|  |  |
| --- | --- |
|  |  |
|  | Deed of Assignment of Lease  Lease in relation to [insert description of Premises]  ⎯  [Landlord] (**Landlord**)  Commonwealth of Australia (**Tenant**)  [Assignee] (**Assignee**)  ⎯ |

Contents

|  |
| --- |
| ~\*~ |

[BACKGROUND 3](#_Toc12390816)

[Information Table 4](#_Toc12390817)

[1. Interpreting this Deed 5](#_Toc12390818)

[1.1. Definitions 5](#_Toc12390819)

[1.2. Interpretation 6](#_Toc12390820)

[1.3. Agreed Terms 8](#_Toc12390821)

[2. Grant of Assignment of Lease 8](#_Toc12390822)

[2.1. Grant of Assignment 8](#_Toc12390823)

[2.2. Assignee bound by Tenant’s Covenants 8](#_Toc12390824)

[3. Consent of Landlord 8](#_Toc12390825)

[4. No arrears 8](#_Toc12390826)

[4.1. Acknowledgment 8](#_Toc12390827)

[5. Release and Indemnity 8](#_Toc12390828)

[5.1. Release 8](#_Toc12390829)

[6. Registration of assignment of Lease 9](#_Toc12390830)

[6.1. Registration 9](#_Toc12390831)

[6.2. Consents 9](#_Toc12390832)

[7. GST 9](#_Toc12390833)

[8. Costs 10](#_Toc12390834)

[8.1. Legal Costs of Deed 10](#_Toc12390835)

[9. General provisions 10](#_Toc12390836)

[9.1. Notices 10](#_Toc12390837)

[9.2. Performance of Deed 10](#_Toc12390838)

[9.3. Acting co-operatively and reasonably 11](#_Toc12390839)

[9.4. Applicable Law 11](#_Toc12390840)

[9.5. Entire Agreement 11](#_Toc12390841)

[Schedule 1 Variation to Lease 12](#_Toc12390842)

[SIGNING PAGE 13](#_Toc12390843)

|  |
| --- |
|  |

BACKGROUND

1. By the Lease the Landlord granted a lease of the Premises to the Tenant.
2. The Tenant has requested the consent of the Landlord to the assignment of the Lease to the Assignee and the Landlord has consented on the terms and condition of this deed.
3. The Tenant agrees to grant and the Assignee accepts an assignment of the Tenant's Interest in the Lease on and from the Assignment Date
4. The Parties have agreed to vary the Lease as set out in Schedule 1 (if applicable).

INFORMATION TABLE

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Landlord** | **Name and ACN (if applicable):** | [insert full name of Landlord and ACN/ABN if applicable] |
| **Landlord's Representative:** | [insert name and contact details for Landlord's Representative]  ^User Note - It is important that the details of the Landlord's Representative are recorded accurately because these details will affect how the Parties will communicate (including by service of notices) under this Lease.^ |
| **Address for service:** | [insert address for service for Landlord's Representative] |
| **Email:** | [insert email address of Landlord's Representative] |
| **Telephone:** | [insert telephone number of Landlord's Representative] |
|  | **Tenant** | **Name and ACN (if applicable):** | [Commonwealth of Australia]  ^User Note - Insert full name (including the agency representing the Commonwealth) and ACN/ABN if applicable.^ |
| **Tenant's Representative:** | [insert name and contact details for Tenant's Representative]  ^User Note - It is important that the details of the Tenant's Representative are recorded accurately because these details will affect how the Parties will communicate (including by service of notices) under this Lease.^ |
| **Address for service:** | [insert address for service for Tenant's Representative] |
| **Email:** | [insert email address of Tenant's Representative] |
| **Telephone:** | [insert telephone number of Tenant's Representative] |
|  | **Assignee** | **Name and ACN (if applicable):** | [insert full name of Landlord and ACN/ABN if applicable] |
| **Assignee's Representative:** | [insert name and contact details for Assignee's Representative]  ^User Note - It is important that the details of the Assignee's Representative are recorded accurately because these details will affect how the Parties will communicate (including by service of notices) under this Lease.^ |
| **Address for service:** | [insert address for service for Assignee's Representative] |
| **Email:** | [insert email address of Assignee's Representative] |
| **Telephone:** | [insert telephone number of Assignee's Representative] |
|  | **Assignment Date** (Clause 1.1.1) | [Insert Assignment Date] | |
|  | **Premises** (Clause 1.1.1) | [Insert details of Premises] | |
|  | **Land** (Clause 1.1.1) | [Insert details of Land] | |
|  | **Lease** (Clause 1.1.1) | The lease dated [date] registered as no. [insert] between the Landlord as [lessor/landlord] and the Tenant as [lessee/tenant]. | |

1. Interpreting this Deed
   1. Definitions
      1. Unless the contrary intention appears a term in bold type has the meaning shown opposite it:

|  |  |
| --- | --- |
| **Assignee** | means the Party named in Item 3. |
| **Assignment Date** | means the date specified in Item 4. |
| **Assignment Form** | means the document in registrable form approved by the Landlord, by which the transfer of the Lease is registered (if applicable). |
| **GST** | means the same as in the GST Law. |
| **GST Law** | means the same as GST law means in *A New Tax System (Goods and Services Tax) Act 1999* (Cth). |
| **Jurisdiction** | means the State or Territory in which the Premises are situated. |
| **Landlord** | means the Party named in Item 1. |
| **Landlord’s Covenants and Liabilities** | means the Landlord’s covenants and obligations under the Lease and all actions, suits, proceedings, causes of action, costs, claims and demands whatsoever (including any costs or expenses of defending or denying them) which the Tenant now has or at any time hereafter may have or but for the execution of this Deed could or might have had against the Landlord, its officers, employees, contractors, agents and invitees in any way arising from, relating to or connected with the Landlord’s obligations under the Lease. |
| **Lease** | means the lease identified in Item 7 and includes any variations to the Lease before the Assignment Date. |
| **Notice** | includes a notice, consent, request or demand. |
| **Party** | means a party to this Deed and, where the context permits includes a party’s officers, employees, agents and contractors. |
| **Premises** | means the premises leased to the Tenant under the Lease. |
| **Tenant** | means the Party named in Item 2. |
| **Tenant’s Covenants** | means all the obligations of the Tenant under the Lease whether or not they touch and concern the Land. |
| **Tenant’s Covenants and Liabilities** | means the Tenant’s covenants and obligations under the Lease and all actions, suits, proceedings, causes of action, costs, claims and demands whatsoever (including any costs or expenses of defending or denying them) which the Landlord now has or at any time hereafter may have or but for the execution of this Deed could or might have had against the Tenant, its officers, employees, contractors, agents and invitees in any way arising from, relating to or connected with the Tenant's obligations under the Lease. |
| **Tenant's Interest in the Lease** | means all the Tenant's estate and interest in the Lease and the Premises together with any and all the rights and privileges to which it is entitled and subject to all obligations to which it is bound by the provisions of the Lease. |
| **Variations** | means the variations (if any) set out in Schedule 1 to this Deed. |
| **Variation Form** | means the document in registrable form by which the Variations are registered (if applicable). |
| **Working Day** | means each day except Saturdays, Sundays and public holidays in the Jurisdiction. |

* 1. Interpretation
     1. The singular includes the plural and vice versa.
     2. Reference to a person includes:
        1. a corporation, partnership or government body; and
        2. the legal representatives, successors and assigns of that person.
     3. Reference to a right includes a remedy, authority or power.
     4. Wherever the context permits ‘Landlord’, ‘Tenant' and/or ‘Assignee’ includes their respective successors in title or assignees.
     5. If two or more persons are named as Landlord, Tenant or Assignee this Deed binds them jointly and severally and a covenant for the benefit of two or more persons is for the benefit of them jointly and severally.
     6. Where this Deed refers to:
        1. a government department, agency, body or Authority; or
        2. to any person holding a specified position in a government department, agency, body or Authority,

and that department, agency, body, Authority or position is changed or abolished, then that reference will be deemed to be a reference to the department, agency, body, Authority or position performing the equivalent function from time to time.

* + 1. The Schedules are incorporated into and form part of this Deed.
    2. Words of inclusion are not to be interpreted as words of limitation.
    3. If any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning.
    4. Headings are for convenience only and do not form part of this Deed or affect its interpretation.
    5. Reference to a thing is a reference to all or part of that thing.
    6. As far as possible all provisions are to be construed so as not to be invalid, illegal or unenforceable.
    7. If anything in this Deed is unenforceable, illegal or void then it is severed and the rest of this Deed remains in force.
    8. Reference to a Law or Requirement includes amendments to or a replacement of that Law or Requirement from time to time.
    9. If a provision cannot be read down, that provision is void and severable and the remaining provisions are not affected.
    10. No rule of construction will apply to disadvantage a Party on the basis that it put forward this Deed.
    11. Unless the context or circumstances otherwise require all words and phrases used in this Deed are to be read and construed as having the meaning given to them in the Lease.
    12. Wherever the context requires reference to an assignment of lease includes a reference to a transfer of lease.
  1. Agreed Terms
     1. The Parties agree to the terms contained in this Deed, which is made up of the clauses, the Schedule and any applicable registration forms.

1. Grant of Assignment of Lease
   1. Grant of Assignment
      1. On and from the Assignment Date:
         1. the Tenant assigns the Tenant's Interest in the Lease to the Assignee; and
         2. the Assignee accepts the Tenant's Interest in the Lease.
   2. Assignee bound by Tenant’s Covenants
      1. Subject to the Variations, on and from the Assignment Date the Assignee agrees to perform the Tenant’s Covenants as if it is a party to the Lease and named in the Lease as Tenant.
      2. The Assignee agrees to pay to the Landlord all rent and other monies payable by the Tenant under the Lease even if the payment is calculated with reference to a period of time beginning before the Assignment Date.
2. Consent of Landlord
   * 1. Subject to this Deed, the Landlord consents to the assignment of the Tenant's Interest in the Lease to the Assignee.
3. No arrears
   1. Acknowledgment
      1. The Landlord acknowledges that the Tenant is not in arrears in relation to any payments it is required to make under the Lease.
4. Release and Indemnity
   1. Release
      1. On and from the Assignment Date the Landlord releases and forever discharges to the fullest extent permitted by law the Tenant, its officers, employees, contractors, agents and invitees, from the Tenant's Covenants and Liabilities.
      2. On and from the Assignment Date the Tenant hereby releases and forever discharges to the fullest extent permitted by law the Landlord, its officers, employees, contractors, agents and invitees, from the Landlord's Covenants and Liabilities.
      3. The Assignee agrees that:
         1. it leases and uses the Premises at its own risk;
         2. it releases the Tenant to the fullest extent permitted by law from and against all claims which the Assignee has or may have against the Tenant in respect of any damage to or loss of property, personal injury to or death of any person or any other loss sustained in or in connection with the use of the Premises or otherwise in connection with this Deed; and
         3. it indemnifies the Tenant, its officers, employees, agents, contractors and invitees from and against any demand, claim, action, damage, loss, liability, cost or expense which the Assignee, its officers, employees, agents, contractors and invitees incur or sustain as a result of or in connection with:
            1. any damage to or loss of property;
            2. personal injury or death;
            3. any other loss,

sustained by any person in or in connection with the use of the Premises,

* + - * 1. any act or omission, negligence or breach of the Lease by the Assignee, its officers, employees, agents, contractors or invitees; or
        2. this Deed.

1. Registration of assignment of Lease
   1. Registration
      1. If the Lease is registered over the title of the Land, the Parties agree to do all things necessary to enable registration of the assignment of the Lease effected by this Deed including promptly executing the Assignment Form and the Variation Form (if applicable).
   2. Consents
      1. The Landlord agrees to use its best endeavours to procure all required consents to enable registration of the assignment of the Lease, including without limitation the consent of any mortgagee or caveator with an interest in the Premises.
2. GST
   * 1. Unless otherwise indicated, all consideration for any supply made under this Deed is exclusive of any GST imposed on the supply.
     2. Subject to this clause 7, if one Party (**Supplier**) makes a taxable supply under this Deed to the other Party (**Recipient**), the Recipient on receipt of a tax invoice from the Supplier must pay without setoff an additional amount to the Supplier equal to the GST imposed on the supply in question.
     3. Unless the context otherwise requires, terms used in this clause 7 which are defined in the GST law have the meaning attributed to them in the GST law.
     4. No Party may claim or retain from the other Party any amount in relation to a supply made under this Deed for which the first Party can obtain an input tax credit or decreasing adjustment.
     5. If any payment under this Deed is calculated as a percentage of or by reference to another amount or revenue, that payment will be calculated by reference to or as a percentage of that other amount or revenue, net of any GST component.
3. Costs
   1. Legal Costs of Deed
      1. Each Party agrees to bear its own legal costs of and incidental to the preparation, negotiation and execution of this Deed.
      2. The Assignee will pay for the registration fee for the Assignment Form and the Variation Form and stamp duty (if any) on this Deed and any other document arising out of this Deed.
4. General provisions
   1. Notices
      1. A Notice under this Deed is only effective if it is in writing, and dealt with as follows:
         1. *if given by the Tenant or Assignee to the Landlord* – given by the Tenant or the Assignee (as the case may be) and addressed to the Landlord's Representative at the address or email address specified in Item 1 or as otherwise notified by the Landlord; or
         2. *if given by the Landlord or Assignee to the Tenant* – given by the Landlord or the Assignee (as the case may be) and addressed to the Tenant's Representative at the address or email address specified in Item 2 or as otherwise notified by the Tenant; or
         3. *if given by the Landlord or Tenant to the Assignee* – given by the Landlord or Tenant (as the case may be) and addressed to the Assignee's Representative at the address or email address specified in Item 3 or as otherwise notified by the Assignee.
      2. A Notice is to be:
         1. signed by the person giving the Notice and delivered by hand;
         2. signed by the person giving the Notice and sent by prepaid post; or
         3. sent by email.
      3. A Notice is deemed to be effected:
         1. *if delivered by hand* – upon delivery to the relevant address;
         2. *if sent by prepaid post* – on the day which is 3 Working Days after posting; and
         3. *if transmitted by email* – on the day of sending.
      4. A Notice received after 5pm or on a day that is not a Working Day in the place of receipt is deemed to be effected on the next Working Day in that place.
   2. Performance of Deed
      1. To the extent appropriate in the circumstances, where this Deed requires a Party to do or refrain from doing something the Party will arrange for its officers, employees, agents and contractors to do or refrain from doing the relevant thing.
      2. Unless the context requires or it is otherwise stated in this Deed, a Party's obligations will be performed at its cost.
   3. Acting co-operatively and reasonably
      1. The Parties agree that they will act co-operatively and reasonably in relation to this Deed.
   4. Applicable Law
      1. This Deed is to be construed in accordance with, and any matter related to it is to be governed by, the law applying in the Jurisdiction.
   5. Entire Agreement
      1. This Deed contains the entire agreement and understanding between the Parties on everything connected with this Deed, and supersedes any prior agreement or understanding on anything connected with this Deed.
5. Variation to Lease

[Insert any variations to the Lease in this schedule. If none insert 'Not used'. These variations will need to be inserted into the Variation Form and registered on title.]

SIGNING PAGE

DATE

This Deed is dated [insert date the Deed is signed]

SIGNING

Executed as a deed.

Execution by Landlord

^Guidance Note - choose from following. Note that for corporate landlords there is optional wording to state whether the landlord is entering into the Deed as trustee. This extra wording should be included where it applies and deleted where it does not.^

**[Execution by natural person]**

|  |  |  |
| --- | --- | --- |
| **Signed sealed and delivered** by **[Party 1 Name]**: |  |  |
|  |  |  |
|  |  |  |
| Name of signatory (print) |  | Signature |
| in the presence of |  |  |
|  |  |  |
| Name of witness (print) |  | Signature of witness |

**[Execution in accordance with section 127 of the Corporations Act]**

|  |  |  |
| --- | --- | --- |
| **Executed** by [**Party 1 Name] [Party 1 ACN] [as trustee for TRUST NAME]** in accordance with Section 127 of the *Corporations Act 2001* (Cth): |  |  |
|  |  |  |
|  |  |  |
| Signature of director |  | Signature of director/company secretary  (Please delete as applicable) |
|  |  |  |
| Name of director (print) |  | Name of director/company secretary (print) |

**[Execution by affixing the company seal]**

|  |  |  |
| --- | --- | --- |
| **The common seal** of [**Party 1 Name] [Party 1 ACN] [as trustee for TRUST NAME]** the affixing of which was witnessed by: |  |  |
|  |  |  |
|  |  |  |
| Signature of director |  | Signature of director/company secretary  (Please delete as applicable) |
|  |  |  |
| Full name (print) |  | Full name (print) |

**[Execution by a Power of Attorney]**

|  |  |  |
| --- | --- | --- |
| **Signed sealed and delivered** for and on behalf of [**Party 1 Name] [Party 1 ACN] [as trustee for TRUST NAME]** by: |  |  |
|  |  |  |
|  |  |  |
| Name of signatory (print) |  | Signature |
| In the presence of:  who is authorised by Power of Attorney [Number or Date] [insert details of registration (if any), for example 'and registered with the office of the NSW Registrar-General]' and who declares that [he/she] has at the time of execution of this document no notice of its revocation  in the presence of: |  |  |
|  |  |  |
| Name of witness (print) |  | Signature of witness |

Execution by Tenant

|  |  |  |
| --- | --- | --- |
| **Signed sealed and delivered** for and on behalf ofthe **Commonwealth of Australia** by: |  |  |
|  |  |  |
|  |  |  |
|  |  | Signature |
|  |  |  |
| Name of witness (print) |  | Signature of witness |

Execution by Assignee

^[Guidance Note - choose from following. Note that for corporate assignees there is optional wording to state whether the Assignee is entering into the Deed as trustee. This extra wording should be included where it applies and deleted where it does not.^

**[Execution by natural person]**

|  |  |  |
| --- | --- | --- |
| **Signed sealed and delivered** by **[Party 1 Name]**: |  |  |
|  |  |  |
|  |  |  |
| Name of signatory (print) |  | Signature |
| in the presence of |  |  |
|  |  |  |
| Name of witness (print) |  | Signature of witness |

**[Execution in accordance with section 127 of the Corporations Act]**

|  |  |  |
| --- | --- | --- |
| **Executed** by [**Party 1 Name] [Party 1 ACN] [as trustee for TRUST NAME]** in accordance with Section 127 of the *Corporations Act 2001* (Cth): |  |  |
|  |  |  |
|  |  |  |
| Signature of director |  | Signature of director/company secretary  (Please delete as applicable) |
|  |  |  |
| Name of director (print) |  | Name of director/company secretary (print) |

**[Execution by affixing the company seal]**

|  |  |  |
| --- | --- | --- |
| **The common seal** of [**Party 1 Name] [Party 1 ACN] [as trustee for TRUST NAME]** the affixing of which was witnessed by: |  |  |
|  |  |  |
|  |  |  |
| Signature of director |  | Signature of director/company secretary  (Please delete as applicable) |
|  |  |  |
| Full name (print) |  | Full name (print) |

**[Execution by a Power of Attorney]**

|  |  |  |
| --- | --- | --- |
| **Signed sealed and delivered** for and on behalf of [**Party 1 Name] [Party 1 ACN] [as trustee for TRUST NAME]** by: |  |  |
|  |  |  |
|  |  |  |
| Name of signatory (print) |  | Signature |
| In the presence of:  who is authorised by Power of Attorney [Number or Date] [insert details of registration (if any), for example 'and registered with the office of the NSW Registrar-General]' and who declares that [he/she] has at the time of execution of this document no notice of its revocation  in the presence of: |  |  |
|  |  |  |
| Name of witness (print) |  | Signature of witness |