</b> <ul style="list-style-type: none"> <li>● Precinct planning</li> <li>● Recreation trails and reserves</li> <li>● Infrastructure services</li> <li>● Project activities</li> <li>● Heritage</li> </ul>	
<b>Economic Development and Tourism</b> <ul style="list-style-type: none"> <li>● Chamber of Commerce</li> <li>● Chittering Tourist Association</li> <li>● Regional tourism initiatives</li> <li>● Small business</li> <li>● Project activities (e.g. MEN)</li> <li>● Events</li> </ul>	
<b>Governance</b> <ul style="list-style-type: none"> <li>● Integrated Planning</li> <li>● Asset Management</li> <li>● Financial Sustainability</li> </ul>	
<b>Law, Order and Public Safety</b>	



## PART 3 – ADVISORY GROUPS

An “Advisory Group” will **NOT** be a formal committee established under *section 5.8* of the *Local Government Act 1995*. An “Advisory Group” is to meet as and when required and membership is to vary dependent on the issues to be addressed. The Officer responsible for the “Advisory Group” will report any outcomes from working group meetings direct to Council via an Officer’s Report.

“Advisory Groups” will not attract a sitting fee to elected members as the “Advisory Group” is not a formal committee constituted pursuant to the *Local Government Act 1995*.

Council members are to represent the views of Council when attending an external organisation as a member appointed by the Council, not their personal views if these conflict with Council policy and position.

Representation of external organisations will not attract a sitting fee to elected members but any out of pocket expenditure or travelling expenses will be reimbursed.

### 3.1 Advisory Group Membership and Objectives

#### 3.1.1 Chittering Community Planning Advisory Group

The Chittering Community Planning Advisory Group (CCPAG) is made up of representatives of diverse community interests from within the Shire of Chittering; representing the localities of Lower Chittering, Muchea, Bindoon, Mooliabeenee and Wannamal.

##### 3.1.1.1 MEMBERSHIP

Sporting groups and Community groups from within the Shire of Chittering are encouraged to nominate one representative per group.

Alternatively, for those groups involved in a Chittering Shire facility user group a representative from the user group are encouraged to participate on CCPAG.

Members	Deputies
Cr	Cr
Community & Club Development Officer (CCDO)	And any other Shire staff by invitation as determined by projects of the committee
Bindoon Agricultural Society representative	-
Bindoon Community Progress Association representative	-
Bindoon Chittering Retirees / CWA representative	-
Bindoon Theatre Incorporated representative	-
Brockman Historical Precinct user group representative representing the: <ul style="list-style-type: none"> <li>• Bindoon Historical Society</li> <li>• Bindoon Arts &amp; Crafts</li> <li>• Bindoon Men’s Shed</li> </ul>	-



Members	Deputies
Chittering Tourist Association representative	-
Chittering Progress Association representative	representing the Lower Chittering Hall user group
Bindoon Sport and Recreation Association representative	representing the Chinkabee Complex user group
Bindoon Primary School P & C representative	-
Sandown Park representative	-
Muchea User Group representative	-
Wannamal Community Centre representative	-

### QUORUM

7 members (comprising of 5 community members, 1 Councillor and the CCDO)

#### 3.1.1.2

### OBJECTIVES

- (a) Contribute and participate in the review of the Shire of Chittering Strategic Community Plan

A point of reference for the Shire of Chittering as part of community engagement activities. To ensure that community planning and development remain a key component of Council's Strategic planning process.

- (b) Community attitudes and perceptions

A collective voice for advocating community attitudes and perception, ideas and projects of the communities within the Shire of Chittering between the Council, funding providers and government agencies.

- (c) Identify opportunities

To identify opportunities for community development through creative utilisation of existing and future resources and funding by collectively identifying, supporting and working towards projects that serve to build community pride. This will be achieved through the dissemination of information, brainstorming and/ or a collective think tank of ideas facilitated by the broad knowledge base of the group.

- (d) Promotion

To promote the importance of community planning development in the Shire of Chittering by being a conduit between the community, sporting and community groups, Shire of Chittering and potential partners i.e. funding providers and Government agencies.

Provide a focal point for the exchange of information among the local community and the Shire of Chittering, on issues of concern or projects of interest that serve to build pride within our community, being mindful of not replicating work that is already being done within the community.

- (e) Communication with Council





To facilitate and encourage widespread consultation with the community by communication to the council on community planning and development issues and; make recommendations to Council on all matters relating to this.

- (f) Budget priorities  
To identify and make recommendations to Council on budget provisions for community development projects by advocating community priorities to council for budgetary considerations.
- (g) Community facilities  
To advise and assist Council in the development of community facilities and services within the Shire of Chittering.
- (h) Community projects  
Assist and support, where appropriate, any new community projects and; advocate for improved use of resources (time, people, financial etc.) through utilising the networking opportunities present within the group.

3.1.1.3 **MEETING TIMES**

Bimonthly on 2<sup>nd</sup> Thursday (February, April, June, August, October, December)  
1 – 3pm in the Shire of Chittering Council Chambers  
Meetings may be held more regularly where necessary to projects of the group.

3.1.2 *Chittering Community Support Funding Advisory Group*

3.1.2.1 **MEMBERSHIP**

Members	Deputies
Cr	Cr
Executive Manager Corporate Services	-
Economic and Community Development Support Officer	-

**QUORUM**

2 members

3.1.2.2 **OBJECTIVES**

- (a) Recommendations
  - i. To assess the Financial Assistance Grant applications received from not for profit organisations operating in the Shire of Chittering in order of priority and based on any Council policies with respect to donations.
  - ii. To make recommendations to Council of the applications for inclusion in the annual Budget.
- (b) Community initiatives



To encourage not for profit organisations operating in the Shire of Chittering to submit applications for financial assistance towards projects that will benefit the Chittering community based on the adopted annual budget.

(c) Community awareness

To ensure the Financial Assistance Grant scheme is advertised via media and correspondence to known 'not-for-profit' organisations.

3.1.2.3 **MEETING TIMES**

Once a year (April)

Shire of Chittering Council Chambers

3.1.3 *Chittering Education Scholarship Advisory Group*

3.1.3.1 **MEMBERSHIP**

Members	Deputies
Cr	Cr
Gingin Chittering Lions Club representative	-
Community & Club Development Officer	

**QUORUM**

2 members

3.1.3.2 **OBJECTIVES**

(a) Promotion

To promote and assist education opportunities for the youth of the Shire.

(b) Determination

To assess and recommend to Council the Year 6 and Year 10 winners of the Education Scholarship (\$1,000) using the following selection criteria:

- i. Year 6 or 10 student residing in the Shire of Chittering
- ii. Applicants' ability to benefit financially from the Scholarship
- iii. Academic reports
- iv. Citizenship and community involvement
- v. Suitability for the chosen school.

To be eligible students must be residents of the Shire of Chittering and be continuing with their schooling during the next calendar year.

Selection is based on outstanding all round involvement and contribution to school life and the local community, including but not limited to:

- Academic achievement
- All round achievement
- Community involvement
- Outstanding leadership



(c) Process

That Council include an annual budget allocation of \$2,000 for education scholarships to be determined as follows:

- i. Advertising through the local schools and media the availability of two scholarships of an agreed budgeted annual amount.
- ii. The scholarships being open to residents of the Chittering Shire only and are for one graduating year 6 and one graduating year 10 student to further their education.
- iii. Application forms (pro forma) closing first Friday of November of each year to be assessed by a three-member panel appointed by Council.
- iv. The winning scholarship for the successful students to be paid directly to the chosen school.

(d) Community initiatives

Nil

(e) Community awareness

To promote the Education Scholarship program to students residing in the Shire of Chittering.

3.1.3.3 **MEETING TIMES**

Once a year (November)  
Shire of Chittering Council Chambers

3.1.4 *Chittering Mining Advisory Group*

3.1.4.1 **MEMBERSHIP**

Members	Deputies
<b>Cr</b>	<b>Cr</b>
<b>Chief Executive Officer</b>	-
<b>Landcare representative</b>	-
<ul style="list-style-type: none"> <li>• Rosanna Hindmarsh</li> </ul>	
<b>Community representatives</b>	
<ul style="list-style-type: none"> <li>• Derek Gascoine</li> <li>• Claire Medhurst</li> <li>• Jackie Shervington</li> <li>• Ron Renton</li> <li>• Bob Blizard</li> </ul>	-

**QUORUM**

5 members

3.1.4.2 **OBJECTIVES**

- (a) To advise Council on all matters concerning mining applications pertaining to the Shire of Chittering in a neutral format.



- (b) To facilitate community consultation while at all times providing an impartial forum for all interested parties.
- (c) To advise Council on mining applications with special reference to the prohibition on "Industry Mining" contained within *Town Planning Scheme 6*.
- (d) To facilitate community consultation on all pertinent matters while providing an impartial forum for all interested parties.

3.1.4.3

**MEETING TIMES**

As and when required

Shire of Chittering Council Chambers



### 3.1.5 Chittering Health Advisory Group

#### 3.1.5.1 MEMBERSHIP

Members	Deputies
Cr	Cr
Chief Executive Officer	Executive Manager Corporate Services
Practice Manager Jupiter Health & Medical Services Robyn Hunt	-
Physiotherapist Judy Dennis	-
Community representative Chris Pietraszek	-
Primary Health Manager, West Wheatbelt Erik Anda	
Community resident Helen Kerr	Helen Taylor
Service Coordinator Toodyay, Silver Chain Avon Sharon Richards	-
Coordinator Primary Care Integration WACHS (SIHI) Karen Beardsmore	

#### QUORUM

6 members

#### 3.1.5.2 OBJECTIVES

- To establish networks to liaise and cooperate with all Federal, State and local health care agencies to achieve the highest standard of health available to the residents of this Shire.
- To initiate and facilitate the development of all necessary infrastructure to support the provision of the highest standard of health available to the residents of this Shire.
- To investigate and pursue all funding sources and opportunities to support the provision of the highest standard of health available to the residents of this Shire.

#### 3.1.5.3 MEETING TIMES

As and when required  
Shire of Chittering Council Chambers



### 3.1.6 Chittering Youth Krew Advisory Group

The Chittering Youth Krew (the Krew) is a group of youth aged between 12 – 17 years who live, work or go to school in the Shire of Chittering, covering the areas of Lower Chittering, Muchea, Bindoon, Mooliabeenee and Wannamal.

Youth aged 18 – 25 years are encouraged to remain on the Krew as mentors to the younger Krew members. Parents are also welcome to assist as mentors.

#### 3.1.6.1 MEMBERSHIP

The Krew are supported by the Shire of Chittering's Community & Club Development Officer who mentors the group and facilitates group meetings.

Members	Deputies
Cr	Cr
Community & Club Development Officer (CCDO)	And any other Shire staff by invitation as determined by projects of the committee.
Community representatives (up to 20 by membership application to the Shire)	Nil

#### QUORUM

Not applicable

#### 3.1.6.2 OUR ROLE

The Krew are passionate about keeping young people in the local area by having events, activities, services and spaces for young people to access.

#### 3.1.6.3 OUR AIM

- (a) Find solutions to youth getting into trouble and to prevent boredom by developing and organising activities and events for local young people.
- (b) Represent the views of local young people to the broader community and to the Shire.
- (c) Learn leadership skills
- (d) Learn event management skills
- (e) Increase youth participation by communicating to local people what is happening in our Shire.
- (f) Work alongside community groups, sports clubs and businesses to improve youth engagement and participation.
- (g) Work alongside the Community and Club Development Officer to plan and deliver annual youth related events and workshops.

3.1.6.4 **WE WILL DO THIS BY**

- (a) Speaking with young people at events and activities about the Krew and what we are trying to do.
- (b) Assist the Shire in communicating information to the broader youth population.
- (c) Communicating youth issues and suggestions to the Shire.
- (d) Assist community and sporting groups to connect with young people.

3.1.6.5 **MEETING TIMES**

As determined by the current membership

## 3.2 *Advisory Groups Terms of Reference*

3.2.1 **NAME**

The names of the Advisory Groups shall be as follows:

Name	Abbreviation
Chittering Community Planning Advisory Group	CCPAG
Chittering Community Support Funding Advisory Group	CCSFAG
Chittering Education Scholarship Advisory Group	CESAG
Chittering Mining Advisory Group	CMAG
Chittering Health Advisory Group	CHAG
Chittering Youth Krew Advisory Group	CYKAG

3.2.2 **RESPONSIBLE OFFICER**

The Responsible Officer shall be a Shire officer who will ensure agendas and minutes are produced and forwarded to Council, and report any recommendations from the Advisory Group to Council.

Name	Responsible Officer
Chittering Community Planning Advisory Group	Community and Club Development Officer
Chittering Community Support Funding Advisory Group	Economic and Community Development Support Officer
Chittering Education Scholarship Advisory Group	Community and Club Development Officer
Chittering Mining Advisory Group	Executive Support Officer
Chittering Health Advisory Group	Community and Club Development Officer
Chittering Youth Krew Advisory Group	Community and Club Development Officer

3.2.3 **DISTRICT**



The Advisory Groups shall operate within the local government boundaries of the Shire of Chittering.

#### 3.2.4 **OBJECTIVES**

To make recommendations and advise Council on all matters relating to objectives of the Advisory Group as outlined in the Council Committees and Advisory Groups booklet.

#### 3.2.5 **MEMBERSHIP**

##### General

Council will appoint at least one Council member to the Advisory Group and one staff members.

Community representation may also be appointed to the Group.

Membership shall be no greater than fifteen (15) inclusive of members and deputies.

Membership of each advisory group is outlined in the Council Committees and Advisory Groups Booklet.

##### Tenure of membership

Where a person is appointed as a member of an advisory Group, the person's membership of the advisory group continues until—

- (a) the person no longer holds the office by virtue of which the person became a member, or is no longer the Chief Executive Officer, or the Chief Executive Officer's representative, as the case may be;
  - (b) the person resigns from membership of the advisory group;
  - (c) the advisory group is disbanded; or
  - (d) the next ordinary elections day,
- whichever happens first.

#### 3.2.6 **DELEGATED AUTHORITY**

Nil

#### 3.2.7 **ADVISORY GROUP**

##### Chairperson

The Council member will act as Chairperson of the Advisory Group.

##### Secretary

A Shire staff officer will fulfil the role of Secretary.

##### Standing Ex-Officio Members

Nil

#### 3.2.8 **MEETINGS**

##### Advisory Group meetings

Meetings of the Advisory Group shall be as determined by the Group. Meetings are determined at the final year meeting for the next calendar year.

##### Quorum

The quorum at any meeting shall be half plus one of the number of offices. Therefore the number for a Quorum shall be half plus one voting members.





#### Voting

1. Each council member and each member of an advisory group who is present at a meeting of the advisory group is entitled to one vote.
2. If the votes of a member present at an advisory group meeting are equally divided, the person presiding is to cast a second vote.
3. If a member of an advisory group specifically requests that there be recorded —
  - a. his or her vote; or
  - b. the vote of all members present
 On a matter voted on at a meeting of the advisory group, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the minutes.

#### Minutes

1. The person presiding at a meeting of an advisory group is to cause minutes to be kept of the meeting's proceedings.
2. The minutes of an advisory group are to be forwarded to Council via the monthly Elected Members Information Bulletin
3. A report is to be prepared by the responsible officer of the Advisory Group of any recommendations made by the Advisory Group to be presented to Council at the next ordinary meeting of the council, for consideration.
4. The person presiding at the meeting at which the minutes are confirmed is to sign the minutes and certify the confirmation.

#### Who acts if no presiding member?

If, in relation to the presiding member of an advisory group —

- a. the office of presiding member and the office of deputy presiding member are vacant; or
- b. the presiding member and the deputy presiding member, if any, are not available or are unable or willing to perform the functions of presiding member,

then the advisory group members present at the meeting are to choose one of themselves to preside at the meeting.

#### Meetings

Meetings shall be closed to the public and are not required to have questions from the public as there are no Council delegations.

#### Members interests to be disclosed

Members of the Advisory group are bound by the provisions of the *Local Government Act 1995*, *Section 5.65* with respect to disclosure of financial, impartiality or proximity interests.



## PART 4 – COUNCIL REPRESENTATION ON EXTERNAL ORGANISATIONS

From time to time Council is requested to nominate a Council member to represent the Council on committees of external organisations. Sometimes the constitution of the external organisation requires Council to nominate a representative.

External organisations will be informed in writing of Council representatives. Where appropriate, the external organisations and the Council representative/s are to determine the extent of representation required e.g. attendance at meetings only when necessary, acting as a contact person etc.

Council has resolved to formally establish representation on the following external organisations with the membership as shown:

Association	Position	Membership	Meeting Frequency	Term Expires
Avon Midland Zone (WALGA)	Delegate	Shire President Cr Gordon Houston	As required	
	Deputy	Deputy Shire President Cr Peter Osborn		
Avon Regional Organisation of Councils (AROC)	Delegate	Shire President Cr Gordon Houston	As required	
	Deputy	Deputy Shire President Cr Peter Osborn		
Bindoon & Districts Agricultural Society	Delegate		As required	
	Deputy			
Bindoon Community Progress Association	Delegate		Monthly	
	Deputy			
Bindoon & Districts Historical Society	Delegate		As required	
	Deputy			
Bindoon Sport and Recreation Association	Delegate		Monthly	
	Deputy			
Chittering Tourist Association	Delegate		Monthly	
	Deputy			
Chittering Valley Land Conservation District Committee	Delegate		Monthly	
	Deputy			
Chittering Valley Progress and Sporting Association	Delegate		As required	
	Deputy			



Council Committees and Advisory Groups

Association	Position	Membership	Meeting Frequency	Term Expires
District Health Advisory Council (WA Country Health Service Wheatbelt)	Delegate		Bi-monthly	
	Deputy			
Ellen Brockman Integrated Catchment Committee	Delegate		Bi-monthly	
	Deputy			
Northern Growth Alliance	Delegate	President Cr Gordon Houston		
	Deputy	Deputy President Cr Peter Osborn		
The Livestock Centre Muchea Consultative Group	Delegate		As required	
	Deputy			
Tronox Community Consultative Committee	Delegate		2-4 times per year	
	Deputy			
Wannamal Community Centre Inc	Delegate		Monthly	
	Deputy			
Wheatbelt Development Assessment Panel	Members		As required	
	Alternate Members			
Wheatbelt North Regional Road Group	Delegate		As required	
	Deputy			





6177 Great Northern Highway  
PO Box 70 Bindoon WA 6502  
T: 08 9576 4600 F: 08 9576 1250  
E: [chatter@chittering.wa.gov.au](mailto:chatter@chittering.wa.gov.au)  
[www.chittering.wa.gov.au](http://www.chittering.wa.gov.au)

Office hours: Monday to Friday  
8.30am - 4.30pm

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**LEASE - 21 BINDA PLACE BINDOON**

Dated *25 October* 2017

PARTIES

**SHIRE OF CHITTERING**  
(Landlord)

**MINISTER FOR WORKS**  
(Tenant)

State Solicitor's Office  
Commercial and Conveyancing  
28 Barrack Street  
Perth WA 6000  
Telephone : (08) 9264 1888  
Ref: SSO: 3642-17

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**TABLE OF CONTENTS**

1. Definitions and Interpretation .....	5
2. Term and Holding Over.....	12
3. Rent and Rent Reviews.....	12
4. Outgoings .....	16
5. Outgoings Adjustment.....	17
6. Utilities .....	18
7. Use of the Premises .....	19
8. Maintenance and Repair .....	20
9. Alterations .....	21
10. Legal Obligations .....	22
11. Common Areas – not used .....	22
12. Management of the Building by Landlord.....	22
13. Tenant’s Rights in relation to use of Building .....	23
14. Assignment and Subletting .....	23
15. Liabilities and Indemnity .....	25
16. Carpets .....	26
17. Landlord’s Obligations Concerning Premises and Building .....	26
18. Landlord’s Obligations Concerning Services.....	29
19. Landlord’s General Obligations .....	30
20. Default and Termination.....	31
21. Termination of Term .....	32
22. Damage and Destruction .....	33
23. Costs and Expenses .....	35
24. Dispute Resolution.....	35
25. Notices .....	37
26. General.....	38
27. GST.....	40
28. Option to Extend.....	42
29. Additional Provisions.....	43

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**Information Table**

Item 1	<p><b>Landlord</b></p> <p><b>SHIRE OF CHITTERING</b> of PO Box 70 Bindoon 6502</p>
Item 2	<p><b>Tenant</b></p> <p><b>MINISTER FOR WORKS</b> being a body corporate pursuant to the provisions of the <i>Public Works Act 1902</i> (WA) of care of Optima Centre, 16 Parkland Road, Osborne Park, Western Australia</p>
Item 3	<p><b>Land</b></p> <p>Lot 14 on Diagram 79499 being the whole of the land in Certificate of Title Volume 1902 Folio 142</p>
Item 4	<p><b>Premises</b></p> <p>The whole of the Land and the building situated at 21 Binda Place Bindoon, comprising a net lettable area of 163.4 sqm.</p>
Item 5	<p><b>Term</b></p> <p>The period from the Commencement Date to the Expiry Date</p> <p>(a) <b>Commencement Date:</b> ..... 2017 being the date which is determined in accordance with Item 15(3) of the Information Table</p> <p>(b) <b>Expiry Date:</b> 30 September 2021</p>
Item 6	<p><b>Option to Extend this Lease</b></p> <p>(1) <b>First Option Period:</b></p> <p>4 years commencing on 1 October 2021 and expiring on 30 September 2025</p> <p>(2) <b>Second Option Period:</b></p> <p>Not applicable</p> <p>(3) <b>Third Option Period:</b></p> <p>Not applicable</p>



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Item 7	<b>Rent</b>
	\$13,900 per annum (being \$85.07 per sqm per annum) plus GST from the Commencement Date to 30 September 2018.
Item 8	<b>Rent Commencement Date</b>
	The Commencement Date
Item 9	<b>Fixed Review Dates</b>
	Not applicable
Item 10	<b>Fixed Review Percentage</b>
	Not applicable
Item 11	<b>Market Review Dates</b>
	During the First Option Period: 1 October 2021
Item 12	<b>CPI Review Dates</b>
	During the Term: 1 October 2018, 1 October 2019 and 1 October 2020
	During the First Option Period: 1 October 2022, 1 October 2023 and 1 October 2024
Item 13	<b>Outgoings</b>
	Tenant's Share at the Commencement Date: 100%
Item 14	<b>Notices</b>
	<b>If to the Landlord:</b>
	Address: PO Box 70 Bindoon 6502
	<b>If to the Tenant:</b>
	Attention: Director - Government Office Accommodation, Department of Finance, Building Management and Works
	Address: Locked Bag 44, Cloisters Square, Perth, WA 6850

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**Item 15 Additional Provisions****(1) Landlord's Works**

The Landlord shall at its cost undertake the following works to the Premises (**Landlord's Works**) by 1 October 2017 (the **Handover Date**):

- (a) undertake all necessary steps to change the classification of the Premises from Class 9A (Health Care Centre) to Class 5 (Office) and obtain external certification, provided that the Tenant shall be responsible for the costs of all other works required to achieve classification of Class 5 (Office) including but not limited to installation of a disability toilet and disability access compliance;
- (b) ensure all RCDs are tested and repaired or replaced as necessary so all are in proper working order at Handover Date and provide a written report from the Landlord's electrical contractor;
- (c) test and tag all electrical equipment and sockets and provide a written report from the Landlord's electrical contractor;
- (d) undertake a thermographic test of the switchboard and repair as necessary so it is in a safe and proper working order and provide a written report from the Landlord's electrical contractor;
- (e) ensure that the Building complies with all relevant and current Australian Standards and Building Codes of Australia in regards to fire protection and carry out any works required to ensure compliance;
- (f) replace any plants as necessary, establish the gardens to fit with the approved street landscaping theme and apply additional mulch and remove weeds to tidy up the garden bed area on the right hand side of the Building;
- (g) paint previously painted surfaces to match existing on the exterior of the Building; and
- (h) strip and seal the linoleum in the large meeting room.

**(2) Tenant's fitout**

- (a) The Landlord must provide the Tenant with full access to the Premises for the Tenant to install its fitout within the Premises by the Handover Date.
- (b) The Tenant shall provide the Tenant's proposed fitout plans to the Landlord, such approval to not be unreasonably withheld.
- (c) The Tenant shall be responsible for obtaining all planning and building licence approvals from the Shire of Chittering for the Tenant's fitout works and the Landlord shall promptly sign any

documentation required and do all things necessary to assist the Tenant with obtaining the necessary approvals from the Shire of Chittering.

- (d) The Tenant shall undertake the Tenant's internal fitout of the premises including fixtures, fittings and associated services at the Tenant's cost.
- (e) As the Tenant will be installing new floor coverings in the Premises as part of its fitout, the parties agree that the new carpet/carpet tile must be of a commercial grade carpet/carpet tile in a colour that is approved by the Landlord (such approval not to be unreasonably withheld) and must not be of a lesser quality than the carpet/carpet tile it replaces.
- (f) For the sake of clarity, the Tenant's fitout works shall also include all works required to comply with the change of classification from Class 9A (Health Care Centre) to Class 5 (Office) including but not limited to installation of a disability toilet and disability access compliance both internally and externally.
- (g) The Tenant shall assume risk for the Premises from the Handover Date as well as be responsible for electricity and water consumption charges only (but not Rent and Outgoings) from the time of the Handover Date to the Commencement Date.

**(3) Commencement Date**

- (a) The Commencement Date shall be the earlier of:
  - (i) 4 weeks after the date when the Landlord actually hands over the Premises to the Tenant for the purpose of the Tenant's fitout; and
  - (ii) the date when the Tenant actually commences occupying the Premises.
- (b) The Landlord authorises the Tenant or its leasing consultant to complete the Commencement Date in the Information Table once it is determined in accordance with this clause.

**(4) Occupying agency**

The parties acknowledge that the occupying agency of the Premises at the Commencement Date will be the Department of Premier and Cabinet (parliamentary electorate office).

**(5) Car parking**

The Tenant shall have the exclusive right to use the 2 disabled car bays and 4 general car bays located at the right hand side of the Building at no cost during the term of this lease and any extension thereof.

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**LEASE**

**BETWEEN:** The party or parties named in Item 1 of the Information Table.  
("Landlord")

**AND:** The party named in Item 2 of the Information Table.  
("Tenant")

**AGREEMENT**

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**1. Definitions and Interpretation**

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**1.1 Definitions**

In this Lease:

- (1) **ABS** means the Australian Bureau of Statistics;
- (2) **Accounting Year** means each period of 12 months ending on 30 June in each year disregarding any part of that period falling outside the Term;
- (3) **Air Conditioning Equipment** means the plant, chilled water piping, condenser water loops, electrical installations, ductwork and diffusers used to heat, cool, circulate and extract air throughout the Building;
- (4) **Australian Property Institute** means the Australian Property Institute (Inc.) Western Australian Division;
- (5) **Authority** includes any governmental or public authority of any kind;
- (6) **Building** means the building in which the Premises are situated including any modifications, extensions or alterations to the Building and the Landlord's Property;
- (7) **Business Day** means a day which is not a Saturday, Sunday or public holiday in Perth, Western Australia;
- (8) **Business Hours** means from 7:00 am to 6:00 pm on a Business Day;
- (9) **Commencement Date** means the date specified in Item 5 of the Information Table;
- (10) **Costs** means costs, charges and expenses including those incurred in connection with advisors;
- (11) **CPI Review Date** means the dates (if any) specified in Item 12 of the Information Table;
- (12) **Environmental Laws** means all Laws regulating or otherwise relating to the environment including laws relating to land use planning, heritage,

pollution, contamination, public and occupational health and safety, or any other aspect of protection of the environment;

- (13) **Expiry Date** means the date specified in Item 5 of the Information Table;
- (14) **Fixed Review Date** means the dates (if any) specified in Item 9 of the Information Table;
- (15) **Government Tenant** includes any corporation or other legal entity owned or controlled by a State Government, and any person, agent, authority or other instrumentality acting for or exercising the power of a state or federal Government;
- (16) **index number** means the Consumer Price Index (All groups) for Perth published from time to time by the ABS; if the ABS updates the reference base of the index number, the index number must be appropriately adjusted so as to preserve the intended continuity of calculation by using the appropriate arithmetical factor determined by the ABS;
- (17) **Information Table** means the part of this Lease described as the Information Table;
- (18) **Land** means the land described in Item 3 of the Information Table;
- (19) **Landlord** includes:
  - (a) in the case of a person, that person's executors, administrators and assigns; and
  - (b) in any other case, the Landlord's successors and assigns;
- (20) **Landlord's Property** means the plant, equipment, fixtures, fittings and any other Landlord's property in the Premises;
- (21) **Landlord's Rent Notice** means a notice given by the Landlord under clause 3.3(2);
- (22) **Law** means any law, whether common law or any law under any statute, ordinance or code and includes subordinate legislation;
- (23) **Market Rent** means the current open market rental value of the Premises on the relevant Market Review Date determined on the basis that the Valuer must value the Premises for office use, or the alternative purpose that the Premises are being used for, and:
  - (a) disregard:
    - (i) any goodwill attributable to the Premises by reason of the trade, business or activity carried on by the Tenant and the value of the Tenant's Property;

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- (ii) any rent free period, financial contribution (including a contribution to fit out Costs) or other inducement to lease given to the Tenant in consideration for entering into this Lease;
  - (iii) the Costs of the Tenant moving to other premises;
  - (iv) the fact that the Tenant currently occupies the Premises;
  - (v) any partitions installed by or other alterations made by the Tenant;
  - (vi) any state of disrepair of the Premises if that condition results from any work carried out or not carried out on the Premises by the Tenant or from the Tenant's breach of any provision of this Lease;
  - (vii) naming and signage rights granted to the Tenant under this Lease;
  - (viii) any increase or decrease in the value of Land or the Building as a result of structural alterations or fit out works carried out by or for the Tenant;
  - (ix) the Tenant's limited make good obligations under this Lease; and
- (b) take into account:
- (i) any rent free period, financial contribution (including a contribution to fit out Costs) or other inducement to lease (ie leasing incentives) given to tenants of other premises similar to the Premises at the time of the relevant Market Review Date;
  - (ii) the provisions of this Lease;
  - (iii) the full term of this Lease regardless of any part that has elapsed;
  - (iv) the rent and any other amounts paid or payable by tenants in respect of other premises of a quality, nature, size and location similar to the Premises;
  - (v) the use of the Premises;
  - (vi) the assumption that the Premises are vacant and available for fitting out; and
  - (vii) the assumption that the Tenant has observed and performed all the provisions of this Lease.
- (24) **Market Review Date** means the dates (if any) specified in Item 11 of the Information Table;
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- (25) **Net Lettable Area** means the net lettable area as certified by a licensed surveyor appointed by the Landlord at its cost using the Property Council's Method of Measurement for office buildings;
- (26) **Official Requirement** means any requirement, notice, order or direction properly given by any Authority;
- (27) **Option Period** means any of the First Option Period, Second Option Period or Third Option Period as the context requires.
- (28) **Outgoings** has the meaning set out in Schedule 1;
- (29) **Premises** means the premises described in Item 4 of the Information Table;
- (30) **Property Council** means the Property Council of Australia Limited;
- (31) **Property Manager** means a representative or employee of the Landlord appointed under clause 12.1(2) to represent the Landlord in relation to this Lease;
- (32) **quarter** means a 3 month period.
- (33) **Rates and Taxes** means:
- (a) council rates and charges including rubbish removal rates and charges;
  - (b) land tax and metropolitan region improvement tax calculated on the basis that the Land is the only land owned or leased by the Landlord;
  - (c) water, drainage and sewerage rates including meter rents, charges for the disposal of stormwater, and water charges; and
  - (d) all other rates, taxes, charges, assessments and impositions,
- which are imposed by an Authority in relation to the Land or the Building, excluding any capital gains tax, income tax or personal tax assessed on the Landlord;
- (34) **Rent** means the rent stated in Item 7 of the Information Table;
- (35) **Rent Commencement Date** means the date stated in Item 8 of the Information Table;
- (36) **Review Date** includes each of the dates (if any) stated in Item 9, Item 11, and Item 12 of the Information Table;
- (37) **Schedule** means the schedules to this Lease;

- (38) **Services** means all gas, electricity, telephone, water, sewerage, fire prevention, ventilation, air conditioning, hydraulic, elevator and security services grease traps, communications equipment and all other services or systems provided in the Building or available for the Tenant's use whether provided by the Landlord or any Authority;
- (39) **State** means the State of Western Australia;
- (40) **Tenant** includes the Tenant's successors and permitted assigns;
- (41) **Tenant's Employees** means each of the Tenant's employees, contractors and agents or other employees, contractors and agents of the State and those persons over whom the Tenant exercises control at the Premises;
- (42) **Tenant's Property** means the property of the Tenant or the Tenant's Employees brought into, installed or erected in the Premises (and includes any property acquired from a former occupier of the Premises);
- (43) **Tenant's Rent Notice** means a notice given by the Tenant under clause 3.3(4) or clause 3.3(7).
- (44) **Tenant's Share** means the same proportion which the Net Lettable Area of the Premises bears to the total Net Lettable Area of the Building;
- (45) **Term** means the term of this Lease stated in Item 5 of the Information Table;
- (46) **Utilities** means all gas, electricity, telephone, water and communications services provided in the Building or available for the Tenant's use whether provided by the Landlord or any Authority;
- (47) **Valuer** means a person who:
- (a) is a fellow or an associate, of not less than 10 years standing, of the Australian Property Institute and is practising and registered under the *Land Valuers Licensing Act 1978* (WA) at the time of appointment; and
  - (b) has at least 5 years' experience in valuing the kind of premises leased by this Lease.

## 1.2 Interpretation

In this Lease, unless the contrary intention appears:

- (1) headings or subheadings are inserted for guidance only and do not govern the meaning or construction of this Lease or of any provision contained in this Lease;
- (2) words expressed in the singular include the plural and vice versa;
- (3) words expressed in one gender include the other genders;



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- (4) a reference to a person includes a natural person, partnership, joint venture, association, or corporation and a government or any governmental, local authorities and agencies;
  - (5) a reference to a party to a document includes that party's successors personal representatives and permitted assigns;
  - (6) an agreement on the part of 2 or more persons binds them jointly and severally;
  - (7) a reference to a body, other than a party to this Lease (including an institute, association or authority), whether statutory or not:
    - (a) which ceases to exist; or
    - (b) whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
  - (8) where a general description of a thing, including a right or obligation, is followed by a specific instance or example of that thing, that specific instance or example does not limit the scope of the general description;
  - (9) a reference to a thing includes a part of that thing but without implying that part performance of an obligation is performance of the whole;
  - (10) references to clauses and parties are references to clauses of, and parties to, this Lease and a reference to a subclause is a reference to a subclause in the clause in which the reference appears;
  - (11) all the provisions in the Information Table and in a Schedule at the back of this Lease are incorporated in and form part of this Lease;
  - (12) no rules of construction apply to the disadvantage of a party because that party was responsible for the drafting of this Lease or of any of the provisions of this Lease;
  - (13) a reference to a statute includes a regulation, rule, by-law, requisition and order made under that statute and any amendment to or re-enactment of that statute, regulation, rule, by-law, requisition or order for the time being in force;
  - (14) a reference to a document, including this Lease, includes each document or agreement varying or replacing that document;
  - (15) where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day;
  - (16) a reference to 'dollars' and \$ is to Australian currency;
  - (17) month means a calendar month;
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- (18) 'including' and 'includes' are not words of limitation;
- (19) a period of time dating from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (20) a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (21) an accounting term is a reference to that term as it is used in accounting standards under the Corporations Act 2001 (Cth), or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia;
- (22) time is a reference to Perth time; and
- (23) a reference to the "State" in this Lease includes the Crown in right of the State of Western Australia whether body corporate or otherwise, and the State of Western Australia's departments, agencies and instrumentalities.

### 1.3 Areas and Measurement

- (1) If any area of the Premises or the Building is to be calculated or measured for the purposes of this Lease, those calculations and measurements must be in accordance with the method for the measurement of Net Lettable Area.
- (2) The Landlord is responsible for calculating or measuring any area for the purposes of this Lease and must pay the Costs incurred.
- (3) If any calculation or measurement required in relation to this Lease is not completed within 60 days after the Commencement Date, the Tenant may arrange for it to be done and the reasonable and proper Costs incurred by the Tenant must be paid by the Landlord on demand or, if not paid within 30 days after demand, may be set-off against the Rent and other money payable under this Lease.

### 1.4 Written Notices

If a provision of this Lease requires a notice to be given by a party, it must be in writing unless the provision states that it may be given orally.

### 1.5 Whole Agreement

The terms contained in this Lease comprise the whole agreement between the Landlord and the Tenant.

### 1.6 Lease to Operate as Deed

This Lease operates as a deed on execution by the Landlord and the Tenant.

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**1.7 Change of Landlord**

The Landlord is released from the Landlord's obligations under this Lease which arise after the date the Landlord ceases to be the registered proprietor of the Land subject to the new registered proprietor of the Land becoming bound (by operation of Law or otherwise) by all the Landlord's obligations under this Lease from the same date.

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**2. Term and Holding Over****2.1 Term**

The Landlord leases to the Tenant and the Tenant takes a lease of the Premises for the Term commencing on the Commencement Date and terminating on the Expiry Date subject to the provisions of this Lease.

**2.2 Quiet Enjoyment**

If the Tenant complies with the Tenant's obligations under this Lease, the Tenant may use the Premises without interruption or disturbance from the Landlord or any person claiming by, through or under the Landlord.

**2.3 Holding Over**

If the Tenant continues to occupy the Premises after the Expiry Date or after any extended term without objection by the Landlord (except under a lease arising from the valid exercise of an option to renew) the following provisions apply.

- (1) The Tenant occupies the Premises as a monthly tenant (unless otherwise agreed) at a total rent equal to 1/12th of the aggregate of the Rent and other money payable by the Tenant to the Landlord under this Lease immediately before the monthly tenancy commenced, payable monthly in advance the first of the monthly payments to be made on the day following the Expiry Date.
- (2) As far as applicable, the monthly tenancy otherwise continues on the terms and conditions of this Lease.
- (3) The monthly tenancy may be terminated at any time by either the Landlord or the Tenant giving to the other not less than 30 days' notice ending on any date.

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**3. Rent and Rent Reviews****3.1 Rent**

- (1) The Tenant must pay the Rent to the Landlord without demand, deduction or right of set-off (unless allowed by this Lease) by equal monthly instalments in advance.
- (2) The first instalment must be paid on the Rent Commencement Date.

- (3) Subsequent instalments must be paid on the first day of each month.
- (4) If necessary, the first and last instalments will be apportioned on a daily basis.
- (5) All instalments must be paid at the place the Landlord reasonably directs.

### 3.2 CPI Rent Review

- (1) If Item 12 of the Information Table has been completed by inserting CPI Review Dates, the Rent must be reviewed on the basis in this clause 3.2 with effect from and including each date in Item 12.
- (2) The Rent must be reviewed to an amount which is represented by A in the following formula:

$$A = \frac{B}{C} \times D$$

Where

- B = the index number determined for the quarter ending immediately prior to the relevant CPI Review Date;
- C = the index number determined for the quarter ending immediately prior to the later of the Commencement Date or the date from when the Rent was last reviewed; and
- D = the Rent payable immediately prior to the relevant CPI Review Date.
- (3) If the Consumer Price Index (All Groups) for Perth is suspended or discontinued, the words "**index number**" means the price index substituted by the ABS.
  - (4) If no price index is substituted, the words "**index number**" means an index which the parties agree most closely reflects changes in the cost of living.
  - (5) If the parties cannot agree on a substitute index, the president of the Australian Property Institute, at the request of either party, may appoint an expert to determine a substitute index which most closely reflects changes in the cost of living and the words "**index number**" means that index.

### 3.3 Market Rent Review

- (1) If Item 11 of the Information Table has been completed by inserting Market Review Dates, the Rent must be reviewed to the Market Rent determined on the basis in this clause 3.3 with effect from and including each date in Item 11.

- (2) The Landlord must state the amount which the Landlord considers to be the Market Rent (and provide evidence for the calculation of the Market Rent) by notice to the Tenant at any time:
  - (a) no earlier than 3 months before the relevant Market Review Date; and
  - (b) no later than 3 months after the relevant Market Review Date.
- (3) Time is of the essence in respect of the Landlord's Rent Notice and a notice given other than within that period has no effect.
- (4) Within 45 Business Days after receiving the Landlord's Rent Notice, the Tenant may give the Landlord a notice either agreeing to or disputing the amount stated in the Landlord's Rent Notice.
- (5) If the Tenant's Rent Notice states that the Tenant agrees to the amount stated in the Landlord's Rent Notice, the Rent payable from the relevant Market Review Date will be the amount in the Landlord's Rent Notice.
- (6) If the Tenant's Rent Notice states that the Tenant disputes the amount stated in the Landlord's Rent Notice (or if the Tenant does not give a notice in time) the Rent payable from the relevant Market Review Date will be the Market Rent determined under clauses 3.4 to 3.6 inclusive.
- (7) If the Landlord's Rent Notice is not given within the time required under clause 3.3(2), the Tenant may by notice to the Landlord at any time no later than 12 months after the relevant Market Review Date require that the Rent payable from the relevant Market Review Date will be determined under clauses 3.4 to 3.6 inclusive.
- (8) If neither the Landlord nor the Tenant gives a notice under this clause 3.3, the Rent remains unchanged.

#### 3.4 Determination of Market Rent

- (1) The Landlord and the Tenant must in good faith try to agree on the Market Rent.
- (2) If agreement is not reached within 45 Business Days after the Tenant's Rent Notice is given (or any other period agreed by the parties), then either party can request the President of the Australian Property Institute to appoint a determining Valuer to determine the Market Rent acting as an expert.
- (3) The Valuer must be appointed on the basis that the Landlord and the Tenant will make submissions in accordance with clauses 3.5(4) and 3.5(6).

#### 3.5 Rules Governing Valuer's Determination

The following rules apply to the determination made by the Valuer:

- (1) the Valuer must make a written determination containing reasons as soon as possible after their appointment (but not later than 40 Business Days after their appointment unless otherwise agreed by the parties);
- (2) irrespective of when made, the Valuer's determination is final and binding on the Landlord and the Tenant, other than in the case of manifest error;
- (3) the Valuer's costs must be paid within 20 Business Days after the date of the Valuer's invoice. If a party defaults in the payment of the Valuer's costs, the other party may pay the amount owing and recover the amount paid as a debt from the defaulting party. If the defaulting party is the Landlord, the Tenant may set-off the debt against the Rent and other money payable under this Lease;
- (4) the Landlord and the Tenant may make written submissions to the Valuer in relation to the Market Rent within 15 Business Days after the date of appointment of the Valuer to be appointed;
- (5) a party making a written submission must at the same time give a copy of it to the other party;
- (6) a party may within 5 Business Days after receiving a copy of the other party's written submission, give the Valuer a written response to that submission and must give a copy of the response to the other party.
- (7) a request for information must be complied with promptly in writing by the party to whom it is directed and that party must make a copy of that information available to the other party;
- (8) information may be provided on a confidential basis and, if so, the party receiving it and the Valuer must treat the information as confidential and must not use that information other than for the purpose of the Market Rent determination; and
- (9) the costs of a Valuer appointed solely by one party must be paid by the appointing party. The costs of a jointly appointed Valuer must be paid by the Landlord and the Tenant in equal shares.

### 3.6 Payment of determined Market Rent

- (1) Until the determination of the reviewed Rent has been made, the Tenant must continue to pay Rent at the rate payable immediately before the relevant Market Review Date.
- (2) Any variation in Rent as the result of review under clauses 3.3 and 3.4 takes effect from the relevant Market Review Date.
- (3) Within 30 Business Days after the determination of the reviewed Rent, the Landlord must refund to the Tenant any overpaid Rent or the Tenant must pay to the Landlord any shortfall in Rent resulting from the determination of the Market Rent. The Tenant may set-off the amount of any refund due

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from the Landlord against the Rent and other money payable under this Lease.

### 3.7 Fixed Percentage Review

- (1) On each Fixed Review Date, the Rent must be reviewed on the basis in this clause 3.7 with effect from the relevant Fixed Review Date.
- (2) On each Fixed Review Date the Rent applying immediately before the relevant Fixed Review Date must be increased by the percentage number specified in Item 10 of the Information Table and the increased amount will be the Rent applying from and including the relevant Fixed Review Date.

### 3.8 General

The Rent determined under this clause 3 may be lower, the same as or higher than the Rent applying immediately before the relevant Review Date.

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## 4. Outgoings

### 4.1 Tenant's Share

The Tenant must pay the Landlord the Tenant's Share of the Outgoings for each Accounting Year.

### 4.2 Tenant's Share at Commencement

If a figure is inserted in Item 13 of the Information Table, the Tenant's Share at the Commencement Date is as specified in Item 13.

### 4.3 Estimates

At the beginning of the first Accounting Year and at least 20 Business Days before the beginning of each subsequent Accounting Year the Landlord must give the Tenant an estimate of the Outgoings and the Tenant's Share of the Outgoings payable for the relevant Accounting Year.

### 4.4 Instalments

The Tenant must pay the amount of the estimate under the preceding clause by monthly instalments on the same day that Rent is payable. The amount of each instalment must be set out in invoices given by the Landlord to the Tenant.

### 4.5 Benefit of Discounts

If the Landlord obtains the benefit of any discount or other concession in respect of any Outgoings, whether because of early payment or any other reason, only the amount actually paid or payable by the Landlord is to be included in the Outgoings in determining the amount of the Tenant's Share.

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#### 4.6 Fines etc

Except to the extent caused by the Tenant's failure to pay an amount by the due date under this Lease, the amount of any fine or other penalty, including interest, imposed in relation to any Outgoings is not to be included in the Outgoings in determining the amount of the Tenant's Share.

#### 4.7 Late Inclusion in Outgoings

Any expenditure by the Landlord may not be included in the Outgoings later than 12 months from the date the expenditure occurred.

#### 4.8 Landlord's duty to minimise Outgoings

The Landlord must use reasonable endeavours to minimise the Outgoings and the Outgoings must be commensurate with the Outgoings as found in similar buildings in similar locations.

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### 5. Outgoings Adjustment

#### 5.1 Audited Statement

As soon as reasonably practicable after the end of each Accounting Year (but no later than 6 months after the end of the relevant Accounting Year) the Landlord must:

- (1) notify the Tenant of the actual amount of the Outgoings and the actual amount of the Tenant's Share of the Outgoings payable by the Tenant for that Accounting Year; and
- (2) give the Tenant statements (which must be audited, if required by the Tenant) relating to the Outgoings, containing full details of the nature of all Outgoings sufficient to enable the Tenant to verify the Landlord's expenditure on Outgoings.

#### 5.2 Obligation to Pay suspended

If the Landlord does not comply with the preceding clause, the Tenant's obligation to pay the Tenant's Share of the Outgoings is suspended until the Landlord has complied with it.

#### 5.3 Inspection of Records

- (1) The Tenant has the right to review the audited Outgoings and to undertake an independent audit if deemed necessary (but not more than once during any 12 month period, other than where an independent audit identifies a material and systemic discrepancy in the Landlord's calculation of Outgoings), at the Tenant's sole discretion.
- (2) If requested by the Tenant, the Landlord must allow the Tenant to inspect all the Landlord's records relating to the determination and calculation of the Outgoings and provide all reasonable assistance and information



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including actual invoices necessary to enable the Tenant to undertake an audit under clause 5.3(1).

- (3) Any independent audit undertaken by the Tenant under clause 5.3(1) will be at the Tenant's cost.

#### 5.4 Estimate Less

If the amount of the Outgoings paid by the Tenant for the relevant Accounting Year based on the Landlord's estimate is less than the amount payable by the Tenant, the Tenant must pay the difference to the Landlord within 20 Business Days after the Landlord requests payment.

#### 5.5 Estimate More

If the amount of the Outgoings paid by the Tenant is more than the amount payable by the Tenant, the Landlord must give credit to the Tenant for the difference when the next payment of money is due by the Tenant under this Lease. If no further payment will become due the Landlord must pay the difference to the Tenant within 20 Business Days after the difference has been calculated.

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### 6. Utilities

#### 6.1 Charges for Utilities

The Tenant must pay by the due date all charges for Utilities supplied to the Premises, as invoiced by the relevant supplier.

#### 6.2 Amount Payable

If any Utilities are supplied to the Premises by the Landlord, the Landlord must:

- (1) charge the Tenant for those Utilities at the rate at which the Utilities are supplied to the Landlord; and
- (2) in relation to electricity and gas consumption charges, provide the Tenant with documentation which is reasonably sufficient for the Tenant to verify the charge including meter reading details and a copy of the invoice issued by the relevant supplier.

#### 6.3 Utilities to the Premises

The Tenant may make the Tenant's own arrangements direct with a supplier of a Utility.

#### 6.4 Electrical Installations

The Tenant must not:

- (1) make any alterations or additions to the electrical installations or wiring on the Premises without the Landlord's consent, which will not be unreasonably refused or delayed or conditioned;
- (2) install any electrical equipment which overloads the cables, switchboards or sub-boards through which electricity is conveyed to the Premises; or
- (3) interfere with or obstruct access to the Air Conditioning Equipment or fire alarm or prevention system installed in the Premises.

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## **7. Use of the Premises**

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### **7.1 Permitted Use**

The Tenant may only use the Premises for office purposes, parliamentary electorate office and ancillary uses in accordance with the Tenant's normal operations unless the Landlord consents to another use.

### **7.2 Obligations**

The Tenant must:

- (1) keep the Premises free of pests, insects and vermin;
- (2) securely lock all exterior doors and windows in the Premises when the Premises are not occupied;
- (3) comply with fire drills and emergency procedures (including evacuation) when reasonably requested by the Landlord;
- (4) make reasonable efforts to enforce any prohibition against smoking in the Building imposed by Law or by the Landlord;
- (5) promptly inform the Landlord after becoming aware of any substantial damage to the Premises or the Building or of the faulty operation of any Utilities;
- (6) ensure that its employees, contractors and agents do not smoke in or around the Building and use best endeavours to ensure that visitors do not smoke in or around the Building; and
- (7) comply with all relevant/applicable Laws in its use and occupation of the Premises.

### **7.3 Prohibitions**

The Tenant must not:

- (1) use the Premises as a residence;
- (2) keep any animals or birds in the Premises;

- (3) carry on any illegal activities on the Premises; and
- (4) do anything on the Premises which causes nuisance, damage or disturbance to occupiers of nearby property.

#### 7.4 Restrictions

The Tenant must not, without the Landlord's consent, which will not be unreasonably refused, delayed or conditioned (but subject to any other provision of this Lease):

- (1) hold any auction, bankrupt or fire sale on the Premises;
- (2) modify or interfere with the drainage or water supply facilities serving the Premises or any equipment connected to those facilities;
- (3) store or use inflammable or explosive substances in the Premises unless they are stored in proper containers and are used in accordance with all relevant Laws;
- (4) interfere with or obstruct the operation of or access to the Services or overload any Service;
- (5) use any facilities in or near the Premises or in the Building, including the toilets and drains, for any improper purpose;
- (6) fix blinds or awnings to the outside of the Premises;
- (7) affix to the outside of the Premises a television or radio mast, antenna, satellite dish or any other similar device;
- (8) install any equipment in the Premises which may overload any Utilities; or
- (9) do anything in the Premises which involves the use of hazardous material.

### 8. Maintenance and Repair

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#### 8.1 Repair of Premises

- (1) The Tenant must keep the interior of the Premises in good repair and condition except for:
  - (a) fair wear and tear; and
  - (b) damage by fire, storm, tempest and any other risk which a prudent owner can and usually does insure against, including damage to plate glass.
- (2) The second exception in clause 8.1(1) does not apply to the extent that insurance money is irrecoverable through the negligent act or default of the Tenant or the Tenant's Employees.

- 
- (3) Nothing in clause 8.1(1) imposes responsibility on the Tenant for any maintenance, replacement, renovation or repair of a capital or structural nature unless required because of:
- (a) the negligent act or default of the Tenant or the Tenant's Employees; or
  - (b) the Tenant's use of the Premises other than as permitted by this Lease.

## 8.2 Cleaning, Maintenance and Breakages

The Tenant must:

- (1) keep the Premises clean and tidy;
- (2) store all waste and garbage in proper containers; and
- (3) repair or replace, or pay to the Landlord the reasonable cost of repairing or replacing, damaged or inoperative electric light bulbs, globes, tubes and other means of illumination in the Premises.

## 8.3 Cleaning Service

The Tenant will be required to arrange for its own cleaners to clean the Premises and it will not be responsible for the payment of cleaning costs of the Premises to the Landlord.

## 9. Alterations

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### 9.1 Alterations and Additions

- (1) Subject to clause 9.1(2), the Tenant may alter or add to the Premises, including the Tenant's initial fitout of the Premises.
- (2) The Tenant is to provide the Landlord with plans and specifications for the Tenant's fitout works for the Landlord's approval and such approval must not be unreasonably withheld, delayed or conditioned.

### 9.2 Installation of Equipment

The Tenant must not, without the Landlord's consent, which will not be unreasonably refused or delayed or conditioned:

- (1) install any water, gas or electrical fixtures, equipment or appliances or any apparatus for air conditioning, heating, cooling, ventilating or illuminating the Premises; or
- (2) mark, drill, deface or damage any part of the Premises.

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**9.3 Partitions**

- (1) Before the Tenant installs any partitions in the Premises, the Tenant must submit to the Landlord for approval a copy of the plans and specifications for the proposed work which must comply with relevant Laws and Official Requirements.
- (2) The partitions must be installed at the Tenant's expense.
- (3) The Landlord will not unreasonably refuse or delay approval under this clause 9.3.

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**10. Legal Obligations**

**10.1 Compliance with Laws and Official Requirements**

The Tenant must comply with and observe any Law or Official Requirement concerning:

- (1) the Tenant's Property; or
- (2) the Tenant's use or occupation of the Premises or the gender or number of persons in the Premises.

**10.2 Structural Alterations**

The Tenant is not required under clause 10.1 to do or pay for structural alterations or additions except those arising from:

- (1) the nature of the Tenant's business;
- (2) the number or gender of the persons comprising the Tenant or the Tenant's Employees; or
- (3) any negligent act or default by the Tenant or the Tenant's Employees.

**11. Common Areas – not used**

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**12. Management of the Building by Landlord**

**12.1 Management**

- (1) The Landlord must properly manage and operate the Building.
- (2) The Landlord must appoint a Property Manager (which can be a representative or employee of the Landlord) to represent the Landlord in relation to this Lease. The Property Manager is taken to be authorised to exercise the rights and powers of, and discharge the obligations of, the Landlord under this Lease.

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## 12.2 Right to Enter

- (1) The Landlord may:
  - (a) after giving at least 2 Business Days' notice to the Tenant; or
  - (b) in an emergency, or to do rectification or preventative works to comply with its obligations under this Lease with respect to Services, without notice,enter the Premises.
- (2) In exercising its entry rights under clause 12.2(1), the Landlord or its representative must be accompanied by a representative of the Tenant at all times and comply with the Tenant's usual access requirements.

## 12.3 Minimise disruption

If the Landlord does anything permitted by the preceding clause the Landlord must:

- (1) take reasonable action to ensure there is no disruption to the Tenant's use of the Premises; and
- (2) promptly make good any damage to the Tenant's Property caused by the Landlord.

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## 13. Tenant's Rights in relation to use of Building

### 13.1 After Hours Access

The Tenant may have uninterrupted access to the Premises at all times whether or not during Business Hours, but the Tenant must comply with the Landlord's reasonable requirements relating to safety and security in connection with access outside Business Hours.

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## 14. Assignment and Subletting

### 14.1 Assignment and Subletting Permitted with Consent

Subject to clause 14.4 the Tenant may assign all or part of this Lease or sublet all or part of the Premises with the Landlord's prior written consent which is not to be unreasonably withheld, conditioned or delayed, PROVIDED THAT the Landlord may refuse its consent in its absolute discretion if the proposed assignment or sublease is not to a provider of services to the community (such as health, aged care and disability services).

### 14.2 Requirements for Assignment

The Landlord will not refuse its consent to the assignment or unreasonably delay that consent if the Tenant first makes a written application to the Landlord for consent and:

- (1) the proposed assignee is a provider of services to the community (such as health, aged care and disability services);
- (2) the Tenant is not in default under this Lease, written notice of which has been given to the Tenant (disregarding a default which has been remedied by the Tenant or waived by the Landlord);
- (3) the Tenant provides evidence that the incoming tenant is a respectable, responsible and solvent person and is capable of performing the obligations of the Tenant under this Lease;
- (4) if the incoming tenant is a company (other than a company whose shares are listed on the Australian Stock Exchange) the incoming tenant's obligations are guaranteed by the directors of the company or (at the Tenant's option) the incoming tenant agrees to give the Landlord a bank guarantee for an amount no less than 3 months' Rent as security for the performance of the incoming tenant's obligations; and
- (5) the Tenant, the incoming tenant and any incoming guarantor (if applicable) sign a deed, in a form prepared or approved by the Landlord, acting reasonably, requiring the incoming tenant to comply with the Tenant's obligations under this Lease together with those requirements in Schedule 3 and any incoming guarantor to guarantee those obligations.

#### 14.3 Requirements for Subletting

The Landlord will not refuse its consent to the subletting or unreasonably delay that consent if the Tenant first makes a written application to the Landlord for consent and:

- (1) the proposed sublessee is a provider of services to the community (such as health, aged care and disability services);
- (2) the Tenant is not in default under this Lease, written notice of which has been provided to the Tenant (disregarding a default which has been remedied by the Tenant or waived by the Landlord); and
- (3) the Tenant provides evidence that the incoming tenant is a respectable, responsible and solvent person.

#### 14.4 Assignment to Government Tenant

Clause 14.1 does not apply to an assignment or subletting to any Government Tenant and the Tenant may assign this Lease or sublet the Premises to a Government Tenant at any time without the Landlord's consent, but the Tenant must promptly give the Landlord notice of any assignment to a Government Tenant.

#### 14.5 Exclusion of Property Law Act

Sections 80 and 82 of the *Property Law Act 1969* are excluded.

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**14.6 Tenant Released**

From the date that the Tenant assigns this Lease, subject to compliance with clause 14.2, the Tenant is released from all its obligations under this Lease.

**14.7 Assignment or subletting to Non-Government Tenant**

- (1) The provisions in Schedule 3 apply if this Lease is assigned (in whole or in part) to any person other than a Government Tenant.
- (2) The provisions in this Lease that relate to self-insurance by the Tenant (clause 15.5) will not apply if this Lease is assigned or the Premises are sublet to any person other than a Government Tenant.

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**15. Liabilities and Indemnity**

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**15.1 Effect on the Landlord's Insurance**

The Tenant must not knowingly do or omit to do anything to or upon the Premises which:

- (1) increases the cost of; or
- (2) renders void or voidable,

any of the Landlord's insurance relating to the Premises or the Building, but the Tenant is not liable for any claim by the Landlord under this clause unless the Landlord has first given the Tenant notice of the relevant insurance requirements and allowed the Tenant a reasonable period to comply with those requirements and the Tenant has failed to do so within that period.

**15.2 Inflammable Substances**

The Tenant must not store chemicals, inflammable liquids, acetylene, gas, volatile or explosive oils, compounds or substances on the Premises (unless it is reasonably necessary for the Tenant's use of the Premises permitted under this Lease).

**15.3 Risk**

Subject to the Landlord's obligations under this Lease:

- (1) all property of the Tenant in the Premises is at the Tenant's risk; and
- (2) the Tenant occupies and uses the Premises at the Tenant's risk,

except to the extent that any loss or damage is caused by the negligent act or default of the Landlord or the Landlord's employees, contractors or agents.



**15.4 Indemnity**

The Tenant is responsible for and indemnifies the Landlord against any liability resulting from:

- (1) any loss of or damage to property or any injury to or death of any person occurring in the Premises or caused by the Tenant wherever occurring; or
- (2) any reasonable action taken by the Landlord to remedy a default by the Tenant.

This indemnity does not apply to the extent that the liability is caused or contributed to by the Landlord or the Landlord's employees, contractors or agents.

**15.5 Tenant self insures**

The parties acknowledge that the Government self insures. Accordingly, while the Tenant is a Government Tenant, the Tenant is not required to effect or maintain any insurance.

**16. Carpets****16.1 Replacement**

Except for damage caused by the Tenant (which must be made good by the Tenant) the Landlord must replace the carpet in the Premises (or any part) with new carpet promptly after it becomes worn out or unsafe for any reason and the Tenant has given the Landlord a notice requiring that the carpet (or any part) be replaced. Any new carpet or carpet tile must be of a commercial grade, in a colour that is approved by the Tenant (such approval not to be unreasonably withheld) and must not be of a lesser quality than the carpet it replaces.

**17. Landlord's Obligations Concerning Premises and Building****17.1 Suitability of Premises**

The Landlord:

- (1) warrants that at the Commencement Date the Premises are fit for occupation and for the use permitted by this Lease and comply with all Laws relating to the Premises; and
- (2) undertakes that during the Term (subject to the other provisions of this Lease), the Premises will remain fit for occupation and will continue to comply with all Laws that were applicable at the Commencement Date.

**17.2 Exclusions**

The Landlord's obligations under clause 17.1 are subject to the Tenant's fitout and other Tenant's works carried out within the Premises:

- (1) being complete; and
- (2) not adversely affecting the suitability of the Premises as required under clause 17.1.

### 17.3 Capacity of Electrical Supply

The Landlord must not reduce the capacity of the electrical supply available to the Premises below the level applying at the Commencement Date.

### 17.4 Maintenance of the Building

- (1) The Landlord must maintain the Building and the Land (including finishes, appearance, Services and level of cleaning) to a high standard in accordance with other similar buildings of a similar age and location for the Term.
- (2) The Landlord must:
  - (a) replace plant and equipment that is older than its effective life; and
  - (b) on demand by the Tenant, provide information to the Tenant showing the Landlord's proposed schedule for replacement and maintenance of plant and equipment servicing the Premises.
- (3) Without limitation, the Landlord must properly maintain and repair:
  - (a) the roof and structure of the Building and all electrical wires and water and sewerage pipes and drains;
  - (b) the exterior surface, coating or fabric of the Building;
  - (c) the surfaces of all core walls, including repainting them when necessary;
  - (d) Building light switches and power points which cease to work;
  - (e) the windows of the Building; and
  - (f) all driveways and car parking areas on the Land and all crossovers providing access to the Land.
- (4) The Tenant must notify the Landlord or the Managing Agent as soon as possible if it becomes aware of any maintenance issue with the Building for which with Landlord is responsible.

### 17.5 Moisture Penetration

- (1) If there is moisture penetration into the Premises which damages the Premises or causes the Tenant's use of the Premises to be prevented or interrupted, the Landlord must as soon as practicable (following notice by the Tenant of the moisture penetration):

- 
- (a) repair and, if necessary, modify the Building to stop the moisture penetration re-occurring to the satisfaction of the Tenant (acting reasonably); and
    - (b) at the Landlord's cost, repair and, if necessary, replace the Tenant's Property affected.
  - (2) The obligations of the Landlord pursuant to this clause 17.5 will not apply to the extent that the Tenant, or anyone that the Tenant is responsible for, has directly caused or contributed to the moisture penetration.

#### 17.6 Asbestos and bacteria

- (1) The Landlord warrants that to the best of its knowledge the Premises are at the Commencement Date (and will continue during the Term to be) free of asbestos and any bacteria of a type and in a quantity which may be hazardous or dangerous to health (other than bacteria caused by the Tenant).
- (2) Prior to the Commencement Date the Landlord shall, at the Landlord's cost, provide to the Tenant a hazardous materials survey of the Premises together with a management plan and register to confirm that the Premises is free of asbestos, bacteria or other noxious, toxic, poisonous or hazardous substances of a type or quantity which may be hazardous or dangerous to the health of the Tenant's employees, visitors or invitees. When reasonably requested by the Tenant, the Landlord shall provide to the Tenant a copy of the hazardous materials survey, management plan and register, but only once in every 12 months of the Term or extension thereof.
- (3) If the Air Conditioning Equipment is of a water cooled or evaporative nature the Landlord must on a regular basis (but at least quarterly) arrange for competent professional scientific testing of the Air Conditioning Equipment to verify compliance with clause 17.6(1) and must provide the Tenant with a certified copy of the result of each testing.
- (4) If:
  - (a) the Premises contain asbestos; or
  - (b) bacteria of a type and in quantity which is hazardous or dangerous to health are found in the Premises or in the Air Conditioning Equipment serving the Premises,the Landlord must remove the asbestos or bacteria (other than bacteria caused by the Tenant) promptly as required by the Tenant or as directed by any Authority.
- (5) If either asbestos or bacteria (other than bacteria caused by the Tenant) within the Premises or within any Air Conditioning Equipment serving the Premises causes a declaration by any Authority that the Premises are hazardous or dangerous to health and the Landlord does not take

immediate steps to remedy the hazard or danger or does not effectively remove it within 1 month after the declaration, the Tenant may terminate this Lease within 4 months after the declaration.

- (6) The Landlord at the cost of the Landlord must repair or reinstate the Premises to the extent that the Premises have been damaged or affected by the removal of any substances or as a result of any other action taken under this clause 17.6.

#### 17.7 Other Hazardous Substances

If any other noxious, toxic, poisonous or hazardous substance in or forming part of the Premises, the Building or the Landlord's Property is found which is:

- (1) not asbestos or bacteria;
- (2) introduced or caused by the Landlord; and
- (3) dangerous to health,

the Landlord must eliminate any danger caused by the substance as directed by any Authority or otherwise by removal of the substance so that the substance ceases to be dangerous to health.

#### 17.8 Environmental Laws

The Landlord must comply with all Environmental Laws relating to the Building.

#### 17.9 Occupational Health

The Landlord warrants that the Premises conform to and are consistent with all applicable notices and directions of WorkSafe pursuant to the *Occupational Safety and Health Act 1984 (WA)* unless they relate to the Tenant's fitout of the Premises or are issued as a result of the Tenant's work or activities.

### 18. Landlord's Obligations Concerning Services

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#### 18.1 Maintenance of Services

The Landlord must use all reasonable endeavours to maintain the Services in accordance with the Australian Standards applying to the maintenance of building services, including those in existence at the Commencement Date as set out in Schedule 2, so that the Services function properly at all times during Business Hours, except when shut down for maintenance or repairs.

#### 18.2 Maintenance of Air Conditioning Equipment

Without limiting the preceding clause, the Landlord must:

- (1) clean, maintain and treat the Air Conditioning Equipment servicing the Premises :

- 
- (a) in a proper and adequate manner; and
  - (b) to a suitable working standard and condition; and
- (2) when asked by the Tenant, provide written information about that cleaning, maintenance and treatment .

### 18.3 Failure of Air Conditioning

The Tenant is (subject to clause 18.4) entitled to a full day's rent abatement for each day that:

- (1) the Air Conditioning Equipment fails to maintain the air temperature within the Premises between 20.5° and 24.5° Celsius;
- (2) any of the Services to the Premises fail because of the Landlord's deliberate act or default.

### 18.4 Rent Abatement Conditions

For the Tenant to become entitled to abatement of rent:

- (1) the Tenant must have given notice to the Landlord of the occurrence of an event mentioned in clause 18.3;
- (2) the failure of the Air Conditioning Equipment must have continued for 3 business days or the failure of the lifts or Services must have continued for 1 business day after giving of the notice; and
- (3) the failure must not have been caused by the Tenant's act or default.

### 18.5 Tenant's Right to Rectify Air Conditioning and Lifts

If the Tenant becomes entitled to abatement of rent under clause 18.3, the Tenant may, without affecting that entitlement:

- (1) arrange for the Air Conditioning Equipment or Services, as the case may be, to be repaired to normal operating condition; and
- (2) set-off against the rent and other money payable under this Lease the costs incurred by the Tenant in arranging for the repair to be done.

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## 19. Landlord's General Obligations

### 19.1 Insurance

The Landlord must insure the Building against damage by fire, storm, tempest and all other usual insurable risks against which a prudent owner would normally insure including risk of damage to plate glass and with provision for the replacement of cracked or broken plate glass.

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**19.2 Rates and Taxes**

The Landlord must by the relevant due date or dates pay all Rates and Taxes and any other Outgoings relating to the Land but excluding any Utilities which are metered and invoiced directly to the Tenant and in respect of the Premises.

**19.3 Smoking**

If after the Tenant executes this Lease the Landlord grants a lease or license of premises in the Building, in or around the Building that lease or license must include a provision that the tenant and the tenant's employees contractors and agents are prohibited from smoking in or around the Building.

**19.4 Grounds**

If there are lawns, gardens or other landscaped areas on the Land, the Landlord must properly care for and maintain them.

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**20. Default and Termination**

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**20.1 Tenant's Default**

The Tenant is in default if the Tenant fails to comply with any of the Tenant's obligations under this Lease within 30 Business Days after the Landlord has given the Tenant a written notice specifying the default and requiring it to be remedied.

**20.2 Termination of Lease**

(1) If the Tenant is in default under clause 20.1, the Landlord may give the Tenant a second written notice specifying:

- (a) that the default has not been remedied; and
- (b) that the Landlord intends to terminate this Lease if the default is not remedied within 10 Business Days.

(2) If the Tenant:

- (a) fails to remedy the default following the second written notice from the Landlord under clause 20.2(1); or
- (b) repudiates this Lease in writing,

the Landlord may by written notice to the Tenant, terminate this Lease on the date that is 6 months after giving the initial notice given under clause 20.1 or on any later date.

**20.3 Interest on Overdue Money**

The Tenant must pay interest to the Landlord on any Rent or other money due to the Landlord and unpaid for 30 Business Days. Interest is to be computed from (and

including) the due date for payment until (but not including) the date of actual payment. The rate of interest is to be 2% per annum above the Bank Bills Swap Bid Rate (BBSY) published by Reuters.

#### 20.4 Essential Terms and Damages

The parties agree that each of the Tenant's Obligations which are specified in:

- (1) clause 3 (**Rent and Rent Reviews**);
- (2) clause 4 (**Outgoings**);
- (3) clause 7.1 (**Permitted Use**);
- (4) clause 10 (**Legal Obligations**); and
- (5) clause 14 (**Assignment and Subletting**),

are essential terms of this Lease but this clause does not mean or imply that there are no other essential terms in this Lease.

#### 20.5 Tenant may rectify Landlord's Default

- (1) From the Commencement Date if the Landlord defaults under this Lease and has not remedied the default or taken reasonable steps to remedy it after the Tenant has given the Landlord notice of the default within the reasonable time frame stated in the notice, the Tenant may (without limiting the other rights of the Tenant) itself remedy the default.
- (2) The Landlord must pay the Tenant's Costs of remedying the default, which include relocation costs of the Tenant, on demand or those Costs may subject to 20.5(3), at the Tenant's election, be set-off against the Rent and other money payable by the Tenant under this Lease.
- (3) The Tenant's Costs of remedying the default may only be set off against the Rent or other money payable at such times as:
  - (a) such moneys have been expended; and
  - (b) to the extent only that any amount is in dispute, any dispute regarding whether they were entitled to be or were properly expended has been resolved.

### 21. Termination of Term

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#### 21.1 No Redecoration or Make Good

The Landlord acknowledges and agrees that on expiry or sooner determination of the Term the Tenant is not required to:

- (1) redecorate the Premises (including any previously painted external surfaces) at any time during the Term of this Lease, during any Option Period, or upon termination;
- (2) make good the Premises;
- (3) re-instate the Premises to base building standard and configuration;
- (4) remove any of the Tenant's Property; or
- (5) repair or replace any floor coverings.

#### 21.2 Leave Premises clean and in good repair

On the expiry of the Term or within 90 Business Days after the earlier termination of this Lease, the Tenant must:

- (1) leave the Premises in a clean and tidy condition, good repair, order and condition in accordance with this Lease, fair wear and tear excepted; and
- (2) if requested by the Landlord, steam clean the carpet in the Premises.

#### 21.3 Removal of Tenant's Property

The Tenant may remove any part of the Tenant's Property from the Premises at any time before termination of this Lease and must repair any damage to the Premises caused by removal of the Tenant's Property.

#### 21.4 Non-removal

- (1) If the Tenant does not remove the Tenant's Property or any part of it before the expiry of the Term or within 90 Business Days after the earlier termination of this Lease, the Landlord must give notice to the Tenant of any Tenant's Property which has not been removed and allow the Tenant access to the Premises for the purpose of removing it within 5 Business Days after the notice is given.
- (2) If any of the Tenant's Property comprising loose furniture has not been removed within that time, the Landlord will treat that loose furniture as if it has become the Landlord's Property and deal with it in a manner it considers appropriate.

### 22. Damage and Destruction

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#### 22.1 Definitions

In this clause 22:

- (1) "**abatement notice**" means a notice given under clause 22.2(1);



- (2) **"reinstatement notice"** means a notice given by the Landlord to the Tenant of the Landlord's intention to carry out the reinstatement works; and
- (3) **"reinstatement works"** means the work necessary to:
  - (a) reinstate the Premises; and
  - (b) make the Premises fit for occupation and use and accessible by the Tenant.

## 22.2 Abatement

- (1) If at any time:
  - (a) the Premises are wholly or partly unfit for occupation and use by the Tenant; or
  - (b) access to the Premises is either wholly or partly interfered with having regard to the nature and location of the Premises and the normal means of access to them;as a result of:
  - (c) destruction or damage;
  - (d) the presence of or the removal of asbestos;
  - (e) the existence of bacteria of a type or in a quantity harmful to the health of persons in the Premises (other than bacteria caused by the Tenant); or
  - (f) construction, rebuilding or alteration of the Premises, the Building, or any adjoining building owned or partly owned by the Landlord,

then the Tenant may notify the Landlord of the relevant event and the parts of the Premises affected and the extent to which they are affected and from the date that the Tenant notifies the Landlord the Rent and Outgoings payable by the Tenant are to abate in whole or in part according to the circumstances.

- (2) If clause 22.2(1) applies, the remedies for:
  - (a) recovery of the Rent, Outgoings and any other money or a proportionate part falling due after the damage or destruction; or
  - (b) enforcement of the obligation to repair and maintain;

are suspended in whole or in part from the date of the abatement notice until the Premises are reinstated or otherwise made fit for the Tenant's occupation and use and fully accessible.

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### 22.3 Tenant May Terminate

If clause 22.2(1) applies, then at any time after 2 months from the date the abatement notice, the Tenant may terminate this Lease by notice to the Landlord unless the Landlord has within that period of 2 months:

- (1) given the Tenant a reinstatement notice; and
- (2) diligently started to carry out the reinstatement works.

### 22.4 Tenant May Terminate after reinstatement notice

If the Landlord gives a reinstatement notice to the Tenant and does not commence the reinstatement works within a reasonable time the Tenant may terminate this Lease by giving not less than 1 months' notice to the Landlord and, at the expiration of the notice period, this Lease terminates.

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## 23. Costs and Expenses

### 23.1 Costs and Expenses arising on Default

A party who is in default must pay to or reimburse the other party on demand the amount of all Costs (including legal Costs) on a full indemnity basis arising as a result of enforcing any right under this Lease including giving a notice under section 81 of the *Property Law Act 1969(WA)*.

### 23.2 Other Costs and Expenses

Unless otherwise stated in this Lease, each party will pay its own Costs (including legal Costs) in connection with this Lease or anything done or to be done under this Lease.

### 23.3 Duties and Fees

The Tenant must pay or reimburse the Landlord on demand the amount of all duty and fees including registration fees in accordance with clause 23.2 (but not including fines and penalties not attributable to the Tenant) payable in connection with this Lease.

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## 24. Dispute Resolution

### 24.1 Negotiation

- (1) If there is a dispute or difference arising out of or in connection with this Lease, then within 15 Business Days of a party notifying the other party in writing of the dispute or difference, a representative from each party must meet and use all reasonable endeavours acting reasonably to resolve the dispute or difference by joint discussions.

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- (2) The meeting of the representative from each party will be without prejudice except to the extent of any agreements made, recorded and signed by the attendees.

#### 24.2 Independent expert

- (1) If a dispute or difference arising out of or in connection with this Lease is unable to be resolved in accordance with clause 24.1, at the request of either the Landlord or the Tenant the dispute or difference is to be determined:
- (a) in the case of a financial or accounting matter, by a practising chartered accountant who is a member of The Institute of Chartered Accountants of Australia (WA Division) appointed for that purpose by the then President of that body;
  - (b) in the case of a construction matter, by a member of Engineers Australia (WA Division) appointed for that purpose by the then President of that body;
  - (c) in the case of value, by a Valuer who is a member of the Australian Property Institute appointed for that purpose by the then President of that body;
  - (d) in any other case, a qualified person appointed by the senior officer for the time being of an appropriate association, institution, society or board agreed upon by the Landlord and the Tenant (and failing agreement within 3 Business Days then as appointed by the then President of The Law Society of Western Australia (Inc) at the request of either the Landlord or the Tenant).
- (2) If a dispute or difference needs to be resolved under this clause 24.2 and it relates to more than one area of expertise, the parties may agree to the appointment of a panel of independent experts which represents the appropriate skills in accordance with clause 24.2(1).
- (3) In making a determination, the appointed person must act as an expert and not as an arbitrator.
- (4) The appointed person must make a written determination containing reasons as soon as possible after appointment, but must give each party the opportunity to make written submissions and give consideration to any submissions made.
- (5) The cost of the determination must be paid by both parties in equal shares unless otherwise decided by the appointed person.
- (6) The decision of the appointed person will be final and binding on the parties except in the case of manifest error or where either party has not been provided with a fair opportunity to make submissions in relation to the matter in issue.

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- (7) For the avoidance of doubt the parties acknowledge that matters of law cannot be made the subject of dispute resolution pursuant to this clause and the parties are entitled to pursue their legal rights in respect of such matters without reference to this clause.

#### 24.3 Continuation of rights and obligations

Despite the existence of a dispute or difference each party must continue to perform its obligations under this Lease.

#### 24.4 Market Rent Reviews

This clause 24 does not apply with respect to any disputes arising in connection with Market Rent reviews and clauses 3.3 to 3.6 will apply to all matters relating to the determination of the Rent on a Market Review Date.

### 25. Notices

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Any notice, or other communication including any request, demand, consent or approval to or by a party under this Lease:

- (1) must be in writing;
- (2) must be addressed to a party and may be delivered by courier, mailed by registered post or faxed, in accordance with the details set out in Item 14 or any other address notified by a party to the other;
- (3) must be signed by a person authorised by the sender or signed by a solicitor on behalf of the sender; and
- (4) will be treated as having been given by the sender and received by or served on the addressee:
  - (a) if by delivery in person - when delivered to the addressee;
  - (b) on the day which is the second Business Day after the date of posting – where posted by registered post within Australia to an address within Australia;
  - (c) on the day which is the eighth Business Day after the date of posting - where posted by air mail registered post from a place within Australia to an address outside Australia or posted from a place outside Australia to an address within Australia; and
  - (d) by facsimile transmission – on the date of transmission where a transmission report is produced by the facsimile machine by which the facsimile message was transmitted which indicates that the facsimile message was transmitted in its entirety to the facsimile number of the recipient,

but if the transmission (in the case of facsimile) is on a day which is not a Business Day or is after 5:00pm (addressee's time) it will be treated as having been duly given on the succeeding Business Day at 9:00am.

If transmission of business correspondence and legal notices by facsimile becomes obsolete or falls out of use generally and a party notifies the other party to that effect, the provisions of this clause 25 relating to service of notices by facsimile ceases to apply.

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## 26. General

### 26.1 Right of set off

- (1) The Tenant may set-off against any Rent and other amounts payable by the Tenant under this Lease any amount payable to the Tenant by the Landlord pursuant to any agreement in place between the Landlord and the Tenant or Government Tenant. If the amount payable to the Tenant is unascertained, the Tenant may in good faith estimate that amount and set-off in respect of the estimate, subject to the Tenant accounting to the Landlord when that amount is ascertained.
- (2) Clause 26.1(1) is without prejudice to any other right (other than set-off) to which the Tenant is at any time otherwise entitled (whether by operation of Law, contract or otherwise).

### 26.2 Registration

- (1) If required by the Tenant:
  - (a) this Lease is to be registered on the title to the Land at the Tenant's cost; and
  - (b) the Landlord must do everything required of the Landlord to enable this Lease to be registered as soon as reasonably possible after the Commencement Date.
- (2) The Tenant may lodge a subject to claim caveat in respect of the Premises in relation to the Tenant's interests under this Lease, but must withdraw that caveat after the Tenant has ceased to have any interest in the Premises under this Lease.

### 26.3 Severance

- (1) If any part of this Lease is, or becomes, void or unenforceable, that part is, or will be, severed from this Lease so that all parts that are not, or do not become, void or unenforceable remain in full force and effect and are unaffected by that severance.
- (2) Clause 26.3(1) has no effect if the severance alters the substance of this Lease or is contrary to public policy.

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**26.4 Accrued rights**

The termination of this Lease (including by way of forfeiture) does not affect the rights or remedies of either party against the other party in relation to a breach of this Lease by a party before the termination of this Lease.

**26.5 Cumulative Rights**

The rights, powers, authorities, discretions and remedies arising out of or under this Lease are cumulative and do not exclude any other right, power, authority, discretion or remedy of a party.

**26.6 Proper Law and jurisdiction**

- (1) This Lease is governed by, and to be interpreted in accordance with, the Laws in force in Western Australia.
- (2) Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of Western Australia and courts of appeal from them.
- (3) Without preventing any other mode of service, any document in an action (including any writ of summons or other originating process or any third or other party notice) may be served on any party by being delivered to or left for that party at its address for service of notices under clause 25.

**26.7 Waiver and estoppel**

- (1) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power, or remedy under any Law or under this Lease by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided under any Law or under this Lease.
- (2) A waiver given by a party under this Lease is only effective and binding on that party if it is given or confirmed in writing by that party.
- (3) No course of dealings between the parties removes the requirement under clause 26.7(2) that a waiver must be in writing to be effective and binding upon the parties.
- (4) No waiver of a breach of a term of this Lease operates as a waiver of any other breach of that term or of a breach of any other term of this Lease.

**26.8 Further Assurance**

Each party must do all things and execute all further documents necessary to give full effect to this Lease and the transactions provided for by this Lease.

**26.9 Variation**

This Lease must not be changed or modified in any way subsequent to its execution except in writing by the parties.

**26.10 Entire Agreement**

This Lease supersedes all previous agreements in respect of its subject matter and embodies the entire agreement between the parties with respect to the subject matter of this Lease.

**26.11 Continuing Application of Provisions**

To the extent that the provisions of this Lease confer rights and impose obligations on the parties in respect of matters occurring after termination of this Lease, those provisions will survive and not merge in termination, and will continue to apply and remain in full force and effect for the benefit of the parties according to their terms.

**26.12 Non-merger**

The warranties, undertakings and indemnities in this Lease will continue in full force and effect until the respective rights and obligations of the parties have been fully performed and satisfied.

**26.13 Relationship of the parties**

- (1) Nothing in this Lease gives a party authority to bind the other party in any way.
- (2) Neither this Lease, nor the relationship created by it, is intended to create, and will not be construed as creating any partnership or joint venture or fiduciary relationship, as between the parties.

**26.14 Supervening legislation**

Any present or future legislation which operates to vary the obligations of a party under this Lease with the result that another party's rights, powers or remedies are adversely affected (including, by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by Law.

**26.15 Time of the Essence**

Time is of the essence in relation to the rights and obligations set out in this Agreement.

**27. GST****27.1 Definitions**

In this Lease:

- (1) “**GST**” has the meaning given in section 195-1 of the GST Act;
- (2) “**GST Act**” means A New Tax System (Goods and Services Tax) Act 1999 (Cth);
- (3) “**Input Tax Credit**” has the meaning given in section 195-1 of the GST Act;
- (4) “**Primary Payment**” means any payment (including any reimbursement or payment under an indemnity) by the Tenant to the Landlord under this Lease;
- (5) “**Taxable Supply**” has the meaning given in section 195-1 of the GST Act; and
- (6) “**Tax Invoice**” has the meaning given in section 195-1 of the GST Act and in the *A New Tax System (Goods and Services Tax) Regulations 1999*(Cth).

#### 27.2 **Payments exclusive of GST**

The amount of all Primary Payments specified in this Lease is exclusive of GST.

#### 27.3 **Primary Payment Increased**

If GST is payable by the Landlord in respect of a Primary Payment or any part in connection with a Taxable Supply provided under this Lease:

- (1) the Primary Payment is increased by an amount equal to the applicable GST; and
- (2) subject to the Landlord complying with clause 27.7, the Tenant must pay the amount of the increase in the same manner and on the same date as the Tenant is required to pay the Primary Payment.

#### 27.4 **Adjustment**

If a party is entitled to be reimbursed or indemnified by another party for costs or expenses, the reimbursement or indemnity payment is to be reduced by the amount (or corresponding proportion) of the Input Tax Credits available to the party (or its representative member) in respect of these costs and then increased by any applicable GST payable under clause 27.3.

#### 27.5 **Adjustment Event**

If an adjustment event arises in respect of a taxable supply made by the Landlord under this Lease, the additional amount payable on account of GST under this clause 27 will be recalculated to reflect the adjustment event and a payment will be made by the Tenant to the Landlord or the Landlord to the Tenant as the case requires. The Landlord must provide an adjustment note at the same time the adjustment occurs.



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**27.6 Non Monetary Consideration**

If the consideration (or part of it) for a Taxable Supply provided by the Tenant to the Landlord is not expressed as an amount of money, the Tenant must pay to the Landlord an additional amount equal to the GST exclusive market value of that consideration multiplied by the GST rate at the same time the consideration (or part of it) is provided subject to the receipt of a Tax Invoice.

**27.7 Tax Invoice**

If a Primary Payment is to be increased to account for GST under clause 27.3 the Landlord must, by the date on which the increased Primary Payment is to be paid, issue a Tax Invoice to the Tenant.

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**28. Option to Extend****28.1 First Option Period**

If a period is stated in Item 6(1) of the Information Table ("**First Option Period**") the Tenant has the option to extend this Lease for the First Option Period, if the Tenant is not in default under this Lease (written notice of which default has been given to the Tenant) when the option is exercised. This option may be exercised by the Tenant notifying the Landlord in writing that the Tenant wants to extend this Lease for that period at least 3 months before the Expiry Date.

**28.2 Second Option Period**

If a period is stated in Item 6(2) of the Information Table ("**Second Option Period**") the Tenant has the option to extend this Lease for the Second Option Period, if the Tenant is not in default under this Lease (written notice of which default has been given to the Tenant) as extended when the option is exercised. This option may be exercised by the Tenant notifying the Landlord in writing that the Tenant wants to extend this Lease for that period at least 3 months before the last day of the First Option Period.

**28.3 Third Option Period**

If a period is stated in Item 6(3) of the Information Table ("**Third Option Period**") the Tenant has the option to extend this Lease for the Third Option Period, if the Tenant is not in default under this Lease (written notice of which default has been given to the Tenant) as extended when the option is exercised. This option may be exercised by the Tenant notifying the Landlord in writing that the Tenant wants to extend this Lease for that period at least 3 months before the last day of the Second Option Period.

**28.4 Terms and Conditions**

If this Lease is extended under clause 28.1 all the provisions of this Lease continue to apply, except the option in clause 28.1. If this Lease is further extended under clause 28.2 all the provisions of this Lease continue to apply, except the options in clauses 28.1 and 28.2. If this Lease is further extended under clause 28.3, all the

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provisions of this Lease continue to apply, except the options in clauses 28.1, 28.2 and 28.3.

**28.5 Rent During Option Term**

The rent payable by the Tenant from the beginning of any extended term of this Lease is to be the same rent payable immediately before the date of commencement of the extended term unless that date is a Review Date, in which case the rent is to be reviewed with effect from that date in accordance with this Lease, and the rent is subject to further review during the extended term as provided in this Lease.

**28.6 Tenant's Right to Terminate**

Notwithstanding anything else in this Lease, if:

- (1) the date of commencement of an extended term is a Review Date; and
- (2) the reviewed Rent payable from that date has not been determined before the Tenant gave a notice exercising the option to extend this Lease for the relevant term,

then the Tenant has the right to terminate this Lease as extended by notice to the Landlord given in accordance with clause 28.7.

**28.7 Notice of Termination**

A notice of termination under clause 28.6 must:

- (1) be given no later than 21 days after the reviewed Rent is determined;
- (2) specify the date of termination, which may not be earlier than 3 months from the date of the notice or later than 9 months from the date of the notice.

**29. Additional Provisions**

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The special terms, covenants and conditions (if any) set out in Item 15 of the Information Table ("**Additional Provisions**") are deemed to be incorporated into this Lease as if fully set out in the body of this Lease and, in the event of there being any inconsistency with the terms, covenants and conditions contained in the body of this Lease, then the Additional Provisions prevail.

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**Schedule 1****Definition of "Outgoings"**

**Outgoings** means the total of all amounts properly and reasonably paid or payable by the Landlord in respect of an Accounting Year with respect to the Land in connection with:

- (1) Rates and Taxes;
- (2) premiums and any other costs or expenses relating to any insurance which the Landlord reasonably takes out in connection with the Building excluding loss of rent insurance;
- (3) the appointment of a managing agent for the management of the Building (except to the extent that the amounts payable to the managing agent exceed 3% of the net Rent payable under this Lease during the relevant Accounting Year);
- (4) direct costs associated with the administration and operation of the Building including the auditing of statements relating to the Outgoings;
- (5) gardening, maintenance and reticulation of the landscaping;
- (6) supplying Services to the Building, except Services which are separately metered and charged to the person to whom they are supplied;
- (7) maintaining and repairing the Building and plant and equipment in the Building;
- (8) cleaning exterior windows;
- (9) security and safety for the Building and all persons using the Building including providing fire protection equipment and all types of alarms;
- (10) removing garbage and trade waste;
- (11) sanitation and waste removal;
- (12) engaging professional pest control agents to keep the Premises free of waste and vermin and pests;
- (13) compliance with occupational health and safety standards and regulations (including the cost of audits carried out to determine compliance); and
- (14) audits carried out by the Landlord's auditors to determine the Outgoings payable by the Tenant.

The Outgoings do not include any capital costs (including the replacement of parts, except for minor replacements required in the course of normal maintenance and repair), any expenditure for structural work or any sinking fund.

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**Schedule 2**

**Australian Standards**

NO.	DESCRIPTION
AS 1851 - 2005	Maintenance of Fire Protection Systems and Equipment
AS 1905.1 - 2005	Components for the Protection of Openings in Fire Resistant Walls
AS 1905.2 - 2005	Components for the Protection of Openings in Fire Resistant Walls - Fire Resistant Roller Shutters
AS 2293.2 - 1995	Emergency Evacuation Lighting in Buildings Part 2 – Inspection and Maintenance
AS 2220 - 1978	Evacuation Warning and Intercommunication System in Buildings
AS 2467 - 1981	Maintenance of Electrical Switchgear
AS 2676.1 & 2 - 1992	Guide to the Installation, Maintenance, Testing and Replacement of Secondary Batteries in Buildings
AS 3666.2 - 2002	Air-Handling and Water systems of Buildings – Microbial Control Part 2: Operation and Maintenance
HB 40.1 2001	The Australia Refrigeration and Air Conditioning Code of Good Practice
AS/NZS 3760: 2003 plus Amendment 1 2005	Inservice Safety Inspection and Testing of Electrical Equipment

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**Schedule 3****Modification applying to this Lease  
on assignment to a Non-Government Tenant**

The following additional clauses apply if this Lease is assigned to any person other than a Government Tenant:

**1. Change in Ownership of Shares in Company**

- (1) If the Tenant is a company, any change in the persons who beneficially own or control a majority of the company's voting shares at the date of this Lease constitutes an assignment of this Lease.
- (2) The Tenant is in breach of clause 14.1 unless the Tenant obtains the Landlord's prior consent to the change in shareholding.
- (3) This clause does not apply if the Tenant is a corporation whose voting shares are listed on the Australian Stock Exchange or if at least 80% of its voting shares are owned by another company whose voting shares are so listed.

**2. Public Risk and Plate Glass Insurance**

The Tenant must keep current:

- (1) an adequate public risk insurance policy relating to the Tenant's use of the Premises and the Land for a minimum of \$20,000,000.00 or a greater sum if reasonably nominated by the Landlord by 1 months' notice;
- (2) an adequate policy covering any windows, doors, plate glass and any display showcases forming part of or in the Premises for the full insurable reinstatement cost; and
- (3) insurance for the Tenant's Property (including insurance for burglary) and any insurance required by Law as a result of the Tenant's use of the Premises, including a policy of employer's indemnity in relation to any employees working in the Premises.

**3. Tenant's Insurances**

The Tenant must ensure that all policies of insurance required to be effected by the Tenant under this clause:

- (1) are taken out with an insurer approved by the Landlord;
- (2) are for an amount, cover risks and contain conditions which are acceptable to the Landlord (acting reasonably);
- (3) have no unusual exclusions, endorsements or alterations unless first approved by the Landlord; and

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- (4) (in respect of the insurance referred to in subclauses (1) and (2) of the preceding subclause) are taken out in the name of the Tenant and noting the interest of the Landlord.

**4. Payment and Production of Insurance Policies**

- (1) The Tenant must promptly pay all premiums and other money payable in respect of the Tenant's insurances.
- (2) The Tenant must give the Landlord a copy of the policy and a certificate of currency for the insurance which the Tenant is required to effect under this clause whenever the insurance is taken out and a copy of the receipt for the latest premium payable whenever the Landlord requests.

EXECUTED as a Deed.

The COMMON SEAL of the )  
SHIRE OF BINDOON )  
is hereby affixed by authority of the )  
Council in the presence of )



[Redacted Signature]

President

GORDON HOUSTON

Name (BLOCK LETTERS)

[Redacted Signature]

Chief Executive Officer

ALAN SAERIDAN

Name (BLOCK LETTERS)

SIGNED for and on behalf of the MINISTER )  
FOR WORKS by VLAD MRDAK, Director )  
for the time being of the Department of )  
Finance acting under delegated authority )  
pursuant to Section 5A of the Public Works )  
Act 1902 in the presence of )

[Redacted Signature]

[Redacted Signature]

Signature of Witness

YVONNE RICHARDS

Name of Witness (Block Letters)

[Redacted Address]

Address of Witness (Block Letters)

EXECUTIVE ASSISTANT

Occupation of Witness (Block Letters)