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

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BACKGROUND

1. By the Lease the Landlord granted a lease of the Premises to the Tenant.
2. The Tenant wishes to surrender its interest in the Premises and the Landlord has agreed to accept the surrender of that interest.
3. [*Option if Partial Surrender*: The Landlord has agreed to grant a lease of the Retained Premises to the Tenant on terms which are generally consistent with the Lease.]

INFORMATION TABLE

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Landlord** (Clause 1.1.1) | **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** (Clause 1.1.1) | **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] |
|  | **Premises** (Clauses 1.1.1 and 2.1) | [Insert description of Premises using the description in the Lease] | |
|  | **Lease** (Clause 1.1.1) | The lease dated [date] between [insert Landlord details] as [lessor/landlord] and the Tenant as [lessee/tenant] registered number [insert registered number (if applicable)]. | |
|  | **Retained Premises** (Clauses 1.1.1, 2.1 and 4) | [*Optional Partial Surrender*: Insert description of Retained Premises. Clearly detailed plans should be attached at Schedule 2.] | |
|  | **Surrender Date** (Clauses 1.1.1, 2.1 and 3) | [Insert agreed surrender date] | |

DEED OF SURRENDER OF LEASE

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

|  |  |
| --- | --- |
| **Deed** | means this deed of surrender of lease. |
| **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 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 actions, 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 4 and includes any written variations made to the Lease before the Surrender Date. |
| **Notice** | includes a notice, consent, request or demand. |
| **Party** | means a party to this Deed. |
| **Premises** | means the premises in Item 3. |
| **[Retained Premises]** | means the premises in Item 5. |
| **Surrender Date** | means the date in Item 6. |
| **Tenant** | means the Party in Item 2. |
| **Tenant’s Covenants and Liabilities** | means the Tenant’s covenants and obligations under the Lease and all actions, suits, proceedings, causes of actions, 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. |
| **[Varied Lease]** | [means the lease granted by the Landlord to the Tenant pursuant to this Deed and which is on the same terms and conditions as the Lease, as varied pursuant to clause 4.2.] |
| **Working Day** | means a day that is not a Saturday, Sunday or public holiday in the Jurisdiction where the Premises are located. |

* 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. If two or more people are named as Tenant or Landlord, this Deed binds them jointly and individually.
     5. 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 will 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 will be void and severable and the remaining provisions will not be 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 will be read and construed as having the meaning given to them in the Lease.
  1. Agreed terms
     1. The Parties agree to the terms contained in this Lease which is made up of the Parts, the Schedules and any applicable registration forms.

1. Surrender
   1. Surrender of Premises
      1. In consideration of the mutual promises contained in this Deed and with effect on and from the Surrender Date:
         1. the Tenant surrenders and conveys to the Landlord; and
         2. the Landlord accepts the surrender of,

the Tenant's interest in the Premises with the intent that the unexpired term of the Lease together with any options for further terms under the Lease are to merge in the freehold reversion of the Premises.

1. Mutual Releases
   1. Landlord’s Release
      1. On and from the Surrender 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 [to that portion of the Premises that is not the Retained Premises].
   2. Tenant’s Release
      1. On and from the Surrender 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 [to that portion of the Premises that is not the Retained Premises].

^User Note - If this is a PARTIAL surrender, include the additional wording in set out above at clauses 3.1.1 and 3.2.1.^

1. [Grant of Varied Lease of Retained Premises

^User Note - If this is a PARTIAL surrender, retain clause 4. If this is a surrender of the WHOLE of the Premises delete clause 4.^

* 1. Grant of Varied Lease
     1. The Landlord hereby leases by way of the Varied Lease the Retained Premises to the Tenant for the unexpired balance of the term of the Lease commencing on the Surrender Date subject to and with the benefit of the terms and conditions of the Varied Lease.
  2. Variations
     1. With effect from the Surrender Date the Lease is varied in the following manner:
        1. [insert details of the variations to the Lease].
  3. Terms and Conditions of Varied Lease
     1. The Landlord and the Tenant both agree that except for the modifications made by this Deed the terms and conditions of the Lease apply to and are incorporated into the Varied Lease.
     2. The Landlord and the Tenant agree to perform and observe the terms of the Varied Lease.]

1. Further documents
   1. Execution of documents
      1. The Landlord and the Tenant agree to promptly execute any further documents and provide any consents required to give effect to the terms of this Deed, including, where relevant, to satisfy requirements for registration.
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 6, 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 6 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 of Deed
   1. Legal Costs
      1. Each Party will bear its own legal costs of and incidental to the preparation, negotiation and execution of this Deed.
   2. Tenant pays registration fees
      1. The Tenant agrees to pay all registration fees imposed by an Authority in relation to the registration of any forms on the land titles register in the Jurisdiction required to give effect to the surrender set out in this Deed in accordance with clause 7.2.2.
      2. The Parties acknowledge that if a Law:
         1. imposes duty on this Deed; and
         2. imposes that duty on the Tenant,

then the Tenant is only liable to pay that duty if that Law is binding on the Tenant.

1. [Additional provisions

^User Note - If this is a PARTIAL surrender, retain clause 8. If this is a surrender of the WHOLE of the Premises delete clause 8.^

* 1. Commonwealth Supplier Code of Conduct
     1. For the purposes of this clause 8.1, ‘**Commonwealth Supplier Code of Conduct**’ or ‘**Code’** means the Commonwealth Supplier Code of Conduct, as published on 1 July 2024, as updated from time to time.
     2. The Landlord must comply with, and ensure that it’s officers, employees, agents and contractors comply with the Code in connection with the performance of this Deed.
     3. The Landlord must:
        1. periodically monitor and assess its, and its officers’, employees’, agents’ and contractors’ compliance with the Code; and
        2. on request from the Tenant, promptly provide information regarding:
           1. the policies, frameworks, or systems it has established to monitor and assess compliance with the Code, and
           2. the Landlord’s compliance with clause 8.1.2.
     4. The Landlord must immediately issue the Tenant a Notice on becoming aware of any breach of clause 8.1.2. The Notice must include a summary of the breach, the date that the breach occurred, and details of the personnel involved.
     5. Where the Tenant identifies a possible breach of clause 8.1.2, it may issue the Landlord a Notice, and the Landlord must, within 3 Working Days of receiving the Notice, either:
        1. where the Landlord considers a breach has not occurred; advise the Tenant that there has not been a breach and provide information supporting that determination; or
        2. where the Landlord considers that a breach has occurred; issue a Notice under clause 8.1.4 and otherwise comply with its obligations under this clause 8.1.
     6. Notwithstanding clause 8.1.5, the Tenant may Notify the Landlord in writing that it considers that the Landlord has breached clause 8.1.2, in which case the Landlord must issue a Notice under clause 8.1.4 and otherwise comply with its obligations under this clause 8.1.
     7. A failure by the Landlord to comply with its obligations under any part of this clause will be a material breach of this Deed.
     8. Nothing in this clause or the Code limits, reduces, or derogates from the Landlord’s other obligations under the Deed. The Tenant’s rights under this clause are in addition to and do not otherwise limit any other rights the Tenant may have under the Deed. The performance by the Landlord of its obligations under this clause will be at no additional cost to the Tenant.
     9. The Landlord agrees that the Tenant or any other Commonwealth agency may take into account the Landlord’s compliance with the Code in any future approach to market or procurement process.
  2. Notification of Significant Events
     1. In this clause 8.2, a ‘**Significant Event**’ means:
        1. any adverse comments or findings made by a court, commission, tribunal or other statutory or professional body regarding the conduct or performance of the Landlord or its officers, employees, agents or contractors that impacts or could be reasonably perceived to impact on their professional capacity, capability, fitness or reputation including without limitation unethical, anti-competitive or collusive conduct; or
        2. any other significant matters, including the commencement of legal, regulatory or disciplinary action involving the Landlord or its officers, employees, agents or contractors (including without limitation relating to unethical, anti-competitive or collusive conduct), that may adversely impact compliance with Commonwealth policy, Requirements, or the Commonwealth’s reputation.
     2. The Landlord must immediately issue the Tenant a Notice on becoming aware of a Significant Event.
     3. The Notice issued under clause 8.2.2 must provide a summary of the Significant Event, including the date that it occurred and whether any of the Landlord’s officers, employees, agents or contractors or personnel engaged in connection with this Lease were involved.
     4. The Tenant may Notify the Landlord in writing that an event is to be considered a Significant Event for the purposes of this clause, and where this occurs the Landlord must issue a Notice under clause 8.2.2 in relation to the event within 3 Working Days of being Notified by the Tenant.
     5. Where reasonably requested by the Tenant, the Landlord must provide the Tenant with any additional information regarding the Significant Event within 3 Working Days of the request.
     6. If requested by the Tenant, the Landlord must prepare a draft remediation plan and submit that draft plan to the Tenant for approval within 10 Working Days of the request.
     7. A draft remediation plan prepared by the Landlord under clause 8.2.6 must include the following information:
        1. how the Landlord will address the Significant Event in the context of the Lease, including confirmation that the implementation of the remediation plan will not in any way impact on the compliance by the Landlord with its obligations under this Deed;
        2. how the Landlord will ensure events similar to the Significant Event do not occur again; and
        3. any other matter reasonably requested by the Tenant.
     8. The Tenant will review the draft remediation plan and either approve the draft remediation plan or provide the Landlord with the details of any changes that are required. The Landlord must make any changes to the draft remediation plan reasonably requested by the Tenant and resubmit the draft remediation plan to the Tenant for approval within 3 Working Days of the request unless a different timeframe is agreed in writing by the Tenant. This clause 8.2.8 will apply to any resubmitted draft remediation plan.
     9. Without limiting its other obligations under this Deed, the Landlord must comply with the remediation plan as approved by the Tenant. The Landlord agrees to provide reports and other information about the Landlord’s progress in implementing the remediation plan as reasonably requested by the Tenant.
     10. A failure by the Landlord to comply with its obligations under this clause will be a material breach of this Deed. The Tenant’s rights under this clause are in addition to and do not otherwise limit any other rights the Tenant may have under the Deed or Lease. The performance by the Landlord of its obligations under this clause will be at no additional cost to the Tenant.
  3. *National Anti-Corruption Commission Act 2022* (Cth)
     1. The Landlord acknowledges that it is a contracted service provider for the purposes of the *National Anti-Corruption Commission Act 2022* (Cth) (**NACC Act**).
     2. The Landlord must comply with any reasonable request, policy or direction issued by the Tenant and otherwise cooperate with the Tenant in relation to any action taken by the Tenant required or authorised by the NACC Act.]

1. General provisions
   1. Notices
      1. A Notice under this Lease is only effective if it is in writing, and dealt with as follows:
         1. *if given by the Tenant to the Landlord* - given by the Tenant or the Tenant's Representative 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 to the Tenant* - given by the Landlord or the Landlord's Representative and addressed to the Tenant’s Representative at the address or email address specified in Item 2 or as otherwise notified by the Tenant.
      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, unless the person giving Notice receives notification that the email was undeliverable.
      4. A Notice received after 5 pm, 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. [Confidentiality

^User Note - If this is a PARTIAL surrender, retain clause 9.2. If this is a surrender of the WHOLE of the Premises delete clause 9.2.^

* + 1. The Landlord acknowledges that the activities of the Tenant in the Premises are confidential and agrees that it will not disclose to a third party information which comes into its possession pursuant to or as a result of or in the performance of any obligation or right under this Deed, whether that information relates to the business, activities or technical operation of the Tenant or any person dealing with the Tenant or otherwise.
    2. This clause does not apply to disclosure:
       1. to a Commonwealth Minister or Parliamentary Secretary;
       2. required by a Law or Requirement which is applicable to the Commonwealth of Australia; or
       3. to professional advisers for the purposes of administering this Deed provided that before it makes the disclosure the Landlord ensures that those professional advisers are bound by the same duty of confidentiality which applies to the Landlord.
    3. The operation of this clause survives the termination or expiry of this Deed.]
  1. 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.
  2. Acting co-operatively and reasonably
     1. The Parties agree that they will act co-operatively and reasonably in relation to this Deed.
  3. Counterparts
     1. This Deed may be executed in any number of counterparts by or on behalf of a Party and by the Parties in separate counterparts. Each counterpart constitutes the deed of each Party who has executed and delivered that counterpart.
  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 but nothing in this Deed is to be construed as binding the Tenant to comply with laws which do not apply to it of their own force.
     2. The Parties submit to the jurisdiction of the courts of 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.

1. Lease
2. Retained Premises

SIGNING PAGE

DATE

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

SIGNING

Executed as a deed.

Execution by Landlord

^User 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 of authorised signatory |  | Signature of witness |
|  |  |  |
| Name of authorised signatory (print) |  | Name of witness (print) |

|  |  |  |
| --- | --- | --- |
|  |  |  |
|  |  |  |
| Position and position number of authorised signatory |  | Position of witness |
|  |  |  |
| Adress of authorised signatory |  | Address of witness |

^User Note – authorised signatory should include their position number under Schedule 2 of the *Lands Acquisition Delegation 2024 (No. 2)* (as updated from time to time)^