

Annexure K - Standard Form Common Property Strata Lease



Central Barangaroo Common Property Lease Stage [■]

Barangaroo Delivery Authority

Landlord

The Owners – Strata Plan no. _____

Tenant

Clayton Utz
Lawyers
Level 15 1 Bligh Street
Sydney NSW 2000
GPO Box 9806
Sydney NSW 2001
Tel +61 2 9353 4000
Fax +61 2 8220 6700
www.claytonutz.com

Our reference 18637/16133/80128948

**Annexure "A" to the lease between
Barangaroo Delivery Authority ABN 94 567 807 277 (as Landlord) and
the Owners – Strata Plan no. [insert] (as Tenant) of premises known as [insert]
dated [date]**

Contents

1.	Definitions and interpretation	1
1.1	Definitions	1
1.2	References to certain general terms	5
1.3	Headings.....	6
2.	Term	6
2.1	Term of lease.....	6
2.2	Nature of tenancy	7
3.	Rent and Outgoings.....	7
3.1	Rent	7
3.2	Estate Levy	7
3.3	7
3.4	Outgoings	8
3.5	Payment despite expiry or termination	8
4.	Payments	8
4.1	Method of payment.....	8
4.2	No demand necessary.....	8
4.3	Adjustment of payments	8
4.4	Obligations not affected.....	8
4.5	Interest on overdue money.....	8
4.6	Compounding	9
5.	Use and occupation of Premises	9
5.1	Permitted Use	9
5.2	Defective facilities.....	9
5.3	No warranty as to use.....	9
5.4	Improvements.....	9
5.5	Tenant may remove some property.....	9
5.6	Surrounding activities	9
5.7	Further development	10
5.8	No objection by the Tenant.....	10
5.9	Title	11
5.10	Landlord not liable for fire control.....	11
5.11	Naming rights.....	11
5.12	Signage.....	12
5.13	Tenant to comply with laws.....	12
6.	Tenant's additional rights and obligations	12
6.1	General obligations.....	12
6.2	Prohibited acts.....	12
6.3	Securing of the Premises	13
6.4	Supply failure.....	13
6.5	Indirect acts	13
6.6	Tenant's Employees and Agents to comply	13
6.7	Use of external parts of Premises for aerals	13
6.8	Tenant's risk	13

7.	Maintenance, repair and alteration of Premises	13
7.1	Obligation to repair	13
7.2	Obligations during redevelopment.....	14
7.3	Maintenance	14
7.4	Special Resolutions	14
7.5	Insects	14
7.6	Sufficient contributions	15
8.	Insurances	15
8.1	Building and other insurance	15
8.2	The policy	15
8.3	Landlord may insure	15
8.4	Insurance not to be avoided	15
8.5	Deductibles	16
8.6	Notices of cancellation.....	16
8.7	Tenant to give information	16
8.8	Insurer requirements	16
8.9	Continuation of liability.....	16
9.	Total destruction	16
10.	Indemnities and releases	16
10.1	Indemnity.....	16
10.2	Tenant's indemnity not affected.....	17
10.3	Continuing indemnity	17
10.4	Tenant as owner.....	17
11.	Landlord's obligations	17
12.	Landlord's additional rights, representations and warranties	17
12.1	Right to deal with the Land	17
12.2	Representations and warranties.....	18
12.3	Compliance with laws and requirements.....	18
12.4	Right to enter Premises	18
12.5	Change of landlord	19
12.6	Agents.....	19
12.7	Landlord may rectify	20
12.8	Landlord not liable	20
12.9	Landlord's position as an Authority.....	20
13.	Tenant's obligations on expiry or termination.....	20
13.1	Tenant to yield up	20
13.2	Removal of Tenant's Property	20
13.3	Tenant to make good.....	20
13.4	Tenant may not remove certain property	21
13.5	Tenant's failure	21
14.	Costs, charges and expenses	21
14.1	What the Tenant must pay	21
14.2	Independent consultants	21
14.3	Obligations at Tenant's cost.....	22
14.4	Consents obtained by Landlord.....	22
14.5	Limitations.....	22
15.	Dispute resolution.....	22
15.1	Notice of dispute.....	22
15.2	Management Act.....	22
16.	Termination.....	22

16.1	No essential terms or right to terminate	22
16.2	Landlord to give notice of breach	22
16.3	Landlord may rectify	23
16.4	Damages for breach	23
16.5	No Effect on indemnity	23
16.6	Waiver.....	23
16.7	Acceptance of money	24
16.8	Compulsory Acquisition	24
17.	Sustainability	24
17.1	Defined terms and interpretation	24
17.2	Carbon Neutrality.....	26
17.3	Environmental Best Practice	26
17.4	Metering	27
17.5	Reporting	27
17.6	Carbon Offset	27
17.7	Waste.....	28
17.8	Water Balancing Report	28
17.9	Water Initiatives	28
17.10	Overriding clause.....	29
18.	Notices	29
18.1	Form	29
18.2	Delivery	29
18.3	When effective	30
18.4	Receipt - post.....	30
18.5	Communications by email	30
18.6	Receipt - fax.....	30
18.7	Receipt - general	30
19.	GST.....	30
19.1	Interpretation.....	30
19.2	Reimbursements.....	30
19.3	Additional amount of GST payable.....	31
19.4	Variation.....	31
19.5	Exchange of non-monetary consideration.....	31
19.6	Indemnities	31
19.7	No merger.....	32
20.	By-Laws and Building Management Statement.....	32
20.1	Complying with By-Laws and Building Management Statement.....	32
20.2	Tenant responsibility in relation to Owners	32
20.3	Changing By-Laws	32
21.	General.....	33
21.1	Discretion in exercising rights.....	33
21.2	Partial exercising of rights	33
21.3	Prompt performance.....	33
21.4	Remedies cumulative	33
21.5	Rights and obligations are unaffected	33
21.6	Variation and waiver	33
21.7	Indemnities	33
21.8	Construction.....	33
21.9	Acceptance of money or other acts not a waiver	33
21.10	Exclusion of statutory provisions	34
21.11	Prior breaches	34
21.12	Warranties and undertakings.....	34
21.13	Inconsistent law	34
21.14	Supervening legislation	34

21.15	Counterparts	34
21.16	Serving documents	34
21.17	Parties bound	34
21.18	Entire agreement	34
21.19	Compensation under the Development Act	35
21.20	Development Act and Management Act	35
22.	Governing law, jurisdiction and service of process	35
22.1	Governing law	35
22.2	Submission to jurisdiction	35

The Landlord and the Tenant agree as follows.

1. Definitions and interpretation

1.1 Definitions

The following words have these meanings in this lease unless the contrary intention appears.

Authority means a government, semi government, local government, statutory, public, ministerial, civil, administrative, fiscal or judicial body or other authority or body.

Barangaroo has the meaning given to it under the *Barangaroo Delivery Authority Act 2009* (NSW).

Building means the structures, improvements and all plant and equipment from time to time erected or placed on the Land, and includes all of the Lots in the Building that are subject to the Strata Plan and Strata Scheme.

Building Management Statement means a building management statement which complies with the requirements of Division 3B of Part 23 the Conveyancing Act 1919 (NSW).

Business Day means a day (not being a Saturday or Sunday) on which banks are open for general banking business in Sydney.

By-Laws means the by-laws set out in an instrument which creates by-laws under Part 7 ('By-laws for strata schemes') of the Management Act.

Car Space means any car space which forms part of the Premises.

Central Barangaroo means part of the land comprised within Folio Identifier 101/120496 (and which, for the avoidance of doubt, includes the Public Domain). **[Completion note: the title reference will need to be updated at the time the lease is granted to reflect the then current title references for Central Barangaroo]**

Commencement Date has the meaning given on the coversheet.

Common Property means the common property in the Strata Scheme.

Consumer Price Index means the Sydney (All Groups) index published by the Australian Statistician or the index substituted for it by the Australian Statistician or, if neither of those indexes are available, an index nominated by the Landlord (acting reasonably).

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

Costs includes costs, charges and expenses including those incurred in connection with advisors and (unless otherwise specified) includes reasonable internal administrative costs.

CPI Adjustment Date means each anniversary of the Commencement Date.

Current CPI means in respect of any anniversary of the Commencement Date, the Consumer Price Index number for the quarter ending immediately before that anniversary of the Commencement Date.

Development Act means the *Strata Schemes Development Act 2015* (NSW).

Environment includes all aspects of the surroundings of human beings.

Environmental Law means any Law concerning the Environment and includes Laws concerning:

- (a) the carrying out of uses, works or development or the subdivision of land;
- (b) emissions of substances into the atmosphere, waters and land;
- (c) pollution and contamination of the atmosphere, waters and land;
- (d) production, use, handling, storage, transportation and disposal of:
 - (i) waste;
 - (ii) hazardous substances; and
 - (iii) dangerous goods;
- (e) threatened, endangered and other flora and fauna species; and
- (f) the health and safety of people,

whether made or in force before or after the date of this lease.

Estate Levy means the amount of \$**[insert]** per square metre per annum as applied to the Internal Area of the Strata Plan, subject to indexation in accordance with clause 3.2 (plus GST payable under clause 19).

Expiry Date has the meaning given on the coversheet.

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

GST Amount has the meaning given to that term in clause 19.3.

Internal Area means the aggregate area (expressed in square metres) of the internal areas of each of the Lots within the Strata Scheme as shown in the Strata Plan, excluding, for the avoidance of doubt the area of the Common Property, and which aggregate area at the date of this lease the parties agree is **[insert]** subject to any further development or subdivision.

Interest Rate means the rate which is 2% per annum above the 90 day Bank Bill Swap Reference Rate last published on or before the date from which interest is payable under this lease in The Australian Financial Review (or if no such rate has been published, another rate set by the Landlord in good faith).

Land means the land comprising folio identifier **[to be inserted following subdivision to create separate lot]**.

Landlord is defined on the cover sheet of this lease.

Landlord's Employees and Agents means each of the Landlord's employees, officers, agents, contractors, invitees and those persons who at any time are under the control of, and in or on the Premises, with the consent (express or implied) of the Landlord.

Landlord's Property means all plant and equipment, fixtures, fittings which constitute improvements to land for the purpose of any law which is located on the Parcel.

Law includes all statutes, regulations, by-laws, ordinances and other delegated legislation and any rule of common law or equity from time to time, and all consents, approvals, major project approvals, modifications, registrations, certificates, licences and permits from any Authority.

Lot means a lot in the Strata Scheme and **Lots** means all of the lots in the Strata Scheme.

Management Act means the *Strata Schemes Management Act 2015* (NSW).

Naming and Signage Policy means the Landlord's signage policy as at the Commencement Date and any replacement or variation of it by the Landlord acting reasonably of which the Tenant receives at least two months' notice, provided that at all times such policy must be materially consistent with the signage policy comprised in SEPP64 as varied from time to time.

Non-Routine Maintenance means one-off maintenance or repairs made necessary because of unplanned damage to, or breakage of, part of the Premises and other one-off maintenance which is reasonably required by the Landlord from time to time, and which is necessary to keep the Premises in good repair and condition.

Outgoings means the total of amounts and Costs paid or payable by the Tenant or the Landlord in connection with the Premises:

- (a) including:
 - (i) Rates, Taxes and other charges imposed by any Authority; and
 - (ii) charges for the supply (including charges for installation, connection and consumption) of Services to or on the Premises; and
- (b) where applicable, reduced by the amount of:
 - (i) any credit or refund of GST to which the Landlord is entitled as a result of incurring Outgoings; and
 - (ii) any interest, fines or penalties charged as a result of the Landlord's breach of this lease or the wrongful, reckless or negligent act of the Landlord or the Landlord's Employees and Agents.

Owner means:

- (a) the lessee as defined in the Management Act for the time being of a leasehold interest in the whole or part of a Lot; and
- (b) the mortgagee in possession of a Lot.

Owners Corporation means the owners corporation constituted on registration of the Strata Plan.

Parcel means the Building, the Land, the Common Property and the Lots, and includes the Landlord's Property.

Permitted Use means use of the premises as common property in a strata scheme and appropriate uses ancillary to the permitted use under the leases in respect of the Lots, in each case in accordance with the By-Laws and the Building Management Statement.

Precinct Management Plan means a plan for the management of parts of Barangaroo (as applicable to the Premises), as provided by the Landlord to the Tenant and as amended from time to time.

Premises means the Common Property.

Previous CPI means the Consumer Price Index number for the quarter ending immediately before the last CPI Adjustment Date before the relevant CPI Adjustment Date (or, if there has not been one, the Commencement Date).

Public Domain means parks, streets, pedestrian connections, laneways and any other areas dedicated for public use and access.

Quarter Date means each 1 January, 1 April, 1 July and 1 October during the Term.

Quarterly Period means each of:

- (a) the period from and including the Commencement Date to the day immediately before the next Quarter Date;
- (b) thereafter for the remainder of the Term each period commencing from and including each Quarter Date to the day immediately prior to the next Quarter Date; and
- (c) the period from and including the last Quarter Date in the Term to and including the Expiry Date.

Rates means rates, land taxes, levies, assessments and other charges (including charges for consumption and garbage and waste removal) together with any interest, fines and penalties in connection with them (except for the those fines and penalties imposed as a result of the Landlord's or the Landlord's Employees and Agents' wrongful act, default or negligence).

Recipient has the meaning given to that term in clause 19.3.

Recipient Supply has the meaning given to that term in clause 19.5.

Requirements means any requirements, notices, orders or directions given to the Tenant or the Landlord by any Authority.

Required Standard means, at the relevant date, the standard of environmental and social sustainability of the Premises as provided for in this lease and the Precinct Management Plan.

Routine Maintenance means such repairs, maintenance and upgrades as would routinely be conducted within a premises similar to the Premises to keep the Premises in good repair and condition consistent always with the Required Standard.

Services means the services (such as water, drainage, gas, electricity, communications, firefighting, air conditioning, lifts and escalators) running through or servicing the Premises and includes all plant, equipment, pipes, wires, cables, ducts and other conduits in connection with them.

Shipping Activities means:

- (a) commercial shipping and commercial vessel activities, including in the case of the wharves, the loading and unloading of cargo and passengers and the berthing of vessels; and
- (b) ferry activities and the operation of ferry terminals, including ticketing, the loading and unloading of cargo and passengers and the berthing of vessels.

Strata Plan means the leasehold strata plan identified as [Completion note: Insert strata plan number].

Strata Scheme means the leasehold strata scheme constituted on registration of the Strata Plan.

Supplier has the meaning given to that term in clause 19.3.

Taxes means taxes, levies, imposts, deductions, charges, withholdings and duties imposed by any Authority (including stamp and transaction duties), (together with any related interest, penalties, fines and expenses in connection with them, except for the those fines and penalties imposed as a result of the Landlord's or the Landlord's Employees and Agents' wrongful act, default or negligence), except if imposed on the overall net income or capital gains of the Landlord.

Tenant is defined on the cover sheet of this lease.

Tenant's Employees and Agents means each of the Tenant's employees, officers, agents, contractors, service suppliers, sub-tenants, licensees, concessionaires, invitees and those persons who at any time are under the control of, and in or on the Premises, with the consent (express or implied) of the Tenant.

Tenant's Property means property in the Premises not owned by the Landlord.

Term means the period:

- (a) from and including the Commencement Date; and
- (b) to and including the Expiry Date.

Totally Destroyed means destroyed or damaged so extensively that it would be impractical or not commercially viable to make good such damage (as agreed by the parties or as determined by an appropriately qualified independent expert, whose costs the parties must bear equally).

1.2 References to certain general terms

Unless the contrary intention appears, a reference in this lease to:

- (a) **(variations or replacement)** a document (including this lease) includes any variation or replacement of it;
- (b) **(clauses, annexures and schedules)** a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this lease;
- (c) **(reference to statutes)** a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (d) **(law)** law means common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (e) **(singular includes plural)** the singular includes the plural and vice versa;
- (f) **(person)** the word "person" includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association, or any Authority;

- (g) **(executors, administrators, successors)** a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (h) **(two or more persons)** an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- (i) **(jointly and severally)** an agreement, representation or warranty by two or more persons binds each of them jointly and each of them individually;
- (j) **(reference to a group of persons)** a group of persons or things is a reference to any two or more of them jointly and to each of them individually;
- (k) **(dollars)** Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia;
- (l) **(calculation of time)** if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (m) **(reference to a day)** a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (n) **(accounting terms)** an accounting term is a reference to that term as it is used in accounting standards under the Corporations Act, or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia;
- (o) **(meaning not limited)** the words "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (p) **(next day)** if an act under this lease to be done by a party on or by a given day is done after 5.30pm on that day, it is taken to be done on the next day;
- (q) **(next Business Day)** if an event under this lease must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next Business Day;
- (r) **(time of day)** time is a reference to Sydney time; and
- (s) **(reference to anything)** anything (including any amount) is a reference to the whole and each part of it.

1.3 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this lease.

2. Term

2.1 Term of lease

Subject to the provisions of this lease the Landlord leases the Premises to the Tenant for the Term.

2.2 Nature of tenancy

The Landlord and the Tenant acknowledge and agree that this lease is a long term lease and the Tenant:

- (a) without limiting clause 3, must pay all Costs in relation to the Premises and the Landlord has no responsibility or obligation in that regard except as expressly provided to the contrary in this lease; and
- (b) takes and is subject to the same responsibilities and liabilities in regard to the Premises including in respect of:
 - (i) persons, property, Costs and otherwise; and
 - (ii) capital or structural works repairs and maintenance,
 which the Tenant would take and be subject to if the Tenant were the owner of the Premises,

and the provisions of this lease are to be read, interpreted and applied in the context of and incorporating those principles. The express provisions of this lease do not limit the scope of this clause 2.2.

3. Rent and Outgoings

3.1 Rent

The Tenant must pay to the Landlord rent of \$1.00 for the whole of the Term and that payment is acknowledged.

3.2 Estate Levy

- (a) The Tenant must pay the Estate Levy to the Landlord by equal quarterly instalments in advance on the Commencement Date and thereafter on each Quarter Date.
- (b) If an instalment is for a period of less than three months, then that instalment is that proportion of one quarter of the Estate Levy which the number of days in the period bears to the number of days in the Quarterly Period in which that period begins.
- (c) If, on any CPI Adjustment Date, the Current CPI exceeds the Previous CPI, then the Estate Levy from and including that CPI Adjustment Date is the amount of the Estate Levy payable immediately before that CPI Adjustment Date multiplied by the Current CPI and divided by the Previous CPI.

3.4 Outgoings

The Tenant must pay as and when they become due for payment all Outgoings in respect of the Premises during the Term, whether assessed during the Term or not and whether or not imposed on the Landlord or the Tenant, in respect of the Premises.

3.5 Payment despite expiry or termination

The Tenant must pay the Outgoings for the Term, or up until termination of this Lease if terminated earlier in accordance with its terms, even if the Term has expired or been terminated, as applicable, before the Outgoings can be calculated. In that case, payment must be made by the Tenant promptly once the actual Outgoings are known and the parties must co-operate with each other and do all things reasonably required to ascertain and calculate the amounts payable by the Tenant pursuant to this clause.

4. Payments

4.1 Method of payment

The Tenant must make payments due to the Landlord under this lease by the method the Landlord reasonably requires without set off, including equitable set-off, or counterclaim and without deduction.

4.2 No demand necessary

The Landlord need not make demand for any amount required to be paid by the Tenant under this lease unless this lease says that demand must be made.

4.3 Adjustment of payments

If the Tenant pays an amount and it is found later that the amount payable:

- (a) should have been higher, then the Landlord may demand payment of the difference even though the Landlord has given the Tenant a receipt for payment of the lower amount; (provided that the Landlord provides to the Tenant a replacement receipt for the higher amount) or
- (b) should have been lower, then the Landlord must repay the difference even though the Landlord has given the Tenant a receipt for payment of the higher amount.

4.4 Obligations not affected

Expiry or termination of this lease does not affect the Tenant's obligations to make payments under this lease for periods before then or the Landlord's obligation to repay amounts under clause 4.3.

4.5 Interest on overdue money

The Tenant must pay interest at the Interest Rate on any amount under this lease which is not paid on the due date for payment. That interest:

- (a) accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days; and
- (b) is payable on demand from the Landlord or, if no such demand is made, on the last day of each calendar month.

4.6 Compounding

Interest payable under clause 4.5 which is not paid when due for payment may be added to the overdue amount by the Landlord monthly on the last day of each calendar month. Interest is payable on the increased overdue amount at the Interest Rate in the manner set out in clause 4.5 compounding daily.

5. Use and occupation of Premises

5.1 Permitted Use

The Tenant may only use the Premises for the Permitted Use. The Tenant may not use the Premises for any other use.

5.2 Defective facilities

The Tenant must not allow to be used any part of the Premises which the Tenant knows or has reason to suspect has become seriously defective, unsafe or faulty.

5.3 No warranty as to use

The Landlord does not warrant that the Premises are suitable, or may be used, for any purpose.

5.4 Improvements

- (a) The Landlord and Tenant agree that all assets and property which constitute improvements to land for the purposes of any Law relating to the right of the Tenant to claim depreciation benefits and building allowances will be and remain always for all purposes owned by the Tenant.
- (b) The Landlord agrees it will not seek to claim any depreciation entitlements or building allowances in relation to those assets or that property and will not hinder the Tenant in seeking to claim such entitlements and will provide such assistance as it is able which the Tenant reasonably requires (including to sign such documents as the Tenant reasonably requires) for the Tenant to claim the benefits and allowances as referred to in clause 5.4(a).
- (c) The Tenant agrees to pay on request all Costs reasonably incurred by the Landlord in providing any assistance to the Tenant pursuant to clause 5.4(b).

5.5 Tenant may remove some property

The Landlord acknowledges and agrees that the Tenant will have the right, subject to clause 13.4, to remove from the Premises on expiry or termination of this lease any assets and property which are not regarded as improvements to land for the purposes of any such Law.

5.6 Surrounding activities

- (a) The Tenant acknowledges that it is aware that:

- (i) the Premises are within a major event, entertainment and exhibition precinct;
 - (ii) entertainment and promotional events or activities and public festivals may be conducted within the precinct (including on adjoining land);
 - (iii) occupiers of land in the vicinity of the Premises may carry out other noisy activities;
 - (iv) roads in the vicinity of the Premises may be temporarily closed during periods when certain events or activities occur and for the purpose of carrying out maintenance and repair;
 - (v) the events, activities or festivals may temporarily interfere with the Tenant's quiet enjoyment of the Premises;
 - (vi) the waterways surrounding Barangaroo and wharves in Darling Harbour, Cockle Bay, Jones Bay and Pyrmont Bay are used for Shipping Activities on a 24-hour basis; and
 - (vii) the Shipping Activities may temporarily interfere with the Tenant's quiet enjoyment of the Premises.
- (b) The Landlord must allow the Tenant, an Occupier or the Tenant's Visitors (including emergency personnel), sub lessees and licensees to access the Premises at all times despite any periods of closure or restricted access to the Premises as contemplated under clauses 5.6(a)(iv), 5.6(a)(v), 5.6(a)(vi) and 5.6(a)(vii).

5.7 Further development

- (a) The Tenant acknowledges that after the commencement of the Term:
- (i) buildings and other improvements may be developed on surrounding land in those areas of Barangaroo shown on the plans entitled 'Further Development Proposals', attached hereto as Schedule 1 to this Lease **[Completion note: plans in relation to further development proposals to be inserted or otherwise deleted if not relevant when lease is granted]**;
 - (ii) as part of that development, excavation or construction works may be carried out;
 - (iii) roads in the vicinity of Barangaroo may be temporarily closed for the purpose of carrying out that development; and
 - (iv) the Tenant's access to or enjoyment of the Premises may be affected by that development.
- (b) The Landlord does not warrant that any development will be completed.
- (c) The Landlord must allow the Tenant, an Occupier or the Tenant's Visitors (including emergency personnel), sub lessees and licensees to access the Premises at all times despite any periods of closure or restricted access to the Premises as contemplated under clause 5.7(a)(iii) and 5.7(a)(iv).

5.8 No objection by the Tenant

- (a) The Tenant is not entitled to:

- (i) make any objection to the Landlord;
- (ii) obstruct the proper carrying out by the Landlord of;
- (iii) seek injunctive or other relief against the Landlord in respect of; or
- (iv) claim compensation or an abatement of Outgoings from the Landlord in respect of,

the matters disclosed in clauses 5.6 or 5.7.

- (b) Nothing in clauses 5.6 and 5.7 authorises any person (other than persons permitted or authorised under this lease, any laws or rights of way) to enter the Premises.
- (c) The Tenant may not make any objection to or claim for compensation from the Landlord because of anything in connection with:
 - (i) the nature, quality, condition and state of repair of the Premises; or
 - (ii) loss, damage, dilapidation, infestation, defect (latent or patent) or mechanical breakdown which may affect the Premises during the Term; or
 - (iii) the presence in or on the Parcel of contamination; or
 - (iv) the condition, performance or existence or non-existence of Services.

5.9 Title

- (a) The Tenant must at all times observe and perform the restrictions, stipulations, easements, covenants, By-Laws and the Building Management Statement referred to in the folio of the register for the Land as if the Tenant were the registered proprietor of the Land.
- (b) The Tenant acknowledges that it is bound by the terms of any easements, covenants, obligations under the By-Laws and the Building Management Statement referred to in clause 5.9(a), and any lease, licence or other right of occupation granted by the Landlord in respect of the Parcel, to which this lease is subject or which is concurrent to this lease.

5.10 Landlord not liable for fire control

The Landlord is not responsible for the adequacy of any fire alarm or sprinkler system or fire emergency programme in the Parcel.

5.11 Naming rights

- (a) The Landlord acknowledges and agrees that the Tenant has the naming rights in respect of the Building.
- (b) If the Tenant wishes to use (or change) any name for the Building, the Tenant must obtain the Landlord's consent prior to the proposed name being used, such consent not to be unreasonably withheld if the proposed name is consistent with the Naming and Signage Policy.
- (c) The Landlord and the Tenant acknowledge that the name of a Building might be different to the signage on the Building.

5.12 Signage

- (a) Other than the signage approved pursuant to clause 5.12(b), no signs or advertisements are to be placed on any part of the Premises unless the Landlord's prior consent is obtained to the size, nature, content, colour, and location of those signs or advertisements, such consent not to be unreasonably withheld.
- (b) The Landlord acknowledges that its consent is not required under this clause 5.12 for the erection of signs and advertising to the extent the details of the proposed signs and advertising were included in an application approved by the Landlord in its capacity as an Authority (or by a committee comprising a member representing the Authority) prior to the Commencement Date or where such signs and advertising are consistent with Law and the Naming and Signage Policy.

5.13 Tenant to comply with laws

The Tenant must comply on time, and at the Tenant's own expense, with all Laws (including without limitation all Environmental Laws) and Requirements in connection with:

- (a) the Premises;
- (b) the Tenant's Property; and
- (c) the use or occupation of the Parcel,

(whether or not any such Laws or Requirements are amended or required to be effected by the Landlord or the Tenant).

6. Tenant's additional rights and obligations

6.1 General obligations

The Tenant must:

- (a) comply on time with all Laws (including all Environmental Laws) and the requirements of Authorities in connection with the Premises, the Tenant's Property and the use or occupation of the Premises (including obtaining and maintaining all consents);
- (b) inform the Landlord of any material damage or significant accident in the Parcel of which it is aware immediately when it becomes aware of it; and
- (c) give the Landlord a copy of any notice or order which may materially affect the Landlord or the Parcel, or the use or occupation of the Parcel, promptly after the Tenant receives the notice or order.

6.2 Prohibited acts

The Tenant must not during the Term:

- (a) permit any illegal act, trade, business, occupation or calling at any time during the Term to be exercised, carried on, permitted or suffered in or on the Parcel; or
- (b) do anything to contaminate, pollute or increase toxicity in the Premises.

6.3 Securing of the Premises

The Tenant acknowledges that the Landlord is not responsible nor liable in any manner whatsoever (including any responsibility or liability for which the Landlord might otherwise be responsible or liable because of the negligence on the part of the Landlord, its officers, servants, agents or contractors) for security of or within the Parcel in respect of any unauthorised entry to or misdemeanour within the Parcel.

6.4 Supply failure

The Tenant agrees that the Landlord is not liable for, and releases the Landlord from, any liability, loss, injury, damage, cost or expense sustained by the Tenant or any other person at any time as a result of or arising in any way out of the interruption to or the failure of the Services enjoyed by the Tenant in conjunction with the Premises or this lease (but excepting any interruption or failure caused or contributed to by the negligent or wilful act of the Landlord or the Landlord's officers, employees, agents or contractors).

6.5 Indirect acts

If the Tenant may not do something in connection with this lease, then it may not do anything which may result in it happening.

6.6 Tenant's Employees and Agents to comply

The Tenant agrees to ensure, so far as it is legally able to do so, that the Tenant's Employees and Agents comply, if appropriate, with the Tenant's obligations under this lease.

6.7 Use of external parts of Premises for aerials

- (a) The Tenant may not install (or allow to be installed) aerials on the roof or walls of the Premises without the consent of the Landlord, such consent not to be unreasonably withheld if the Landlord, acting reasonably, considers the aerials:
 - (i) do not have an adverse visual impact on the Building; and
 - (ii) do not interfere with the development of surrounding land or on stratum lots existing above the Land as contemplated by clause 5.7.
- (b) The Tenant must make good any damage caused to the Premises in installing and removing the aerials.

6.8 Tenant's risk

The Tenant accepts all risks in connection with the use and occupation of the Premises including that a Law or a Requirement of an Authority may affect the use or occupation of the Premises.

7. Maintenance, repair and alteration of Premises

7.1 Obligation to repair

The Tenant:

- (a) must keep the Premises in good repair and condition in accordance with the Building Management Statement and the By-Laws, including by preparing and complying with a maintenance program;

- (b) ensure that those parts of the Premises and the Land comprising roads, pedestrian ways, rights of way, service roads and ramp access ways are kept and maintained as such and in good repair and condition (fair wear and tear excepted); and
- (c) acknowledges that the Landlord is not responsible for any structural and capital maintenance, replacement and repair in respect of the Premises.

7.2 Obligations during redevelopment

Clause 7.1(a) does not apply during any redevelopment or reinstatement of the Premises which has been approved by the Landlord.

7.3 Maintenance

- (a) The Tenant must undertake reasonable Routine Maintenance.
- (b) The Landlord may, at any time during the Term, notify the Tenant of any necessary Non-Routine Maintenance item of which it has become aware, in respect of the façade of the Building or external areas of the Building accessible by the general public.
- (c) On receipt of a notice from the Landlord in accordance with clause 7.3(b), the Tenant may either:
 - (i) notify the Landlord within 10 Business Days that it has conducted, or will within a reasonable period conduct, the Non-Routine Maintenance referred to in the Landlord's notice; or
 - (ii) notify the Landlord within 10 Business Days that it requires representatives of the Landlord to meet with its representatives to discuss the item in the Landlord's notice and the work which may reasonably be required to be undertaken by the Tenant to restore the façade of the Building or external areas of the Building accessible by the general public.
- (d) Where the Tenant notifies the Landlord in accordance with clause 7.3(c)(ii), the parties must meet and use their reasonable endeavours to agree the works that may reasonably be required to be undertaken and the Tenant must, upon agreeing such works, perform such works as soon as practicable.
- (e) If the parties fail to reach agreement under clause 7.3(d), then either party may issue a notice of dispute under clause 15.1. Once the works the subject of that dispute are determined by mediation under Division 2 (*Alternative dispute resolution by Secretary*) of Part 12 of the Management Act, the Tenant must perform such works as it is required to undertake, as soon as practicable.

7.4 Special Resolutions

The Tenant must not determine in accordance with section 106(3) of the Management Act that it is inappropriate to maintain, renew, replace or repair the Premises.

7.5 Insects

The Tenant must carry out annual inspections for white ants, termites and borers and, following those inspections, must carry out such remedial works as are necessary to rectify any damage to the Premises caused by those insects.

7.6 Sufficient contributions

The Tenant must levy sufficient contributions (including contributions to its sinking fund) on time to comply with its repair and maintenance obligations under this lease.

8. Insurances

8.1 Building and other insurance

- (a) The Tenant must comply with:
 - (i) section 160 of the Management Act; and
 - (ii) section 164 of the Management Act and must ensure that the policies effected pursuant to section 164 of the Management Act each indemnify the Landlord in respect of all of the Tenant's liabilities under this lease.
- (b) The policy effected by the Tenant under section 164(1)(b) of the Management Act must be for an amount of not less than \$20 million for any one occurrence or for any other amount which the Landlord reasonably prescribes, being an amount not less than any minimum amount provided by the regulations under the Management Act.
- (c) The Tenant must ensure that each insurance required by this lease is in force on the Commencement Date and is maintained, unless the lease is terminated earlier in accordance with its terms, during the Term.

8.2 The policy

The Tenant, in respect of all policies of insurance which the Tenant must effect under this Lease, must:

- (a) ensure that the interests of the Landlord are covered where applicable; and
- (b) at the Landlord's request, lodge promptly with the Landlord a duplicate or certified copy of each policy and a copy of each renewal certificate; and
- (c) punctually pay all premiums in respect of the policy and its renewal; and
- (d) include a cross liability clause.

8.3 Landlord may insure

Notwithstanding any other clause of this lease, if the Tenant does not comply with its obligation to effect and maintain the insurances required by this lease, or if the Tenant fails to provide evidence that such insurances have been effected, the Landlord may, but is not obliged to, effect the relevant insurances and may recover the cost of doing so as a debt due from the Tenant.

8.4 Insurance not to be avoided

The parties must not do nor permit anything which prejudices any insurance required under this clause 8 or causes a change in risk which results in an increase in the amount of the premium.

8.5 Deductibles

Any deductibles payable under any of the insurances required by this lease shall be the responsibility of the Tenant.

8.6 Notices of cancellation

The Tenant must immediately give notice to the Landlord whenever an insurer of any of the insurances required by this lease gives the Tenant a notice of cancellation or any other notice in respect of the relevant policy of insurance or the Tenant serves a notice of cancellation on the insurer.

8.7 Tenant to give information

The Tenant must give full, true and particular information to the insurer of all matters and things the non-disclosure of which might in any way prejudice or affect any such policy or the payment of all or any benefits under the insurance.

8.8 Insurer requirements

The Tenant must comply with the requirements of any insurer in relation to:

- (a) anything placed or intended to be placed by the Tenant in the Premises; and
- (b) alarms, sprinklers and other fire warning or prevention equipment.

8.9 Continuation of liability

Any liability of the Tenant under this clause 8 in respect of any act, matter or thing which arises before the expiration or termination of this lease continues after its expiration or termination.

9. Total destruction

If the Building is Totally Destroyed, the Tenant must promptly:

- (a) make the Building and the Land safe and secure;
- (b) demolish any unstable structures (as agreed by the parties or as determined by an appropriately qualified independent expert, whose costs the parties must bear equally);
- (c) give the Landlord a report from a structural engineer as to the structural stability of the Land; and
- (d) clear all debris from the Land.

10. Indemnities and releases

10.1 Indemnity

The Tenant must at all times release and indemnify the Landlord, its officers and employees ('those indemnified') from and against any claim, action, damage, loss, liability, cost or expense incurred or suffered by any of those indemnified or arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified to the extent such loss was caused or contributed to by:

- (a) any loss, injury or death, or loss of or damage to property in or on the Premises or in the vicinity of the Premises caused or contributed to by the Tenant or those for whom the Tenant is responsible (including the Tenant's invitees onto the Premises);
- (b) any act or omission of the Tenant which might impose on or increase any liability of the Landlord in respect of the Parcel;
- (c) the use or occupation of the Premises by the Tenant or Tenant's Employees and Agents; and
- (d) any non-compliance by the Tenant, or the Tenant's Employees and Agents, with any Approval or Laws, or any other requirements of any Authority,

except to the extent caused or contributed to by the wilful, reckless or negligent act or omission or default of the Landlord or the Landlord's Employees and Agents.

10.2 Tenant's indemnity not affected

The fact that the proceeds of the policy referred to in clause 8 may not fully indemnify the Landlord does not affect the amount of the Tenant's indemnity under clause 10.1.

10.3 Continuing indemnity

Each indemnity of the Tenant contained in this lease is:

- (a) a continuing obligation by the Tenant and remains in full force and effect after the termination of this lease; and
- (b) a separate and independent obligation of the Tenant.

10.4 Tenant as owner

Without limiting the express rights and obligations of the Landlord and Tenant under this lease, the Landlord agrees that the Tenant has the same rights (subject to this lease), and the Tenant agrees to be subject to the same responsibilities in respect of persons and property, as those to which it would be subject if, during the Term, it was the registered proprietor and occupier of the freehold of the Premises.

11. Landlord's obligations

Subject to the Landlord's rights in connection with this lease, the Tenant may peaceably possess and occupy the Premises during the Term without interference by the Landlord.

12. Landlord's additional rights, representations and warranties

12.1 Right to deal with the Land

- (a) The Landlord may grant easements for services, support, access, drainage, minor encroachments, on-going construction of improvements on surrounding land or other rights over the Land (**Site Encumbrance**) provided the easements or rights would not materially adversely affect the use of the Premises or the Lots or the Tenant's rights or obligations under this lease or the rights or obligations of the tenants of the Lots under their leases and provided that the Landlord notifies the Tenant of its intention to grant any such Site Encumbrance and provided that:

- (i) the Landlord consults with the Tenant with respect to the proposed Site Encumbrance (and the parties agree to act in good faith during such consultations); and
 - (ii) the Landlord obtains the Tenant's approval of the proposed Site Encumbrance which may not be unreasonably withheld or delayed provided the easements or rights would not materially adversely affect the use of the Premises or the Lots or the Tenant's rights or obligations under this lease or the rights or obligations of the tenants of the Lots under their leases and provided that the Landlord notifies the Tenant of its intention to grant any such Site Encumbrance.
- (b) Notwithstanding clause 12.1(a), the Tenant agrees that where:
- (i) the lot within which its Premises is constructed is within a stratum which is limited in height; and
 - (ii) in relation to which as at the Commencement Date, the Landlord notifies the Tenant that it is proposed that there will be development above the Premises,
- the Tenant may not withhold its approval to any proposed Site Encumbrance on the grounds of material adverse effect on the redevelopment potential of the Premises, where that Site Encumbrance is for the benefit of a stratum which is above the stratum in which the Premises is located.
- (c) Nothing in this clause 12 restricts any statutory rights granted to any Authority to acquire any easement or other rights of way by way of compulsory acquisition.

12.2 Representations and warranties

The Landlord represents and warrants that:

- (a) it has power to enter into and observe its obligations under this lease;
- (b) it has in full force and effect the authorisations necessary to enter into this lease, observe obligations under them, and allow them to be enforced;
- (c) its obligations under the lease are valid and binding and are enforceable against it in accordance with its terms;
- (d) the lease does not contravene its constituent documents or any laws or any of its obligations or undertakings by which it or any of its assets are bound or cause a limitation on its powers; and
- (e) the Landlord does not have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise).

12.3 Compliance with laws and requirements

Subject to its obligations under this lease to the Tenant, the Landlord may do anything to comply with any Law or the requirements of Authorities.

12.4 Right to enter Premises

- (a) Subject to clause 12.4(c), the Landlord may enter the Premises at reasonable times on reasonable prior notice, as agreed with the Tenant, to see if the Tenant is

complying with its obligations under this lease or to do anything the Landlord must or may do, under this lease.

- (b) On entering the Premises in the circumstances contemplated by clause 12.4(a), the Landlord must:
 - (i) use all reasonable endeavours to cause minimal disturbance to the use of the Premises by the Tenant and the Tenant's Employees and Agents;
 - (ii) comply with the Tenant's reasonable site specific and work health and safety protocols; and
 - (iii) be accompanied by a representative of the Tenant if provided (except in the case of an emergency),
- (c) If the Landlord, acting reasonably, decides there is an emergency, the Landlord may enter the Premises at any time without notice and the Landlord is not required to comply with clauses 12.4(a) and 12.4(b) in that circumstance.
- (d) The Landlord may not exercise the rights under clause 12.4(a) more than twice in any 12 month period (other than in an emergency).

12.5 Change of landlord

- (a) Prior to dealing in any way with its interest in the Premises, the Landlord must provide at least 10 Business Days' notice of such dealing to the Tenant.
- (b) If the Landlord deals with its interest in the Premises so that another person becomes the landlord:
 - (i) the Landlord must procure that the other person signs a deed with the Tenant under which:
 - A. the Tenant agrees with the other person to comply with this lease as if the other person was the Landlord;
 - B. the other person assumes the Landlord's obligations under this lease arising after the Landlord ceases to be landlord; and
 - C. the other person agrees to be bound by any consent given by the Landlord pursuant to this lease prior to the Landlord ceasing to be the landlord.
 - (ii) upon that deed being entered into, the Landlord is released from any obligation under this lease arising after it ceases to be the landlord but not from any antecedent breaches; and
 - (iii) to the extent applicable, in order to discharge its obligations under clause 8 the Tenant must notify its insurer that the transfer has occurred.

12.6 Agents

The Landlord may appoint agents or others to exercise any of its rights or perform any of its duties under this lease. Communications from the Landlord override those from the agents or others if they are inconsistent except to the extent the Tenant has already acted in reliance upon the communication from the agent or others.

12.7 Landlord may rectify

The Landlord may:

- (a) do anything which should have been done by the Tenant under this lease but which has not been done or which the Landlord reasonably considers has not been done properly:
 - (i) after giving the Tenant 30 Business Days prior notice or such longer period as is reasonable having regard to the breach; or
 - (ii) at any time without notice where the Landlord, acting reasonably, decides there is an emergency; and
- (b) for that purpose, and for as long as it is necessary for that purpose, the Landlord and the Landlord's Employees and Agents may enter the Premises and remain there.

In exercising its rights under this lease the Landlord must use reasonable endeavours not to interfere with the Tenant's use of the Premises.

12.8 Landlord not liable

The exercise of the Landlord's rights under clause 12.7 is not a breach of clause 111.

12.9 Landlord's position as an Authority

If the Landlord is an Authority nothing in this lease operates to restrict or otherwise affect the Landlord's statutory discretion in exercising its powers as an Authority, as distinct from its powers as a landlord and owner of the Premises. If there is a conflict between the statutory discretion of the Landlord as to the exercise of powers as an Authority on the one hand and the satisfaction and performance of the Landlord's obligations as Landlord and owner of the Premises in this lease on the other, the former will prevail.

13. Tenant's obligations on expiry or termination

13.1 Tenant to yield up

The Tenant must:

- (a) vacate the Premises on the earlier of the Expiry Date and the date this lease is terminated; and
- (b) leave the Premises in a condition consistent with the Tenant having complied with all its obligations under this lease.

13.2 Removal of Tenant's Property

The Tenant may (subject to clauses 5.4, 5.5 and 13.4), remove furniture, loose equipment, goods and other items of Tenant's Property which do not form part of the Premises or which are not affixed (or intended to be affixed) to the Premises from the Premises before the day when the Premises must be vacated.

13.3 Tenant to make good

The Tenant must promptly make good, to at least the standard existing before removal, any damage caused by any property being removed from the Premises.

13.4 Tenant may not remove certain property

The Tenant may not remove anything the removal of which will cause damage to the Premises which cannot be repaired.

13.5 Tenant's failure

- (a) If the Tenant fails to remove the Tenant's Property under clause 13.2, the Landlord may either:
 - (i) cause the Tenant's Property to be removed and stored at the risk and Cost of the Tenant; or
 - (ii) treat the Tenant's Property as abandoned and deal with it in such manner as the Landlord thinks fit without being liable in any way to account to the Tenant.
- (b) If the Tenant fails to make good any damage under clause 13.3, the Landlord may do so at the risk and Cost of the Tenant.
- (c) A certificate by the Landlord as to the amount of any Cost under this clause is prima facie evidence of the amount of such Cost and must be paid by the Tenant to the Landlord on demand.

14. Costs, charges and expenses

14.1 What the Tenant must pay

The Tenant must pay the Landlord's reasonable legal costs and all duties, fees, charges and expenses in respect of:

- (a) any application for the consent or approval of the Landlord under the lease;
- (b) any breach of the Tenant's obligations under the lease; and
- (c) the exercise of any right (including in connection with the actual enforcement or preservation of any rights under this lease), waiver, variation, power, privilege, authority or remedy of the Landlord in respect of the lease if ordered by any Authority or determined pursuant to the Management Act; and
- (d) Taxes and fees (including registration fees) and fines and penalties in respect of fees, which may be payable or determined to be payable in connection with this lease or a payment or receipt or any other transaction contemplated by this Lease excluding any fine or penalty incurred due to the default of the Landlord,

including in each case reasonable legal costs and expenses on a full indemnity basis or solicitor and own client basis, whichever is the higher.

14.2 Independent consultants

The Tenant agrees that the Costs referred to in clause 14.1 include the reasonable Costs incurred by the Landlord with respect to any independent consultant or other person reasonably appointed to determine any issue arising from or in connection with the Tenant's default or to evaluate any matter arising from or in connection with any request for the Landlord's consent or approval.

14.3 Obligations at Tenant's cost

Anything which the Tenant is required to do or may do under this lease must be done at the Tenant's cost unless expressly specified otherwise in this lease.

14.4 Consents obtained by Landlord

If the Landlord has agreed to obtain a person's consent before the Landlord gives its consent under this lease or to pay Costs incurred by that person in giving consent, then the consent from that person is a consent in connection with this lease.

14.5 Limitations

For the purpose of this clause 14, the Landlord agrees that it will act reasonably in considering using its internal resources without charge to the Tenant, having regard to the skills, expertise and capacities of the Landlord and its employees and agents, before going out to an external person for services where charges incurred by the Landlord will be charged to, and paid by, the Tenant.

15. Dispute resolution

15.1 Notice of dispute

If a dispute between the Tenant and the Landlord arises in connection with this lease or its subject matter, then the disputing party must give to the other a notice adequately identifying and providing details of the dispute.

15.2 Management Act

In the event of a dispute or complaint concerning a matter in this lease, either party may involve the dispute determination provisions in the Management Act.

16. Termination

16.1 No essential terms or right to terminate

Despite any other term, condition or other provision of this lease (express or implied) it is expressly agreed between the Landlord and the Tenant that:

- (a) no term, condition or other provision (express or implied) on the part of the Tenant is an essential or fundamental term of this lease; and
- (b) the Landlord shall not be entitled to re-enter the Premises, with or without notice, forfeit, or terminate or determine this lease for any reason, including, without limitation, if the Tenant is in default of any term, condition or other provision (express or implied) of this lease; and
- (c) the Landlord's remedies for breach of this lease are limited to damages and the right to seek an injunction.

16.2 Landlord to give notice of breach

- (a) If the Tenant does breach its obligations under this lease, the Landlord may give the Tenant a notice ("**Default Notice**") specifying the breach and requiring rectification.

- (b) The Tenant must remedy the breach specified in the Default Notice or pay reasonable compensation to the Landlord if the Tenant cannot remedy that breach:
- (i) within 10 Business Days in the case of a monetary default;
 - (ii) within 20 Business Days in the case of a non-monetary default which is capable of remedy within 20 Business Days; and
 - (iii) within a reasonable period having regard to the nature of the breach in the case of any other non-monetary default,
- from the date of service of the Default Notice.

16.3 Landlord may rectify

The Landlord may, but is not obliged to, remedy at any time (including entering upon the Premises for the purpose of doing so) any breach by the Tenant (but only after the Tenant has failed to remedy the Breach Event within the time required by clause 16.2) and whenever the Landlord so elects all Costs incurred by the Landlord in remedying that breach must be paid by the Tenant to the Landlord on demand as if they were rent in arrears.

16.4 Damages for breach

The Tenant indemnifies the Landlord against any liability or loss arising from, and any Costs incurred in connection with:

- (a) the occurrence of a breach by the Tenant of its obligations under this lease; or
- (b) the term of this lease being claimed to be wholly or partly void, voidable or unenforceable by the Tenant or anyone on its behalf;
- (c) any payment required to be made under this lease not being made on its due date; or
- (d) the Landlord rectifying the Tenant's breach of its obligations under this lease,

including Costs on account of funds borrowed, contracted for or used to fund any amount payable under this lease and including in each case legal costs and expenses on a full indemnity basis or solicitor and own client basis, whichever is the higher.

16.5 No Effect on indemnity

The indemnity under clause 16.4 is not affected or limited, and the Landlord's entitlement to recover damages from the Tenant or any other person is not affected or limited, by the conduct of either party (or that of any officer, employee or agent of a party).

16.6 Waiver

The Landlord and the Tenant agree that:

- (a) the Landlord's failure to enforce any breach by the Tenant is not to be construed as a waiver of that breach, nor shall any custom or practice which may grow up between the parties in the course of administering this lease be construed to waive or to lessen the right of the Landlord to insist upon the performance by the Tenant of any term, covenant or condition hereof, or to exercise any rights given to the Landlord on account of any such default;

- (b) a waiver by the Landlord of a particular breach by the Tenant shall not be deemed to be a waiver of the same or any other subsequent breach or default; and
- (c) the demand of or subsequent acceptance of rent under this lease by the Landlord will not constitute a waiver of any preceding breach by the Tenant of any term, covenant or condition of this lease, other than the failure of the Tenant to make the particular payment or payments of rental so accepted, regardless of the Landlord's knowledge of such preceding breach at the time of acceptance of such rent.

16.7 Acceptance of money

The acceptance by the Landlord of rent or other money under this lease is not a waiver of a preceding breach by the Tenant. An attempt by the Landlord to mitigate its loss is not a surrender by operation of law or a waiver of the Tenant's breach of this lease.

16.8 Compulsory Acquisition

Without prejudice to any statutory right of the Tenant to receive compensation for any compulsory acquisition, nothing contained in this lease is deemed to preclude or prevent the exercise of any statutory right of compulsory acquisition affecting the Parcel at any time during the Term.

17. Sustainability

[Completion note: this clause and provisions in relation to sustainability are to be updated in accordance with the CENDA and the CPW during the development and construction of Central Barangaroo. The draft provisions set out below are indicative only and subject to finalisation or replacement subject to the refinement of the sustainability solution to be delivered by the Developer under the CENDA]

17.1 Defined terms and interpretation

For the purposes of this clause 17 only, the following terms have the definitions as set out below:

Approved Waste Operator means:

- (a) a waste operator (or operators), approved by the Landlord, acting reasonably, which has the ability to comply with the Climate Positive Waste Principles; or
- (b) where there is no reputable, reasonable and solvent operator that has the ability to comply with a particular Climate Positive Waste Principle, an operator who is most closely able to satisfy the Climate Positive Waste Principles.

Carbon Limit Threshold means greenhouse gas emissions of **[insert]** kg CO_{2eq} per square metre of the Internal Area per annum.

Carbon Neutral Position has the meaning given to it in clause 17.2(a).

Carbon Offset Allowance means, on the Commencement Date, the maximum amount of **[redacted]** per square metre of Internal Area per annum from the Estate Levy, as updated in accordance with clause 17.2(c), to be applied by the Landlord towards the purchase of Carbon Neutral Instruments in accordance with clause 17.2(b).

Carbon Reporting means reporting and taking account of all greenhouse gas emissions associated with the operations of the Building, with such reporting to be carried out in accordance with the principles set out in the National Carbon Offset Standard.

Climate Positive Waste Principles means:

- (a) a process which is capable of dealing with recyclable materials and mixed waste streams from Central Barangaroo in a manner which maximises the recovery of recyclable material, minimises the diversion of non-recyclables to landfill so as to achieve a minimum 80% reduction in disposal of operational waste to landfill and minimises the net carbon emissions from the disposal of waste;
- (b) a process for accounting and reporting of all greenhouse gas emissions relating to waste management operations to ensure the offsetting requirements are accounted for; and
- (c) a willingness to work with the Landlord to establish and implement a commercially feasible strategy with the objective of establishing Barangaroo as a zero waste community.

Carbon Neutral Instrument means the purchase of an eligible carbon credit (in the form of Eligible Carbon Offsets or RECs) in accordance with the National Carbon Offset Standard for the compensation of greenhouse gas emissions generated during operations of the Building.

Eligible Carbon Offset means the purchase of an eligible carbon credit in accordance with the National Carbon Offset Standard for the compensation of greenhouse gas emissions generated during operations of the Building.

Energy Related Carbon Limit Threshold means operational greenhouse gas emissions of [insert] kg CO_{2eq} per square metre of Internal Area per annum.

Excess Carbon Offset Quantity For Energy means the value of Carbon Neutral Instruments required to be acquired to offset all greenhouse gas emissions from the Building in excess of the Energy Related Carbon Limit Threshold.

Excess Waste-related greenhouse gas Quantity for a Financial Year is the amount if any by which the greenhouse gas emissions attributable to the removal, storage and disposal of waste from the Building in that Financial Year exceeds the greenhouse gas emissions which would have been attributable to the removal, storage and disposal of waste from the Building had the Tenant satisfied the requirements of the Climate Positive Waste Principles.

Financial Year means a period of 12 consecutive months, starting in 1 July and ending on 30 June.

Minimum Water Efficiency Standard means [Completion note: insert appropriate standards for appliances].

National Carbon Offset Standard means [Note: at the time of finalisation of the Lease, insert a reference to the standard determined in accordance with clause 23.14 of the CENDA and the definition of 'National Carbon Offset Standard' in the CENDA.]

RECs mean large generation certificates which:

- (a) if created under the Renewable Energy (Electricity) Act 2000 (Cth):
 - (i) were generated from assets which became operational after 5 March 2010 and:

- A. have not been created from electricity produced from the burning of wood waste; and
 - B. have been originally sourced from an "Accredited Generator" (as defined in the Renewable Energy (Electricity) Act 2000 (Cth)) operating in the National Electricity Market; and
- (ii) where required in order to establish Carbon Neutrality under either the National Carbon Offset Standard or another standard adopted by the Authority (acting reasonably):
 - A. have been approved by the GreenPower Program Manager under the GreenPower Rules; and
 - B. are not from a source to which a multiplier has been applied under the Commonwealth Solar Credits Scheme,
- (b) if created pursuant to any equivalent scheme or method of eligibility determination operated after the repeal or replacement of the Renewable Energy (Electricity) Act 2000 (Cth):
 - (i) is a scheme or method which has been approved by the Authority;
 - (ii) satisfies all of the requirements of that relevant scheme or method; and
 - (iii) be at a cost of not more than [REDACTED] (increased by CPI from the date of this Agreement until the date on which the [REC] is acquired) per MWh of electricity produced.

Water Balancing Report means a report identifying the volume of potable water consumption; volume of waste water, and volume of rain water available for collection.

17.2 Carbon Neutrality

- (a) The Landlord and Tenant acknowledge and agree that:
 - (i) their aspiration with regard to Central Barangaroo and the Building is the achievement of a carbon neutral position, where the greenhouse gas emissions associated with the operation of both Central Barangaroo and the Building, including through the acquisition of Carbon Neutral Instruments, are equal to zero (**Carbon Neutral Position**); and
 - (ii) the achievement of the Carbon Neutral Position requires the annual greenhouse gas emissions from the operation of the Building to be no greater than the Energy Related Carbon Limit Threshold.
- (b) To assist in achieving the Carbon Neutral Position the Landlord agrees to apply the Carbon Offset Allowance towards the purchase of Carbon Neutral Instruments.
- (c) If, on any CPI Adjustment Date, the Current CPI exceeds the Previous CPI, then the Carbon Offset Allowance from and including that CPI Adjustment Date is the amount of the Carbon Offset Allowance payable immediately before that CPI Adjustment Date multiplied by the Current CPI and divided by the Previous CPI.

17.3 Environmental Best Practice

The Tenant must:

- (a) use reasonable endeavours to:
 - (i) develop and implement strategies to reduce site energy and waste emissions attributable to the use and occupation of the Building through building and infrastructure efficiencies, the use of onsite renewable energy and other carbon reduction strategies in order to achieve a Carbon Neutral Position; and
 - (ii) reduce, to the extent that it is reasonably practicable to do so, the adverse environmental impact caused by the operation of the Building;
- (b) be proactive in the sustainable management of the Building; and
- (c) provide to the Landlord all information reasonably required by the Landlord pursuant to this clause 17 in relation to the achievement of the Carbon Neutral Position.

17.4 Metering

The Tenant must ensure that the Premises are separately metered for electricity and gas.

17.5 Reporting

- (a) The Tenant must by 30 September in each year of the Term, provide to the Landlord Carbon Reporting in respect of the operation of the Building for the previous Financial Year; and
- (b) The Landlord may, at its cost, undertake an audit of the Carbon Reporting provided by the Tenant under clause 17.5(a), and the Tenant must provide reasonable assistance to the Landlord with undertaking such audit.
- (c) The Landlord must keep confidential all information provided to it or to which it has access in connection with this clause 17.5.

17.6 Carbon Offset

- (a) If the Carbon Reporting provided by the Tenant in accordance with clause 17.5(a) shows that the Energy Related Carbon Limit Threshold has been exceeded for the relevant year of this Lease, the Tenant will be deemed to be using reasonable endeavours for the purposes of clause 17.3(a) if within 6 months of the end of each Financial Year during the Term the Tenant either:
 - (i) purchases and surrenders to the Landlord Carbon Neutral Instruments sufficient for the Landlord to offset the Excess Carbon Offset Quantity For Energy to enable the Carbon Neutral Position to be achieved; or
 - (ii) provides to the Landlord the funding for the Landlord to purchase and retire Carbon Neutral Instruments having a value of not less than the Excess Carbon Offset Quantity For Energy to enable the Carbon Neutral Position to be achieved.
- (b) Where the Tenant surrenders Carbon Neutral Instruments under clause 17.6(a)(i) to the Landlord for retirement, the Landlord must, as soon as reasonably practicable thereafter, provide evidence of such retirement of the surrendered Carbon Neutral Instrument to the Tenant by providing details of the individual serial numbers associated with the Carbon Neutral Instrument retired.

- (c) Where a Tenant provides funding to the Landlord to purchase and retire Carbon Neutral Instruments under clause 17.6(a)(ii), the Landlord must, as soon as reasonably practicable thereafter, purchase and retire the Carbon Neutral Instruments and provide evidence of such purchase and retirement of the Carbon Neutral Instruments by providing details of the individual serial numbers associated with the Carbon Neutral Instruments.

17.7 Waste

- (a) This clause 17.7 does not apply to the disposal of any specialist, confidential or commercially sensitive material.
- (b) The Tenant must use reasonable endeavours and must procure that the occupiers of the Building use reasonable endeavours to:
 - (i) implement initiatives (including education, signage and operations to separate waste streams) to encourage recycling of waste generated from the Building; and
 - (ii) utilise the services of an Approved Waste Operator to provide waste management services for Central Barangaroo; and
 - (iii) otherwise procure compliance with the relevant waste management requirements of the BMS.
- (c) To the extent that the Tenant or any other occupier of the Building procures the services of an Approved Waste Operator as contemplated by clause 17.7(b)(ii), then the Tenant and the Landlord will meet to determine in good faith there is any Excess Waste-related greenhouse gas Quantity any and if so, how much Excess Waste-related greenhouse gas Quantity has been generated by the Building for that Financial Year (rounded to the nearest tonne).

17.8 Water Balancing Report

- (a) The Tenant must by **30 September** in each year of the Term, procure and provide to the Landlord a Water Balancing Report in respect of the Building for the previous Financial Year.
- (b) The Landlord may, at its cost, undertake an audit of the Water Balancing Report provided by the Tenant under clause 17.8(a), and the Tenant must provide reasonable assistance to the Landlord with undertaking such audit.
- (c) The Landlord must keep confidential all information provided to it or to which it has access in connection with this clause 17.8.

17.9 Water Initiatives

- (a) The Tenant must:
 - (i) implement appropriate education, signage and operational initiatives and guidelines to encourage occupants and users of the Building to minimise water consumption (including guidelines for drought tolerant plant selection);
 - (ii) ensure that any sanitary fittings and fixtures installed or replaced at the Premises meet or exceed the relevant Minimum Water Efficiency Standards;

(iii) ensure that all appliances with a water connection installed or replaced in the Premises meet or exceed the Minimum Water Efficiency Standards; and

(iv) not use potable water for non-potable uses,

to the satisfaction of the Landlord, acting reasonably.

(b) Promptly upon reasonable request by the Landlord, the Tenant must provide evidence of compliance with the obligations in clause 17.9(b).

17.10 Overriding clause

Despite any other provision of this Lease, the Landlord is not entitled to terminate this Lease for a breach of this clause 17 by the Tenant.

18. Notices

18.1 Form

Unless expressly stated otherwise in this lease, all notices, certificates, consents, directions, requests, waivers and other communications in connection with this lease must be in writing, signed by the sender and marked for attention as set out or referred to in clause 18.2 or, if the recipient has notified otherwise, then marked for attention in the way last notified.

18.2 Delivery

They must be:

- (a) left at the address set out or referred to below;
- (b) sent by prepaid post (airmail, if appropriate) to the address set out or referred to below;
- (c) sent by fax to the fax number set out or referred to below; or
- (d) given in any other way permitted by law.

Landlord

Name: Barangaroo Delivery Authority
 Address: Level 21, 201 Kent Street
 Sydney NSW 2000
 Fax: +61 2 9271 5051
 For the attention of: Chief Executive Officer

Tenant

Name: The Owners Corporation Strata Plan No. _____
 Address: [insert]
 Fax: [insert]
 For the attention of: The Secretary

However, if the intended recipient has notified a changed postal address or changed fax number, then the communication must be to that address or number.

18.3 When effective

Notices take effect from the time they are received unless a later time is specified in them.

18.4 Receipt - post

If sent by post, notices are taken to be received 5 Business Days after posting (or 10 Business Days after posting if sent to or from a place outside Australia).

18.5 Communications by email

With respect to communications sent by email:

- (a) only the letter in .pdf format attached to the email and, subject to clause 18.5(b), any attachments to such letter which are referred to in the letter, will form part of the communication under this clause 18.5. Any text in the body of the email or the subject line will not form part of the communication;
- (b) an attachment to an email will only form part of a communication under this clause 18.5 if it is in *.pdf, *.xls, *.doc, *.vsd, *.mpp, *.mdb, *.xer or *.ppt format, or such other format as may be agreed between the parties from time to time; and
- (c) the parties agree, with respect to any communications under or in connection with this lease to ensure that their respective firewall and/or mail server (as applicable) allows messages of up to 20 MB to be received.

18.6 Receipt - fax

If notices are sent by fax, they are taken to be received at the time shown in the transmission report as the time that the whole fax was sent.

18.7 Receipt - general

Despite clauses 18.4 and 18.5, if they are received after 5.00pm in the place of receipt or on a non-Business Day, they are to be taken to be received at 9.00am on the next Business Day.

19. GST

19.1 Interpretation

- (a) Except where the context suggests otherwise, terms used in this clause 19 have the meanings given to those terms by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended from time to time).
- (b) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 19.
- (c) A reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts.

19.2 Reimbursements

Any payment or reimbursement required to be made under this lease that is calculated by reference to a Cost or other amount paid or incurred will be limited to the total Cost or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the Cost or amount relates.

19.3 Additional amount of GST payable

Subject to clause 19.5, if GST becomes payable on any supply made by a party (**Supplier**) under or in connection with this lease:

- (a) any amount payable or consideration to be provided under any provision of this lease (other than this clause 19), for that supply is exclusive of GST;
- (b) any party (**Recipient**) that is required to provide consideration to the Supplier for that supply must pay an additional amount to the Supplier equal to the amount of the GST payable on that supply (**GST Amount**), at the same time as any other consideration is to be first provided for that supply; and
- (c) the Supplier must provide a tax invoice to the Recipient for that supply, no later than the time at which the GST Amount for that supply is to be paid in accordance with clause 19.3(b).

19.4 Variation

- (a) If the GST Amount properly payable in relation to a supply (as determined in accordance with clause 19.3 and clause 19.5), varies from the additional amount paid by the Recipient under clause 19.3, then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this clause 19.4(a) is deemed to be a payment, credit or refund of the GST Amount payable under clause 19.3.
- (b) The Supplier must issue an adjustment note to the Recipient in respect of any adjustment event occurring in relation to a supply made under or in connection with this lease as soon as reasonably practicable after the Supplier becomes aware of the adjustment event.

19.5 Exchange of non-monetary consideration

- (a) To the extent that the consideration provided for the Supplier's taxable supply to which clause 19.3 applies is a taxable supply made by the Recipient in the same tax period (**Recipient Supply**), the GST Amount that would be otherwise be payable by the Recipient to the Supplier in accordance with clause 19.3 shall be reduced by the amount of GST payable by the Recipient on the Recipient Supply.
- (b) The Recipient must issue to the Supplier an invoice for any Recipient Supply on or before the time at which the Recipient must pay the GST Amount in accordance with clause 19.3 (or the time at which such GST Amount would have been payable in accordance with clause 19.3 but for the operation of clause 19.5(a)).

19.6 Indemnities

- (a) If a payment under an indemnity gives rise to a liability to pay GST, the payer must pay, and indemnify the payee against, the amount of that GST.
- (b) If a party has an indemnity for a cost on which that party must pay GST, the indemnity is for the cost plus all GST (except any GST for which that party can obtain an input tax credit).
- (c) A party may recover payment under an indemnity before it makes the payment in respect of which the indemnity is given.

19.7 No merger

This clause will not merge on termination of this lease.

20. By-Laws and Building Management Statement

20.1 Complying with By-Laws and Building Management Statement

In addition to its other obligations in this lease, the Tenant must:

- (a) comply with the By-Laws and the Building Management Statement; and
- (b) use reasonable endeavours to ensure that the Owners comply with the By-Laws and the Building Management Statement; and
- (c) obtain all necessary consents under the By-Laws and the Building Management Statement before carrying out works or doing anything else for which consent is required under the By-Laws, the Building Management Statement or both; and
- (d) comply with any other obligations imposed on the Tenant from time to time.

Any provisions in the By-Laws or the Building Management Statement imposing obligations or restrictions on the Owners in respect of Lots apply equally to the Tenant in respect of the Premises to the extent that the obligations or restrictions are relevant to the Premises.

20.2 Tenant responsibility in relation to Owners

The Tenant must not do anything to prevent:

- (a) compliance by an Owner with either or both the By-Laws and the Building Management Statement; or
- (b) the exercise by the Landlord of the Landlord's rights under either or both the By-Laws and the Building Management Statement.

20.3 Changing By-Laws

- (a) The Tenant must comply with section 143 of the Management Act with respect to making, amending or repealing By-Laws which confer certain rights or privileges.
- (b) The Tenant must seek prior written consent from the Landlord (which may not be unreasonably withheld) with respect to making, amending or repealing any By-Laws which relate to matters which may materially and adversely impact on:
 - (i) this lease; or
 - (ii) insurance premiums (including fire control, permitted uses and security); or
 - (iii) the structural integrity and appearance of the Parcel (including building works, and damage to the Premises); or
 - (iv) use of the Parcel for any purpose other than for permanent residential accommodation; or
 - (v) compliance with any Law.

21. General

21.1 Discretion in exercising rights

A party may exercise a right or remedy or give or refuse its approval or consent in any way it considers appropriate and in its absolute discretion (including by imposing conditions), unless this lease expressly states otherwise.

21.2 Partial exercising of rights

If a party does not exercise a right or remedy fully or at a given time, that party may still exercise it later.

21.3 Prompt performance

If this lease specifies when a party agrees to perform an obligation, that party agrees to perform it by the time specified, and if no time is specified then the parties will act within a reasonable time.

21.4 Remedies cumulative

The rights and remedies provided in this lease are in addition to other rights and remedies given by law independently of this lease.

21.5 Rights and obligations are unaffected

Rights given to the parties under this lease and the parties' liabilities under it are not affected by anything which might otherwise affect them by Law.

21.6 Variation and waiver

A provision of this lease, or a right created under it, may not be waived or varied except in writing, signed by the party or parties to be bound.

21.7 Indemnities

The indemnities in this lease are continuing obligations, independent from the other obligations of the parties under this lease and continue after this lease expires or is terminated in respect of any act, matter or thing done or omitted to be done before the date of expiry or termination of this lease. Except as otherwise provided for in this lease, it is not necessary for a party to incur expense or make payment before enforcing a right of indemnity under this lease.

21.8 Construction

No rule of construction applies to the disadvantage of the Landlord because it was responsible for the preparation of, or seeks to rely on, this lease or any part of it.

21.9 Acceptance of money or other acts not a waiver

If the Landlord:

- (a) accepts money under this lease (before or after termination);
- (b) gives any concession to the Tenant; or
- (c) attempts to mitigate its loss,

it is not a waiver of any breach or of the Landlord's rights under this lease. An attempt by the Landlord to mitigate its loss is not a surrender of this lease.

21.10 Exclusion of statutory provisions

In this lease:

- (a) the covenants, powers and provisions implied in leases by sections 84, 84A, 85, 133A and 133B of the *Conveyancing Act 1919* (NSW) do not apply; and
- (b) words used in any of the forms of words in the first column of part 2 of schedule 4 to the *Conveyancing Act 1919* (NSW) do not imply a covenant under section 86 of that Act.

21.11 Prior breaches

Expiry or termination of this lease does not affect any rights in connection with a breach of this lease before then.

21.12 Warranties and undertakings

The Tenant warrants that it has relied only on its own enquiries in connection with this lease and not on any representation or warranty by the Landlord or any person acting or seeming to act on the Landlord's behalf, except as otherwise set out in this lease.

21.13 Inconsistent law

To the extent permitted by law, this lease prevails to the extent it is inconsistent with any law.

21.14 Supervening legislation

Any present or future legislation which operates to vary the obligations of the Tenant in connection with this lease with the result that the Landlord'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.

21.15 Counterparts

This lease may consist of a number of copies, each signed by one or more parties to this lease. If so, the signed copies are treated as making up the one document.

21.16 Serving documents

Without preventing any other method of service, any document in a court action may be served on a party by being delivered or left at that party's address for service of notice under clause 17.

21.17 Parties bound

Even if this document is found not to be a lease or is found to be a lease for a term less than the Term, the parties are bound in contract to carry out their obligations under this document for the Term, unless expressly released under this document from those obligations.

21.18 Entire agreement

This lease constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, undertakings and negotiations on that subject matter.

21.19 Compensation under the Development Act

The Tenant is not entitled to claim any freehold interest in the Parcel or the Premises pursuant to section 46 of the Development Act or to receive any compensation under sections 138 or 148 of the Development Act from the Landlord on the expiry or earlier termination of this lease.

21.20 Development Act and Management Act

Where there is any inconsistency between the terms of this lease and any provision of the Development Act or the Management Act, the Development Act or the Management Act (as the case may be) prevails.

22. Governing law, jurisdiction and service of process

22.1 Governing law

This lease is governed by the law in force in New South Wales.

22.2 Submission to jurisdiction

Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them. Each party waives any right it has to object to an action being brought in those courts including by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

Executed as a deed

The seal of **Barangaroo Delivery Authority** is affixed by authority of the Chief Executive Officer in the presence of:

Signature of authorised person

Signature of authorised person

Name of authorised person

Name of authorised person

Office held

Office held

Signed by
The Owners – Strata Plan No. _____

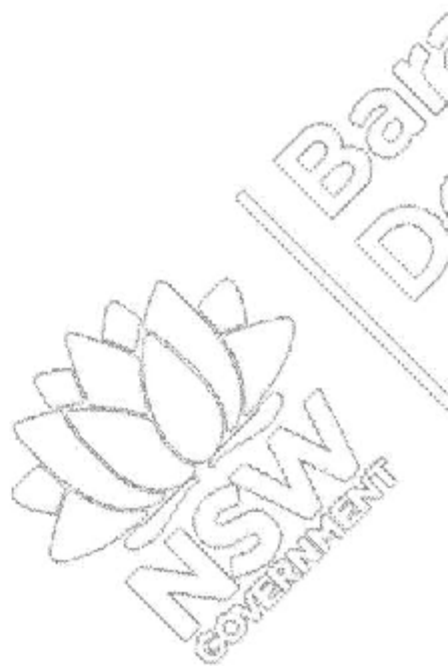
sign here ► _____

print name _____

sign here ► _____

print name _____

Annexure L - Standard Form Residential Strata Lease





Central Barangaroo Residential Strata Lot Lease

Barangaroo Delivery Authority

Landlord

[Tenant]

Tenant

Clayton Utz
Lawyers
Level 15 1 Bligh Street
Sydney NSW 2000
GPO Box 9806
Sydney NSW 2001
Tel +61 2 9353 4000
Fax +61 2 8220 6700
www.claytonutz.com

Our reference 18637/16133/80128948

**Annexure "A" to the lease between
Barangaroo Delivery Authority ABN 94 567 807 277 (as Landlord) and
[Tenant] [ABN number (if applicable)] (as Tenant) of premises known as Unit
[address of premises] dated [date]**

Contents

1.	Definitions and interpretation	1
1.1	Definitions	1
1.2	References to certain general terms	5
1.3	Headings	6
2.	Term	6
2.1	Term of lease	6
2.2	Nature of tenancy	6
3.	Rent and Outgoings	7
3.1	Rent	7
3.2	Estate Levy	7
3.3	7
3.4	Outgoings	7
3.5	Payment despite expiry or termination	7
4.	Payments	7
4.1	Method of payment	7
4.2	No demand necessary	7
4.3	Adjustment of payments	8
4.4	Obligations not affected	8
4.5	Interest on overdue money	8
4.6	Compounding	8
5.	Use and occupation of Premises	8
5.1	Permitted Use	8
5.2	No warranty as to use	8
5.3	Improvements	8
5.4	Tenant may remove some property	9
5.5	Surrounding activities	9
5.6	Further development	9
5.7	No objection by the Tenant	10
5.8	Title	10
5.9	Landlord not liable for fire control	11
6.	Tenant's additional rights and obligations	11
6.1	General obligations	11
6.2	Prohibited acts	11
6.3	Securing of the Premises	11
6.4	Supply failure	11
6.5	Indirect acts	11
6.6	Tenant's Visitors to comply	11
6.7	Tenant's risk	12
7.	Maintenance, repair and alteration of Premises	12
7.1	Obligation to repair	12
7.2	Obligations during redevelopment	12
8.	Insurances	12

8.1	Building and other insurance	12
8.2	The policy	12
8.3	Landlord may insure	12
8.4	Insurance not to be avoided	13
8.5	Tenant to give information	13
8.6	Insurer requirements	13
9.	Alienation	13
10.	Costs arising from breach	13
10.1	Damages	13
10.2	Continuing obligation	14
10.3	Tenant as owner	14
11.	Landlord's obligations	14
12.	Landlord's additional rights, representations and warranties	14
12.1	Representations and warranties	14
12.2	Compliance with laws and requirements	14
12.3	Right to enter Premises	14
12.4	Change of landlord	15
12.5	Agents	15
12.6	Landlord may rectify	15
12.7	Landlord not liable	16
12.8	Landlord's position as an Authority	16
13.	Tenant's obligations on expiry or termination	16
13.1	Tenant to yield up	16
13.2	Removal of Tenant's Property	16
13.3	Tenant to make good	16
13.4	Tenant may not remove certain property	17
13.5	Tenant's failure	17
14.	Costs, charges and expenses	17
14.1	What the Tenant must pay	17
14.2	Independent consultants	17
14.3	Obligations at Tenant's cost	18
14.4	Consents obtained by Landlord	18
14.5	Limitations	18
15.	Dispute resolution	18
15.1	Notice of dispute	18
15.2	Management Act	18
16.	Termination	18
16.1	No essential terms or right to terminate	18
16.2	Landlord to give notice of breach	18
16.3	Landlord may rectify	19
16.4	Waiver	19
16.5	Acceptance of money	19
16.6	Compulsory Acquisition	19
17.	Notices	20
17.1	Form	20
17.2	Delivery	20
17.3	When effective	20
17.4	Receipt - post	20
17.5	Communications by email	20
17.6	Receipt - fax	21
17.7	Receipt - general	21

18.	GST	21
18.1	Interpretation.....	21
18.2	Reimbursements.....	21
18.3	Additional amount of GST payable.....	21
18.4	Variation.....	22
18.5	Exchange of non-monetary consideration.....	22
18.6	Indemnities	22
18.7	No merger.....	22
19.	Common Property Lease, By-Laws and Building Management Statement	22
19.1	Tenant's acknowledgement and obligations	22
19.2	Complying with By-Laws and Building Management Statement.....	23
19.3	Additional information	23
19.4	Tenant responsible for Occupiers.....	24
19.5	Sustainability.....	24
20.	General	24
20.1	Discretion in exercising rights.....	24
20.2	Partial exercising of rights	24
20.3	Prompt performance.....	25
20.4	Remedies cumulative	25
20.5	Rights and obligations are unaffected	25
20.6	Variation and waiver	25
20.7	Indemnities	25
20.8	Construction.....	25
20.9	Acceptance of money or other acts not a waiver	25
20.10	Exclusion of statutory provisions	25
20.11	Prior breaches	26
20.12	Warranties and undertakings.....	26
20.13	Inconsistent law	26
20.14	Supervening legislation	26
20.15	Counterparts	26
20.16	Serving documents.....	26
20.17	Parties bound.....	26
20.18	Entire agreement.....	26
20.19	CGT Event F2 election	26
20.20	Compensation under the Development Act.....	26
20.21	Development Act and Management Act.....	27
21.	Governing law, jurisdiction and service of process.....	27
21.1	Governing law.....	27
21.2	Submission to jurisdiction	27

The Landlord and the Tenant agree as follows.

1. Definitions and interpretation

1.1 Definitions

The following words have these meanings in this lease unless the contrary intention appears.

Apartment means an apartment in the Strata Scheme.

Authority means a government, semi government, local government, statutory, public, ministerial, civil, administrative, fiscal or judicial body or other authority or body.

Barangaroo has the meaning given to it under the *Barangaroo Delivery Authority Act 2009* (NSW).

Building Management Statement means a building management statement which complies with the requirements of Division 3B of Part 23 of the Conveyancing Act 1919 (NSW).

Buildings means the structures, improvements and all plant and equipment from time to time erected or placed on the Land, and includes all of the lots in the Buildings that are subject to the Strata Plans and Strata Scheme.

Business Day means a day (not being a Saturday or Sunday) on which banks are open for general banking business in Sydney.

By-Laws means an instrument which creates by laws under Part 7 of the Management Act.

Car Space means any car space which forms part of the Premises.

Central Barangaroo means part of the land comprised within Folio Identifier 101/120496 and which includes Block 5, Blocks 5 and 6 Foreshore, Block 6, Block 7 and Block 7 Foreshore (which, for the avoidance of doubt, includes the Public Domain).

Commencement Date has the meaning given on the coversheet.

Common Property means the common property in the Strata Scheme.

Common Property Leases means the leases of the Common Property by the Landlord to the Owners Corporation.

Consumer Price Index means the Sydney (All Groups) index published by the Australian Statistician or the index substituted for it by the Australian Statistician or, if neither of those indexes is available, an index nominated by the Landlord (acting reasonably).

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

Costs includes costs, charges and expenses including those incurred in connection with advisors and (unless otherwise specified) includes reasonable internal administrative costs.

CPI Adjustment Date means each anniversary of the Commencement Date.

Current CPI means in respect of any anniversary of the Commencement Date, the Consumer Price Index number for the quarter ending immediately before that anniversary of the Commencement Date.

Data means the data captured through telemetry or other electronic, manual or mechanical means from utility meters or other building services systems relating to:

- (a) any private or state utility or Authority providing utilities or services including electricity, thermal energies, recycled water, potable water, gas, sewerage;
- (b) any building services or facility including rainwater tanks, non-potable water, photovoltaic cells, co-generation or tri-generation microsystems or diesel generator;
- (c) indoor air temperature and humidity; and
- (d) weather conditions external to the Buildings.

Development Act means the *Strata Schemes Development Act 2015* (NSW).

Environment includes all aspects of the surroundings of human beings.

Environmental Law means any Law concerning the Environment and includes Laws concerning:

- (a) the carrying out of uses, works or development or the subdivision of land;
- (b) emissions of substances into the atmosphere, waters and land;
- (c) pollution and contamination of the atmosphere, waters and land;
- (d) production, use, handling, storage, transportation and disposal of:
 - (i) waste;
 - (ii) hazardous substances; and
 - (iii) dangerous goods;
- (e) threatened, endangered and other flora and fauna species; and
- (f) the health and safety of people,

whether made or in force before or after the date of this lease.

Estate Levy has the meaning given in the First Common Property Lease.

Expiry Date has the meaning given on the coversheet.

First Common Property Lease means lease no. **[insert]** of Common Property by the Landlord to the Owners Corporation.

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

GST Amount has the meaning given to that term in clause 18.3.

Home Office means an Apartment which may be lawfully used as a residential apartment or a combined residential apartment/home office but not a commercial office in accordance with the terms of the relevant environmental planning instruments.

Interest Rate means the rate of interest payable on contributions under the Management Act, or such other legislation that replaces that Act from time to time.

Land means the land comprising folio identifier [*to be inserted following subdivision to create a separate stratum lot which will then be the subject of the Strata Plans*].

Landlord is defined on the cover sheet of this lease.

Landlord's Employees and Agents means each of the Landlord's employees, officers, agents, contractors, invitees and those persons who at any time are under the control of, and in or on the Premises, with the consent (express or implied) of the Landlord.

Landlord's Property means all plant and equipment, fixtures, fittings which constitute improvements to land for the purpose of any law which is located on the Parcel.

Law includes all statutes, regulations, by-laws, ordinances and other delegated legislation and any rule of common law or equity from time to time, and all consents, approvals, major project approvals, modifications, registrations, certificates, licences and permits from any Authority.

Management Act means the *Strata Schemes Management Act 2015* (NSW).

Occupier means any person in lawful occupation of the Premises but does not include a visitor or invitee.

Outgoings means the total of amounts and Costs paid or payable by the Tenant or the Landlord in connection with the Premises:

- (a) including:
 - (i) Rates, Taxes, Estate Levy, Cultural Contribution and other charges imposed by any Authority; and
 - (ii) charges for the supply (including charges for installation, connection and consumption) of Services to or on the Premises; and
- (b) where applicable, reduced by the amount of:
 - (i) any credit or refund of GST to which the Landlord is entitled as a result of incurring Outgoings; and
 - (ii) interest, fines or penalties charged as a result of the Landlord's breach of this lease or the wrongful, reckless or negligent act of the Landlord or the Landlord's Employees and Agents.

Owner means an owner of a lot in the Strata Scheme.

Owners Corporation means the owners corporation constituted on registration of the first of the Strata Plans to be registered.

Parcel means collectively all of the lots in the Strata Plans (including the Land), and includes the Landlord's Property.

Permitted Use means:

- (a) use of the Premises for residential purposes in accordance with the By-Laws, subject to subsection (b) and (c);
- (b) use of any Car Space associated with the Apartment for the parking of cars only, provided such use is by the Occupier and the Occupier's visitors and invitees only; and

- (c) use as a Home Office provided such use is in accordance with any restrictions, prohibitions, requirements, notices, orders or directions given by any Authority, the Landlord or the Owners Corporation or in the By-Laws.

Premises means the lot in the Strata Scheme subject to this lease.

Previous CPI means the Consumer Price Index number for the quarter ending immediately before the last CPI Adjustment Date before the relevant CPI Adjustment Date (or, if there has not been one, the Commencement Date).

Public Domain means parks, streets, pedestrian connections, laneways and any other areas dedicated for public use and access.

Quarter Date means each 1 January, 1 April, 1 July and 1 October during the Term.

Quarterly Period means each of:

- (a) the period from and including the Commencement Date to the day immediately before the next Quarter Date;
- (b) thereafter for the remainder of the Term each period commencing from and including each Quarter Date to the day immediately prior to the next Quarter Date; and
- (c) the period from and including the last Quarter Date in the Term to and including the Expiry Date.

Rates means rates, land taxes, levies, assessments and other charges (including charges for consumption and garbage and waste removal) together with any interest, fines and penalties in connection with them (except for the those fines and penalties imposed as a result of the Landlord's or the Landlord's Employees and Agents' wrongful act, default or negligence).

Recipient has the meaning given to that term in clause 18.3.

Recipient Supply has the meaning given to that term in clause 18.5.

Services means the services (such as water, drainage, gas, electricity, communications, firefighting, air conditioning, lifts and escalators) running through or servicing the Premises and includes all plant, equipment, pipes, wires, cables, ducts and other conduits in connection with them.

Shipping Activities means:

- (a) commercial shipping and commercial vessel activities, including in the case of the wharves, the loading and unloading of cargo and passengers and the berthing of vessels; and
- (b) ferry activities and the operation of ferry terminals, including ticketing, the loading and unloading of cargo and passengers and the berthing of vessels.

Strata Plans means registered leasehold strata plan [*Insert strata plan number*], together with each other strata plan registered as part of the Strata Scheme.

Strata Scheme means the leasehold strata scheme constituted on registration of the first of the Strata Plans to be registered.

Supplier has the meaning given to that term in clause 18.3.

Taxes means taxes, levies, imposts, deductions, charges, withholdings and duties imposed by any Authority (including stamp and transaction duties), (together with any related interest, penalties, fines and expenses in connection with them, except for the those fines and penalties imposed as a result of the Landlord's or the Landlord's Employees and Agents' wrongful act, default or negligence), except if imposed on the overall net income or capital gains of the Landlord.

Tenant is defined on the cover sheet of this lease.

Tenant's Property means property in the Premises not owned by the Landlord.

Tenant's Visitors means each of the Tenant's contractors, service suppliers, invitees and those persons who at any time are under the control of, and in or on the Premises, with the consent (express or implied) of the Tenant, excluding any Occupier.

Term means the period:

- (a) from and including the Commencement Date; and
- (b) to and including the Expiry Date.

Utility Supplier means a supplier of utilities, to an Owner, Occupier or the Owners Corporation.

1.2 References to certain general terms

Unless the contrary intention appears, a reference in this lease to:

- (a) **(variations or replacement)** a document (including this lease) includes any variation or replacement of it;
- (b) **(clauses, annexures and schedules)** a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this lease;
- (c) **(reference to statutes)** a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (d) **(law)** law means common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (e) **(singular includes plural)** the singular includes the plural and vice versa;
- (f) **(person)** the word "person" includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association, or any Authority;
- (g) **(executors, administrators, successors)** a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (h) **(two or more persons)** an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- (i) **(jointly and severally)** an agreement, representation or warranty by two or more persons binds each of them jointly and each of them individually;

- (j) **(reference to a group of persons)** a group of persons or things is a reference to any two or more of them jointly and to each of them individually;
- (k) **(dollars)** Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia;
- (l) **(calculation of time)** if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (m) **(reference to a day)** a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (n) **(accounting terms)** an accounting term is a reference to that term as it is used in accounting standards under the Corporations Act, or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia;
- (o) **(meaning not limited)** the words "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (p) **(next day)** if an act under this lease to be done by a party on or by a given day is done after 5.30pm on that day, it is taken to be done on the next day;
- (q) **(next Business Day)** if an event under this lease must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next Business Day;
- (r) **(time of day)** time is a reference to Sydney time; and
- (s) **(reference to anything)** anything (including any amount) is a reference to the whole and each part of it.

1.3 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this lease.

2. Term

2.1 Term of lease

Subject to the provisions of this lease the Landlord leases the Premises to the Tenant for the Term.

2.2 Nature of tenancy

The Landlord and the Tenant acknowledge and agree that this lease is a long term lease and the Tenant:

- (a) without limiting clause 3, must pay all Costs in relation to the Premises and the Landlord has no responsibility or obligation in that regard except as expressly provided to the contrary in this lease; and
- (b) takes and is subject to the same responsibilities and liabilities in regard to the Premises including in respect of:
 - (i) persons, property, Costs and otherwise; and

(ii) capital or structural works repairs and maintenance,

which the Tenant would take and be subject to if the Tenant were the owner of the Premises,

and the provisions of this lease are to be read, interpreted and applied in the context of and incorporating those principles. The express provisions of this lease do not limit the scope of this clause 2.2.

3. Rent and Outgoings

3.1 Rent

The Tenant must pay to the Landlord rent of \$1.00 for the whole of the Term and that payment is acknowledged.

3.2 Estate Levy

The Tenant acknowledges that the Owners Corporation must pay the Estate Levy to the Landlord pursuant to the First Common Property Lease and the Owners Corporation may recover the cost of the Estate Levy from the Tenant as part of the Outgoings.

3.4 Outgoings

The Tenant must pay as and when they become due for payment, all Outgoings in respect of the Premises during the Term, whether assessed during the Term or not, and whether or not imposed on the Landlord, the Tenant or the Owner's Corporation.

3.5 Payment despite expiry or termination

The Tenant must pay the Outgoings for the Term, or up until termination of this Lease if terminated earlier in accordance with its terms, even if the Term has expired or been terminated, as applicable, before the Outgoings can be calculated. In that case, payment must be made by the Tenant promptly once the actual Outgoings are known and the parties must co-operate with each other and do all things reasonably required to ascertain and calculate the amounts payable by the Tenant pursuant to this clause.

4. Payments

4.1 Method of payment

The Tenant must make payments due to the Landlord under this lease by the method the Landlord reasonably requires without set off, including equitable set-off, or counterclaim and without deduction.

4.2 No demand necessary

The Landlord need not make demand for any amount required to be paid by the Tenant under this lease unless this lease says that demand must be made.

4.3 Adjustment of payments

If the Tenant pays an amount and it is found later that the amount payable:

- (a) should have been higher, then the Landlord may demand payment of the difference even though the Landlord has given the Tenant a receipt for payment of the lower amount (provided that the Landlord provides to the Tenant a replacement receipt for the higher amount); or
- (b) should have been lower, then the Landlord must repay the difference even though the Landlord has given the Tenant a receipt for payment of the higher amount.

4.4 Obligations not affected

Expiry or termination of this lease does not affect the Tenant's obligations to make payments under this lease for periods before then or the Landlord's obligation to repay amounts under clause 4.3.

4.5 Interest on overdue money

The Tenant must pay interest at the Interest Rate on any amount under this lease which is not paid on the due date for payment. That interest:

- (a) accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days; and
- (b) is payable on demand from the Landlord or, if no such demand is made, on the last day of each calendar month.

4.6 Compounding

Interest payable under clause 4.5 which is not paid when due for payment may be added to the overdue amount by the Landlord monthly on the last day of each calendar month. Interest is payable on the increased overdue amount at the Interest Rate in the manner set out in clause 4.5 compounding daily.

5. Use and occupation of Premises

5.1 Permitted Use

The Tenant may only use the Premises for the Permitted Use. The Tenant may not use the Premises for any other use.

5.2 No warranty as to use

The Landlord does not warrant that the Premises are suitable, or may be used, for any purpose.

5.3 Improvements

- (a) The Landlord and Tenant agree that all assets and property which constitute improvements to land for the purposes of any Law relating to the right of the Tenant to claim depreciation benefits and building allowances will be and remain always for all purposes owned by the Tenant.
- (b) The Landlord agrees it will not seek to claim any depreciation entitlements or building allowances in relation to those assets or that property and will not hinder

the Tenant in seeking to claim such entitlements, and will provide such assistance as it is able which the Tenant reasonably requires (including to sign such documents as the Tenant reasonably requires) for the Tenant to claim the benefits and allowances as referred to in clause 5.3(a).

- (c) The Tenant agrees to pay on request all Costs reasonably incurred by the Landlord in providing any assistance to the Tenant pursuant to clause 5.3(b).

5.4 Tenant may remove some property

The Landlord acknowledges and agrees that the Tenant will have the right, subject to clause 13.4, but not the obligation, to remove from the Premises on expiry or termination of this lease any assets and property which are not regarded as improvements to land for the purposes of any such Law.

5.5 Surrounding activities

- (a) The Tenant acknowledges that it is aware that:
 - (i) the Premises are within a major event, entertainment and exhibition precinct;
 - (ii) entertainment and promotional events or activities and public festivals may be conducted within the precinct (including on adjoining land);
 - (iii) occupiers of land in the vicinity of the Premises may carry out other noisy activities;
 - (iv) roads in the vicinity of the Premises may be temporarily closed during periods when certain events or activities occur and for the purpose of carrying out maintenance and repair;
 - (v) the events, activities or festivals may temporarily interfere with the Tenant's quiet enjoyment of the Premises;
 - (vi) the waterways surrounding Barangaroo and wharves in Darling Harbour, Cockle Bay, Jones Bay and Pyrmont Bay are used for Shipping Activities on a 24-hour basis; and
 - (vii) the Shipping Activities may temporarily interfere with the Tenant's quiet enjoyment of the Premises.
- (b) The Landlord must allow the Tenant, an Occupier or the Tenant's Visitors (including emergency personnel), sub lessees and licensees to access the Premises at all times despite any periods of closure or restricted access to the Premises as contemplated under clauses 5.5(a)(iv) and 5.5(a)(v).

5.6 Further development

- (a) The Tenant acknowledges that after the commencement of the Term:
 - (i) buildings and other improvements may be developed on surrounding land;
 - (ii) as part of that development, excavation or construction works may be carried out;

- (iii) roads in the vicinity of Barangaroo may be temporarily closed for the purpose of carrying out that development; and
 - (iv) the Tenant's access to or enjoyment of the Premises may be affected by that development.
- (b) The Landlord does not warrant that any development will be completed.
 - (c) The Landlord must allow the Tenant, an Occupier or the Tenant's Visitors (including emergency personnel), sub lessees and licensees to access the Premises at all times despite any periods of closure or restricted access to the Premises as contemplated under clause 5.6(a)(iii) and 5.6(a)(iv).

5.7 No objection by the Tenant

- (a) The Tenant is not entitled to:
 - (i) make any objection to the Landlord of;
 - (ii) obstruct the proper carrying out by the Landlord of;
 - (iii) seek injunctive or other relief against the Landlord in respect of; or
 - (iv) claim compensation or an abatement of Outgoings from the Landlord in respect of,
 the matters disclosed in clauses 5.5 or 5.6.
- (b) Nothing in clauses 5.5 or 5.6 authorises any person (other than persons permitted or authorised under this lease, any laws or rights of way) to enter the Premises.
- (c) The Tenant may not make any objection to or claim for compensation from the Landlord because of anything in connection with:
 - (i) the nature, quality, condition and state of repair of the Premises; or
 - (ii) loss, damage, dilapidation, infestation, defect (latent or patent) or mechanical breakdown which may affect the Premises during the Term; or
 - (iii) the presence in or on the Parcel of contamination; or
 - (iv) the condition, performance or existence or non-existence of Services.

5.8 Title

- (a) The Tenant must at all times observe and perform the restrictions, stipulations, easements, covenants, By-Laws and Building Management Statement referred to in the folio of the register for the Land as if the Tenant were the registered proprietor of the Land.
- (b) The Tenant acknowledges that it is bound by the terms of any easements, covenants, By-Laws and Building Management Statement referred to in clause 5.8(a) and any lease, licence or other right of occupation granted by the Landlord in respect of the Parcel, to which this lease is subject or which is concurrent to this lease.

5.9 Landlord not liable for fire control

The Landlord is not responsible for the adequacy of any fire alarm or sprinkler system or fire emergency programme in the Parcel.

6. Tenant's additional rights and obligations

6.1 General obligations

The Tenant must:

- (a) comply on time with all Laws (including all Environmental Laws) and the requirements of Authorities in connection with the Premises, the Tenant's Property and the use or occupation of the Premises (including obtaining and maintaining all consents) except to the extent that responsibility for compliance is imposed by Law on the Owners Corporation; and
- (b) give the Owners Corporation a copy of any notice or order which may materially affect the Owners Corporation, the Landlord or the Premises, or the use or occupation of the Premises, promptly after the Tenant receives the notice or order.

6.2 Prohibited acts

The Tenant must not during the Term permit any illegal act, trade, business, occupation or calling at any time during the Term to be exercised, carried on, permitted or suffered in or on the Parcel.

6.3 Securing of the Premises

The Tenant acknowledges that the Landlord is not responsible nor liable in any manner whatsoever (including any responsibility or liability for which the Landlord might otherwise be responsible or liable because of the negligence on the part of the Landlord, its officers, servants, agents or contractors) for security of or within the Premises or the Common Property in respect of any unauthorised entry to or misdemeanour within the Premises or the Common Property.

6.4 Supply failure

The Tenant agrees that the Landlord is not liable for, and releases the Landlord from, any liability, loss, injury, damage, cost or expense sustained by the Tenant or any other person at any time as a result of or arising in any way out of the interruption to or the failure of the Services enjoyed by the Tenant in conjunction with the Premises or this lease (but excepting any interruption or failure caused or contributed to by the negligent or wilful act of the Landlord or the Landlord's officers, employees, agents or contractors).

6.5 Indirect acts

If the Tenant may not do something in connection with this lease, then it may not do anything which may result in it happening.

6.6 Tenant's Visitors to comply

The Tenant agrees to ensure, so far as it is legally able to do so, that the Tenant's Visitors comply, if appropriate, with the Tenant's obligations under this lease.

6.7 Tenant's risk

The Tenant accepts all risks in connection with the use and occupation of the Premises including that a law or a requirement of an Authority may affect the use or occupation of the Premises.

7. Maintenance, repair and alteration of Premises

7.1 Obligation to repair

The Tenant:

- (a) must keep the Premises in good repair and condition (having regard to the age of the Building) in accordance with the Building Management Statement and the By-Laws; and
- (b) acknowledges that the Landlord is not responsible for any structural and capital maintenance, replacement and repair in respect of the Premises.

7.2 Obligations during redevelopment

Clause 7.1 does not apply during any redevelopment or reinstatement of the Premises which has been approved by the Landlord.

8. Insurances

8.1 Building and other insurance

The Tenant must effect and maintain, or must procure to be effected and maintained, throughout the Term a policy indemnifying the Landlord in respect of the Tenant's liability under clause 10.1 for an amount of \$5 million for any one occurrence or for any other amount which the Landlord reasonably prescribes, being an amount not less than any minimum amount provided by the regulations under the Management Act.

The Tenant must ensure that each insurance required by this lease is in force on the Commencement Date and is maintained, unless the lease is terminated earlier in accordance with its terms, during the Term.

8.2 The policy

The Tenant, in respect of all policies of insurance which the Tenant must effect under this Lease, must:

- (a) ensure that the interests of the Landlord are covered where applicable; and
- (b) at the Landlord's request, lodge promptly with the Landlord a duplicate or certified copy of each policy and a copy of each renewal certificate; and
- (c) punctually pay all premiums in respect of the policy and its renewal; and
- (d) include a cross liability clause.

8.3 Landlord may insure

Notwithstanding any other clause of this lease, if the Tenant does not comply with its obligation to effect and maintain the insurances required by this lease, or if the Tenant fails to provide evidence that such insurances have been effected, the Landlord may, but is not obliged to,

effect the relevant insurances and may recover the cost of doing so as a debt due from the Tenant.

8.4 Insurance not to be avoided

The parties must not do nor permit anything which prejudices any insurance required under this clause 8 or causes a change in risk which results in an increase in the amount of the premium.

8.5 Tenant to give information

The Tenant must give full, true and particular information to the insurer of all matters and things the non-disclosure of which might in any way prejudice or affect any such policy or the payment of all or any benefits under the insurance.

8.6 Insurer requirements

The Tenant must comply with the requirements of any insurer in relation to:

- (a) anything placed or intended to be placed by the Tenant in the Premises; and
- (b) alarms, sprinklers and other fire warning or prevention equipment.

9. Alienation

- (a) The Landlord and Tenant acknowledge that this lease does not restrict the Tenant's right to transfer, charge, mortgage, or otherwise deal with or dispose of the Tenant's interest under this lease, and, subject to the Tenant complying with the By Laws, the Tenant may sublet, license, part with possession or share possession of the Premises.
- (b) Immediately after a transfer of this lease by the Tenant, the transferee must advise the Landlord of the name and address for service of the transferee.
- (c) From the date of transfer of this lease by the Tenant, the obligations of the Tenant to the Landlord under this lease terminate except in respect of any obligations under clause 10.2 or any breach of the Tenant's obligations existing at the date of the transfer.
- (d) By taking a transfer, the transferee is taken to have agreed with the Landlord to comply with the obligations of the Tenant under this lease relating to the period after the transfer takes effect.

10. Costs arising from breach

10.1 Damages

The Tenant will be liable to the Landlord for any damages suffered by the Landlord in connection with:

- (a) the occurrence of a breach by the Tenant of its obligations under this lease; or
- (b) the term of this lease being claimed to be wholly or partly void, voidable or unenforceable by the Tenant or anyone on its behalf; or
- (c) any payment required to be made under this lease not being made on its due date; or

- (d) the Landlord rectifying the Tenant's breach of its obligations under this lease.

10.2 Continuing obligation

The obligations of the Tenant and the rights of the Landlord contained in this clause 10 are each:

- (a) a continuing obligation by the Tenant and remains in full force and effect after the termination of this lease; and
- (b) a separate and independent obligation of the Tenant.

10.3 Tenant as owner

Without limiting the express rights and obligations of the Landlord and Tenant under this lease, the Landlord agrees that the Tenant has the same rights (subject to this lease), and the Tenant agrees to be subject to the same responsibilities in respect of persons and property, as those to which it would be subject if, during the Term, it was the registered proprietor and occupier of the freehold of the Premises.

11. Landlord's obligations

Subject to the Landlord's rights in connection with this lease, the Tenant may peaceably possess and occupy the Premises during the Term without interference by the Landlord.

12. Landlord's additional rights, representations and warranties

12.1 Representations and warranties

The Landlord represents and warrants that:

- (a) it has power to enter into and observe its obligations under this lease;
- (b) it has in full force and effect the authorisations necessary to enter into this lease, observe obligations under them, and allow them to be enforced;
- (c) its obligations under the lease are valid and binding and are enforceable against it in accordance with its terms;
- (d) the lease does not contravene its constituent documents or any laws or any of its obligations or undertakings by which it or any of its assets are bound or cause a limitation on its powers; and
- (e) the Landlord does not have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise).

12.2 Compliance with laws and requirements

Subject to its obligations under this lease to the Tenant, the Landlord may do anything to comply with any Law or the requirements of Authorities.

12.3 Right to enter Premises

- (a) Subject to clause 12.3(c), the Landlord may enter the Premises at reasonable times on reasonable prior notice, as agreed with the Tenant, to see if the Tenant is

complying with its obligations under this lease or to do anything the Landlord must or may do, under this lease.

- (b) On entering the Premises in the circumstances contemplated by clause 12.3(a), the Landlord must:
 - (i) use all reasonable endeavours to cause minimal disturbance to the use of the Premises by the Tenant and the Tenant's Employees and Agents; and
 - (ii) be accompanied by the Tenant (except in the case of an emergency),
- (c) If the Landlord, acting reasonably, decides there is an emergency, the Landlord may enter the Premises at any time without notice and the Landlord is not required to comply with clauses 12.3(a) and 12.3(b) in that circumstance.
- (d) The Landlord may not exercise the rights under clause 12.3(a) more than twice in any 12 month period (other than in an emergency).

12.4 Change of landlord

- (a) Prior to dealing in any way with its interest in the Premises, the Landlord must provide at least 10 Business Days' notice of such dealing to the Tenant.
- (b) If the Landlord deals with its interest in the Premises so that another person becomes the landlord:
 - (i) the Landlord must procure that the other person signs a deed with the Tenant under which:
 - A. the Tenant agrees with the other person to comply with this lease as if the other person was the Landlord;
 - B. the other person assumes the Landlord's obligations under this lease arising after the Landlord ceases to be landlord; and
 - C. the other person agrees to be bound by any consent given by the Landlord pursuant to this lease prior to the Landlord ceasing to be the landlord; and
 - (ii) upon that deed being entered into, the Landlord is released from any obligation under this lease arising after it ceases to be the landlord but not from any antecedent breaches; and
 - (iii) to the extent applicable, in order to discharge its obligations under clause 8 the Tenant must notify its insurer that the transfer has occurred.

12.5 Agents

The Landlord may appoint agents or others to exercise any of its rights or perform any of its duties under this lease. Communications from the Landlord override those from the agents or others if they are inconsistent except to the extent the Tenant has already acted in reliance upon the communication from the agent or others.

12.6 Landlord may rectify

The Landlord may:

- (a) do anything which should have been done by the Tenant under this lease but which has not been done or which the Landlord reasonably considers has not been done properly:
 - (i) after giving the Tenant 30 Business Days prior notice or such longer period as is reasonable having regard to the breach; or
 - (ii) at any time without notice where the Landlord, acting reasonably, decides there is an emergency; and
- (b) for that purpose, and for as long as it is necessary for that purpose, the Landlord and the Landlord's Employees and Agents may enter the Premises and remain there.

In exercising its rights under this lease the Landlord must use reasonable endeavours not to interfere with the Tenant's use of the Premises.

12.7 Landlord not liable

The exercise of the Landlord's rights under clause 12.6 is not a breach of clause 11.

12.8 Landlord's position as an Authority

If the Landlord is an Authority nothing in this lease operates to restrict or otherwise affect the Landlord's statutory discretion in exercising its powers as an Authority, as distinct from its powers as a landlord and owner of the Premises. If there is a conflict between the statutory discretion of the Landlord as to the exercise of powers as an Authority on the one hand and the satisfaction and performance of the Landlord's obligations as Landlord and owner of the Premises in this lease on the other, the former will prevail.

13. Tenant's obligations on expiry or termination

13.1 Tenant to yield up

The Tenant must:

- (a) vacate the Premises on the earlier of the Expiry Date and the date this lease is terminated; and
- (b) leave the Premises in a condition consistent with the Tenant having complied with all its obligations under this lease.

13.2 Removal of Tenant's Property

The Tenant may (subject to clauses 5.3, 5.4 and 13.4), remove furniture, loose equipment, goods and other items of Tenant's Property which do not form part of the Premises or which are not affixed (or intended to be affixed) to the Premises from the Premises before the day when the Premises must be vacated.

13.3 Tenant to make good

The Tenant must promptly make good, to at least the standard existing before removal, any damage caused by any property being removed from the Premises.

13.4 Tenant may not remove certain property

The Tenant may not remove anything the removal of which will cause damage to the Premises which cannot be repaired.

13.5 Tenant's failure

- (a) If the Tenant fails to remove the Tenant's Property under clause 13.2, the Landlord may either:
 - (i) cause the Tenant's Property to be removed and stored at the risk and Cost of the Tenant; or
 - (ii) treat the Tenant's Property as abandoned and deal with it in such manner as the Landlord thinks fit without being liable in any way to account to the Tenant.
- (b) If the Tenant fails to make good any damage under clause 13.3, the Landlord may do so at the risk and Cost of the Tenant.
- (c) A certificate by the Landlord as to the amount of any Cost under this clause is prima facie evidence of the amount of such Cost and must be paid by the Tenant to the Landlord on demand.

14. Costs, charges and expenses

14.1 What the Tenant must pay

The Tenant must pay the Landlord's reasonable legal costs and all duties, fees, charges and expenses in respect of:

- (a) any application for the consent or approval of the Landlord under the lease;
- (b) any breach of the Tenant's obligations under the lease; and
- (c) the exercise of any right (including in connection with the actual enforcement or preservation of any rights under this lease), waiver, variation, power, privilege, authority or remedy of the Landlord in respect of the lease if ordered by any Authority or determined pursuant to the Management Act; and
- (d) Taxes and fees (including registration fees) and fines and penalties in respect of fees, which may be payable or determined to be payable in connection with this lease or a payment or receipt or any other transaction contemplated by this lease excluding any fine or penalty incurred due to the default of the Landlord,

including in each case reasonable legal costs and expenses on a full indemnity basis or solicitor and own client basis, whichever is the higher.

14.2 Independent consultants

The Tenant agrees that the Costs referred to in clause 14.1 include the reasonable Costs incurred by the Landlord with respect to any independent consultant or other person reasonably appointed to determine any issue arising from or in connection with the Tenant's default or to evaluate any matter arising from or in connection with any request for the Landlord's consent or approval.

14.3 Obligations at Tenant's cost

Anything which the Tenant is required to do or may do under this lease must be done at the Tenant's cost unless expressly specified otherwise in this lease.

14.4 Consents obtained by Landlord

If the Landlord has agreed to obtain a person's consent before the Landlord gives its consent under this lease or to pay Costs incurred by that person in giving consent, then the consent from that person is a consent in connection with this lease.

14.5 Limitations

For the purpose of this clause 14.4, the Landlord agrees that it will act reasonably in considering using its internal resources without charge to the Tenant, having regard to the skills, expertise and capacities of the Landlord and its employees and agents, before going out to an external person for services where charges incurred by the Landlord will be charged to, and paid by, the Tenant.

15. Dispute resolution

15.1 Notice of dispute

If a dispute between the Tenant and the Landlord arises in connection with this lease or its subject matter, then the disputing party must give to the other a notice adequately identifying and providing details of the dispute.

15.2 Management Act

In the event of a dispute or complaint concerning a matter in this lease, either party may involve the dispute determination provisions in the Management Act.

16. Termination

16.1 No essential terms or right to terminate

Despite any other term, condition or other provision of this lease (express or implied) it is expressly agreed between the Landlord and the Tenant that:

- (a) no term, condition or other provision (express or implied) on the part of the Tenant is an essential or fundamental term of this lease; and
- (b) the Landlord shall not be entitled to re-enter the Premises, with or without notice, forfeit, or terminate or determine this lease for any reason, including, without limitation, if the Tenant is in default of any term, condition or other provision (express or implied) of this lease; and
- (c) the Landlord's remedies for breach of this lease are limited to damages and the right to seek an injunction and the cure right in clause 16.3.

16.2 Landlord to give notice of breach

- (a) If the Tenant breaches its obligations under this lease, the Landlord may give the Tenant a notice ("**Default Notice**") specifying the breach and requiring rectification.
- (b) The Tenant must remedy the breach specified in the Default Notice or pay reasonable compensation to the Landlord if the Tenant cannot remedy that breach:

- (i) within 10 Business Days in the case of a monetary default;
- (ii) within 20 Business Days in the case of a non-monetary default which is capable of remedy within 20 Business Days; and
- (iii) within a reasonable period having regard to the nature of the breach in the case of any other non-monetary default,

from the date of service of the Default Notice.

16.3 Landlord may rectify

The Landlord may, but is not obliged to, remedy at any time (including entering upon the Premises for the purpose of doing so) any breach by the Tenant (but only after the Tenant has failed to remedy the breach or to pay reasonable compensation to the Landlord if the Tenant cannot remedy that breach within the time required by clause 16.2) and whenever the Landlord so elects all Costs incurred by the Landlord in remedying that breach must be paid by the Tenant to the Landlord on demand as if they were rent in arrears.

16.4 Waiver

The Landlord and the Tenant agree that:

- (a) the Landlord's failure to enforce any breach by the Tenant is not to be construed as a waiver of that breach, nor shall any custom or practice which may grow up between the parties in the course of administering this lease be construed to waive or to lessen the right of the Landlord to insist upon the performance by the Tenant of any term, covenant or condition hereof, or to exercise any rights given to the Landlord on account of any such default;
- (b) a waiver by the Landlord of a particular breach by the Tenant shall not be deemed to be a waiver of the same or any other subsequent breach or default; and
- (c) the demand of or subsequent acceptance of rent under this lease by the Landlord will not constitute a waiver of any preceding breach by the Tenant of any term, covenant or condition of this lease, other than the failure of the Tenant to make the particular payment or payments of rental so accepted, regardless of the Landlord's knowledge of such preceding breach at the time of acceptance of such rent.

16.5 Acceptance of money

The acceptance by the Landlord of rent or other money under this lease is not a waiver of a preceding breach by the Tenant. An attempt by the Landlord to mitigate its loss is not a surrender by operation of law or a waiver of the Tenant's breach of this lease.

16.6 Compulsory Acquisition

Without prejudice to any statutory right of the Tenant to receive compensation for any compulsory acquisition, nothing contained in this lease is deemed to preclude or prevent the exercise of any statutory right of compulsory acquisition affecting the Parcel at any time during the Term.

17. Notices

17.1 Form

Unless expressly stated otherwise in this lease, all notices, certificates, consents, directions, requests, waivers and other communications in connection with this lease must be in writing, signed by the sender and marked for attention as set out or referred to in clause 17.2 or, if the recipient has notified otherwise, then marked for attention in the way last notified.

17.2 Delivery

They must be:

- (a) left at the address set out or referred to below;
- (b) sent by prepaid post (airmail, if appropriate) to the address set out or referred to below;
- (c) sent by fax to the fax number set out or referred to below; or
- (d) given in any other way permitted by law.

Landlord

Name:	Barangaroo Delivery Authority
Address:	Level 21, 201 Kent Street
	Sydney NSW 2000
Fax:	+61 2 9271 5051
For the attention of:	Chief Executive Officer

Tenant

Name:	[insert]
Address:	[insert]
Fax:	[insert]
For the attention of:	[insert]

However, if the intended recipient has notified a changed postal address or changed fax number, then the communication must be to that address or number. If the Tenant is no longer the person named above, notices must served at the address of the Premises or the last address for service notified to the Landlord.

17.3 When effective

Notices take effect from the time they are received unless a later time is specified in them.

17.4 Receipt - post

If sent by post, notices are taken to be received 5 Business Days after posting (or 10 Business Days after posting if sent to or from a place outside Australia).

17.5 Communications by email

With respect to communications sent by email:

- (a) only the letter in .pdf format attached to the email and, subject to clause 17.5(b), any attachments to such letter which are referred to in the letter, will form part of the

communication under this clause 17.5. Any text in the body of the email or the subject line will not form part of the communication;

- (b) an attachment to an email will only form part of a communication under this clause 17.5 if it is in *.pdf, *.xls, *.doc, *.vsd, *.mpp, *.mdb, *.xer or *.ppt format, or such other format as may be agreed between the parties from time to time; and
- (c) the parties agree, with respect to any communications under or in connection with this lease to ensure that their respective firewall and/or mail server (as applicable) allows messages of up to 20 MB to be received.

17.6 Receipt - fax

If notices are sent by fax, they are taken to be received at the time shown in the transmission report as the time that the whole fax was sent.

17.7 Receipt - general

Despite clauses 17.4 and 17.5, if they are received after 5.00pm in the place of receipt or on a non-Business Day, they are to be taken to be received at 9.00am on the next Business Day.

18. GST

18.1 Interpretation

- (a) Except where the context suggests otherwise, terms used in this clause 18 have the meanings given to those terms by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended from time to time).
- (b) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 18.
- (c) A reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts.

18.2 Reimbursements

Any payment or reimbursement required to be made under this lease that is calculated by reference to a Cost or other amount paid or incurred will be limited to the total Cost or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the Cost or amount relates.

18.3 Additional amount of GST payable

Subject to clause 18.5, if GST becomes payable on any supply made by a party (**Supplier**) under or in connection with this lease:

- (a) any amount payable or consideration to be provided under any provision of this lease (other than this clause 18), for that supply is exclusive of GST;
- (b) any party (**Recipient**) that is required to provide consideration to the Supplier for that supply must pay an additional amount to the Supplier equal to the amount of the GST payable on that supply (**GST Amount**), at the same time as any other consideration is to be first provided for that supply; and

- (c) the Supplier must provide a tax invoice to the Recipient for that supply, no later than the time at which the GST Amount for that supply is to be paid in accordance with clause 18.3(b).

18.4 Variation

- (a) If the GST Amount properly payable in relation to a supply (as determined in accordance with clause 18.3 and clause 18.5), varies from the additional amount paid by the Recipient under clause 18.3, then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this clause 18.4(a) is deemed to be a payment, credit or refund of the GST Amount payable under clause 18.3.
- (b) The Supplier must issue an adjustment note to the Recipient in respect of any adjustment event occurring in relation to a supply made under or in connection with this lease as soon as reasonably practicable after the Supplier becomes aware of the adjustment event.

18.5 Exchange of non-monetary consideration

- (a) To the extent that the consideration provided for the Supplier's taxable supply to which clause 18.3 applies is a taxable supply made by the Recipient in the same tax period (**Recipient Supply**), the GST Amount that would be otherwise be payable by the Recipient to the Supplier in accordance with clause 18.3 shall be reduced by the amount of GST payable by the Recipient on the Recipient Supply.
- (b) The Recipient must issue to the Supplier an invoice for any Recipient Supply on or before the time at which the Recipient must pay the GST Amount in accordance with clause 18.3 (or the time at which such GST Amount would have been payable in accordance with clause 18.3 but for the operation of clause 18.5(a)).

18.6 Indemnities

- (a) If a payment under an indemnity gives rise to a liability to pay GST, the payer must pay, and indemnify the payee against, the amount of that GST.
- (b) If a party has an indemnity for a cost on which that party must pay GST, the indemnity is for the cost plus all GST (except any GST for which that party can obtain an input tax credit).
- (c) A party may recover payment under an indemnity before it makes the payment in respect of which the indemnity is given.

18.7 No merger

This clause will not merge on termination of this lease.

19. Common Property Lease, By-Laws and Building Management Statement

19.1 Tenant's acknowledgement and obligations

- (a) The Tenant acknowledges that the Owners Corporation will be a party to the Common Property Leases and the Building Management Statement and is required to comply with the Owners Corporation's obligations under each of the Common

Property Leases (and in particular clause [17.2] (Carbon Neutrality) of the First Common Property Lease) and the Building Management Statement.

- (b) The Tenant must not do anything to prevent:
 - (i) compliance by the Owners Corporation with any or all the Common Property Leases and the Building Management Statement; or
 - (ii) the exercise by the Landlord of the Landlord's rights under any or all of the Common Property Leases and the Building Management Statement.

19.2 Complying with By-Laws and Building Management Statement

In addition to its other obligations in this lease, the Tenant must:

- (a) comply with the By-Laws and the Building Management Statement; and
- (b) use reasonable endeavours to ensure that an Occupier complies with the By-Laws and the Building Management Statement; and
- (c) obtain all necessary consents under the By-Laws and the Building Management Statement before carrying out works or doing anything else for which consent is required under the By-Laws, the Building Management Statement or both; and
- (d) comply with any other obligations imposed on the Tenant from time to time.

19.3 Additional information

The Tenant consents to the collection, use and disclosure of the Data relating to the Tenant or the Occupier by the Landlord, the Owners Corporation or a Utility Supplier (or a data analysis service provider to any of them) for purposes including:

- (a) the administration of charges to the Owners or Occupiers for the consumption of utilities;
- (b) the Owners Corporation complying with its obligations under clause [17] of the First Common Property Lease or any other environmental or climate positive obligations or initiatives under the Common Property Leases; and
- (c) generating aggregated statistical information to assist with:
 - (i) understanding consumption patterns so as to better inform design decisions;
 - (ii) providing feedback to the purchaser on the purchaser's usage of utilities and services on the Premises;
 - (iii) comparing statistical and historical data related to the average usage of utilities and services on the Premises, for the Buildings, for Barangaroo and for other developments;
 - (iv) reporting to any Authorities or reporting under any environmental monitoring schemes, including any carbon emissions scheme; and
 - (v) forecasting usage of utilities and improving the operational performance of the Buildings and future building design.

19.4 Tenant responsible for Occupiers

The Tenant must:

- (a) include in any sub-lease or other agreement with an Occupier provisions requiring the Occupier to refrain from breaching the By-Laws and the Building Management Statement; and
- (b) use reasonable endeavours to ensure that an Occupier refrains from breaching either or both of the By-Laws and the Building Management Statement.

19.5 Sustainability

The Tenant consents to the collection use and disclosure of Data relating to the Tenant or the Occupier by the Landlord, the Owners Corporation or a Utility Supplier (or a data analysis service provider to any one of them) for purposes including:

- (a) the administration of charges to the Owners or Occupiers for the consumption of utilities;
- (b) the Owners Corporation complying with its obligations under clause **17** of the Common Property Lease or any other environmental or climate positive obligations or initiatives under the Common Property Leases; and
- (c) generating aggregated statistical information to assist with:
 - (i) understanding consumption patterns so as to better inform design decisions;
 - (ii) providing feedback to the purchaser on the purchaser's usage of utilities and services on the Premises;
 - (iii) comparing statistical and historical data related to the average usage of utilities and services on the Premises, for the Buildings, for Central Barangaroo and for other developments;
 - (iv) reporting to any Authorities or reporting under any environmental monitoring schemes, including any carbon emissions scheme; and
 - (v) forecasting usage of utilities and improving the operational performance of the Building and future Building design.

20. General

20.1 Discretion in exercising rights

A party may exercise a right or remedy or give or refuse its approval or consent in any way it considers appropriate and in its absolute discretion (including by imposing conditions), unless this lease expressly states otherwise.

20.2 Partial exercising of rights

If a party does not exercise a right or remedy fully or at a given time, that party may still exercise it later.

20.3 Prompt performance

If this lease specifies when a party agrees to perform an obligation, that party agrees to perform it by the time specified, and if no time is specified then the parties will act within a reasonable time.

20.4 Remedies cumulative

The rights and remedies provided in this lease are in addition to other rights and remedies given by law independently of this lease.

20.5 Rights and obligations are unaffected

Rights given to the parties under this lease and the parties' liabilities under it are not affected by anything which might otherwise affect them by Law.

20.6 Variation and waiver

A provision of this lease, or a right created under it, may not be waived or varied except in writing, signed by the party or parties to be bound.

20.7 Indemnities

The indemnities in this lease are continuing obligations, independent from the other obligations of the parties under this lease and continue after this lease expires or is terminated in respect of any act, matter or thing done or omitted to be done before the date of expiry or termination of this lease. Except as otherwise provided for in this lease, it is not necessary for a party to incur expense or make payment before enforcing a right of indemnity under this lease.

20.8 Construction

No rule of construction applies to the disadvantage of the Landlord because it was responsible for the preparation of, or seeks to rely on, this lease or any part of it.

20.9 Acceptance of money or other acts not a waiver

If the Landlord:

- (a) accepts money under this lease (before or after termination);
- (b) gives any concession to the Tenant; or
- (c) attempts to mitigate its loss,

it is not a waiver of any breach or of the Landlord's rights under this lease. An attempt by the Landlord to mitigate its loss is not a surrender of this lease.

20.10 Exclusion of statutory provisions

In this lease:

- (a) the covenants, powers and provisions implied in leases by sections 84, 84A, 85, 133A and 133B of the *Conveyancing Act 1919* (NSW) do not apply; and
- (b) words used in any of the forms of words in the first column of part 2 of schedule 4 to the *Conveyancing Act 1919* (NSW) do not imply a covenant under section 86 of that Act.

20.11 Prior breaches

Expiry or termination of this lease does not affect any rights in connection with a breach of this lease before then.

20.12 Warranties and undertakings

The Tenant warrants that it has relied only on its own enquiries in connection with this lease and not on any representation or warranty by the Landlord or any person acting or seeming to act on the Landlord's behalf, except as otherwise set out in this lease.

20.13 Inconsistent law

To the extent permitted by law, this lease prevails to the extent it is inconsistent with any law.

20.14 Supervening legislation

Any present or future legislation which operates to vary the obligations of the Tenant in connection with this lease with the result that the Landlord'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.

20.15 Counterparts

This lease may consist of a number of copies, each signed by one or more parties to this lease. If so, the signed copies are treated as making up the one document.

20.16 Serving documents

Without preventing any other method of service, any document in a court action may be served on a party by being delivered or left at that party's address for service of notice under clause 17.

20.17 Parties bound

Even if this document is found not to be a lease or is found to be a lease for a term less than the Term, the parties are bound in contract to carry out their obligations under this document for the Term, unless expressly released under this document from those obligations.

20.18 Entire agreement

This lease constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, undertakings and negotiations on that subject matter.

20.19 CGT Event F2 election

The Landlord elects that this lease will be a long-term lease to which s 104-115 of the *Income Tax Assessment Act 1997* (Cth) applies.

20.20 Compensation under the Development Act

The Tenant is not entitled to claim any freehold interest in the Parcel or the Premises or to receive any compensation under section 134 or 148 of the Development Act from the Landlord on the expiry or earlier termination of this lease.

20.21 Development Act and Management Act

Where there is any inconsistency between the terms of this lease and any provision of the Development Act or the Management Act, the Development Act or the Management Act (as the case may be) prevails.

21. Governing law, jurisdiction and service of process

21.1 Governing law

This lease is governed by the law in force in New South Wales.

21.2 Submission to jurisdiction

Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them. Each party waives any right it has to object to an action being brought in those courts including by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

Executed as a deed

The seal of **Barangaroo Delivery Authority** is affixed by authority of the Chief Executive Officer in the presence of:

Signature of authorised person

Signature of authorised person

Name of authorised person

Name of authorised person

Office held

Office held

Signed by
[Name of Tenant]

sign here ► _____

print name _____
in the presence of

sign here ► _____
Witness

print name _____



**This Annexure M has been wholly
redacted from page 1 to 47**