

## **ATTACHMENT I – CROWN LEASE AND SALE CONTRACT CLAUSES (EXTRACTS)**

### **NOTES:**

1. The covenants below are identified by clause number based on current drafts of the documents, but the clause numbering may change depending on the final terms of the Crown leases and sales contracts negotiated with the successful purchaser(s).
2. Not all defined terms from each sale contract and Crown lease have been extracted. Only those definitions in each document necessary to give meaning to the extracted clauses have been extracted.

### **ANZAC PARK EAST**

#### **SALE CONTRACT – ANZAC PARK EAST**

##### **Definitions**

**Commonwealth Heritage List** means the Commonwealth Heritage List maintained by the Minister for the Environment and Energy under the EPBC Act.

**Crown Lease** means a lease from the Seller to the Buyer in the form of the draft Crown lease included as Annexure A.

**EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

**Land** means the land described at Item 1.

**Parliament House Vista** means the Parliament House Vista as described in the Commonwealth Heritage List entry for the Parliament House Vista (Place ID 105466).

**Parliament House Vista Extension – Portal Buildings** means the Parliament House Vista Extension – Portal Buildings as described in the Commonwealth Heritage List entry for the Parliament House Vista Extension – Portal Buildings (Place ID 105474).

**Property** means the Crown Lease, the Land and any improvements on the Land.

##### **Clauses**

#### **36. HERITAGE**

##### **36.1 Seller's Disclosure**

The Seller discloses to the Buyer and the Buyer acknowledges that the Property is:

- (a) registered on the Commonwealth Heritage List as part of the Parliament House Vista Extension – Portal Buildings; and
- (b) registered on the Commonwealth Heritage List as part of the Parliament House Vista.

**CROWN LEASE – ANZAC PARK EAST**

**1. INTERPRETATION**

1.1 In this Lease, unless the contrary intention appears:

- (b) **ANZAC Park East Area** means that part of the Land designated as such on the plan in Annexure A;
- (c) **ANZAC Park East Building** means the building located on the ANZAC Park East Area at the commencement of this Lease, which is known as ANZAC Park East, and the services and civil works supporting that building;
- (g) **Certificate of Occupancy and Use** means a certificate under section 69 of the *Building Act 2004* (ACT);
- (j) **Detailed Conditions of Planning, Design and Development** means the ANZAC Park East and ANZAC Park West Detailed Conditions of Planning, Design and Development prepared by the National Capital Authority;
- (n) **National Capital Plan** means the plan (from time to time) prepared by the National Capital Authority under Part III of the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth);
- (q) **Substantial Commencement** means expenditure (as evidence by copies of invoices and receipts and certified by a quantity surveyor) equal to or greater than 20% of the total cost of the Works;
- (s) **Works** means the erection of a replacement portal building on the ANZAC Park East Area after the ANZAC Park East Building has been demolished in accordance with clause 3(c) of this Lease.

1.3 Any reference to the Department of Environment and Energy in this Lease is a reference to the Commonwealth Department of Environment and Energy (or its successor Department) regardless of whether the Land is or has become Territory Land.

**3. THE LESSEE FURTHER COVENANTS WITH THE COMMONWEALTH AS FOLLOWS:**

<b>MASTER PLAN IMPLEMENTATION STRATEGY</b>	(b)	<p>Prior to undertaking any development on the Land, including the demolition of ANZAC Park East Building and the Works required under clause 3(c), the Lessee must prepare and submit to the National Capital Authority for its approval a master plan implementation strategy for the Land that provides a strategy and plan for the development of the Land that is in accordance with the provisions of the National Capital Plan and the Detailed Conditions of Planning, Design and Development and must include:</p> <ul style="list-style-type: none"> <li>(i) where the Land is to be subdivided, a plan of subdivision of the Land;</li> <li>(ii) a long term car parking strategy for the Land that includes: <ul style="list-style-type: none"> <li>(A) details of the means by which the relevant conditions of the National Capital Plan and the</li> </ul> </li> </ul>
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		<p>Detailed Conditions of Planning, Design and Development will be satisfied;</p> <p>(B) details of construction, staging and other measures to minimise disruption to and reduction of publicly available Car Parking on the Land during the development of the Land to satisfy the relevant conditions of the National Capital Plan and the Detailed Conditions of Planning, Design and Development; and</p> <p>(C) the location or locations of Car Parking to be provided on the Land by reference to a plan;</p> <p>(iii) details of the:</p> <p>(A) proposed location or locations of each proposed use of the Land by reference to a plan; and</p> <p>(B) the Gross Floor Area of each proposed use of the Land;</p> <p>(iv) details of the proposed location and dimensions of any road(s) to be constructed on the Land to service the Land and the Buildings; and</p> <p>the Lessee must make such amendments to the master plan implementation strategy submitted to the National Capital Authority as required by the National Capital Authority, if any, and promptly resubmit the amended master plan implementation strategy to the National Capital Authority for its approval;</p>
<p><b>BUILDING AND DEVELOPMENT COVENANT</b></p>	<p>(c)</p>	<p>(i) The Lessee must do the following:</p> <p>(A) not later than the day which is 4 years after the day on which this Lease is granted:</p> <p>(I) demolish the ANZAC Park East Building and all other improvements on the ANZAC Park East Area, and make safe the ANZAC Park East Area;</p> <p>(II) ensure that Substantial Commencement of the Works has occurred; and</p> <p>(III) provide evidence to Commonwealth (to the Commonwealth's satisfaction) that Substantial Commencement of the Works has occurred;</p> <p>(B) after achieving Substantial Commencement of the Works, the Lessee must from that point of time:</p> <p>(I) proceed with the Works with due expedition and without delay to obtain a Certificate of Occupancy and Use and finalise construction in accordance with relevant approved plans; and</p>

		<p>(II) not suspend the whole or any part of the Works without valid excuse;</p> <p>(C) ensure that any development on the Land (including the work referred to in this clause 3(c)) is undertaken in accordance with the approved master plan implementation strategy and the requirements of the National Capital Authority;</p> <p>(ii) The Lessee waives any right to compensation under the provisions of section 19A(2) of the <i>City Area Leases Ordinance</i> in respect of all improvements on the ANZAC Park East Area, in recognition that the payment to the Commonwealth by the Lessee for those improvements (forming part of the payment made by the Lessee to the Commonwealth for the grant of this Lease) was determined in the knowledge that it is the Lessee's obligation to undertake the work referred to in clause 3(c)(i)(A);</p> <p>(iii) That the Lessee must indemnify and keep indemnified the Commonwealth, its servants and agents against any compensation which, despite the preceding paragraph, the Commonwealth is obliged to pay to the Lessee under section 19A(2) of the <i>City Area Leases Ordinance</i> in respect of any improvements on the ANZAC Park East Area;</p> <p>(iv) Clauses 3(c)(ii) and (iii) will only apply whilst the Land is National Land</p>
<b>BUILDING SUBJECT TO APPROVAL</b>	(i)	<p>(i) The Lessee must not without the previous consent in writing of the Commonwealth erect any Building on the Land or make any external structural alterations to the Premises;</p> <p>(ii) The obligation in paragraph 3(i)(i) does not apply to the Works referred to in 3(c) but this does not relieve the Lessee of any obligation to obtain approvals for the Works including any approval required by the National Capital Authority</p> <p>(iii) A reference in this clause 3(i) to the Commonwealth is a reference to the Commonwealth of Australia only, irrespective of whether or not the Land has become or is Territory Land;</p>
<b>COMPLY WITH LAWS</b>	(s)	That the Lessee must, at its own cost obtain and comply with any licence, permit, consent or registration required to carry on the purpose, and comply with all laws in connection with the purpose and the Lessee's use of the Premises;
<b>NAMING</b>	(t)	That the ANZAC Park East Building, and any building erected on the ANZAC Park East Area to replace it, must be named and known as ANZAC Park East;

## **ANZAC PARK WEST BUILDING**

### **SALE CONTRACT – ANZAC PARK WEST BUILDING**

#### **Definitions**

**ANZAC Park West Area** means that part of the Land designated as such on the plan in Annexure E.

**ANZAC Park West Building** means the building erected on Land at the commencement of the Crown Lease and known as ANZAC Park West and the civil works supporting that building.

**ANZAC Park West Building Heritage Management Plan** means the operational draft ANZAC Park East and ANZAC Park West (The Portal Buildings), Parkes, Canberra, ACT heritage management plan final report dated 29 June 2012 prepared by Woodhead, in so far as it is relevant to ANZAC Park West Building.

**Commonwealth Heritage List** means the Commonwealth Heritage List maintained by the Minister for the Environment and Energy under the EPBC Act.

**Commonwealth Heritage Values** means the heritage values of ANZAC Park West, Parkes as specified in the citation for that property on Commonwealth Heritage List at the date of commencement of the Crown Lease.

**Claim** means, in relation to any person or corporation, a claim, action, proceeding for damages, loss, expense, cost or liability incurred by or to be made or recovered by or against the person or corporation, however arising or whether present, unascertained, immediate, future or contingent and includes, without limitation, a claim for compensation.

**Completion** means the time at which this Contract is completed.

**Complete** means the Buyer has provided evidence to the Seller that:

- (a) a Certificate of Occupancy and Use has issued for the Development; and
- (b) the Development is consistent with:
  - (i) the master plan implementation strategy approved under clause 3(b) of the Crown Lease;
  - (ii) the National Capital Plan, including the Detailed Conditions of Planning, Design and Development;
  - (iii) the approvals issued by the National Capital Authority, including the approved plans; and
  - (iv) all approvals required by Law.

**Crown Lease** means a lease from the Seller to the Buyer in the form of the draft Crown lease included as Annexure A.

**Date of Completion** means the date on which Completion of the sale and purchase of the Property occurs.

**Deed of Covenant** means a deed of covenant in the form contained in Annexure A to the Crown Lease.

**Development** means the demolition of the ANZAC Park West Building and construction of the new portal building on the ANZAC Park West Area consistent with:

- (a) the master plan implementation strategy approved under clause 3(b) of the Crown Lease;
- (b) the National Capital Plan and the Detailed Conditions of Planning, Design and Development;
- (c) the approvals issued by the National Capital Authority, including the approved plans; and
- (d) all approvals required by Law;

**Detailed Conditions of Planning, Design and Development** means the ANZAC Park East and ANZAC Park West Detailed Conditions of Planning, Design and Development prepared by the National Capital Authority.

**EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

**Land** means the land described at Item 1.

**Law** includes the common law, statutes, legislative instruments (within the meaning of that term in the *Legislative Instruments Act 2003* (Cth)) and the requirements of any Authority.

**Object** means to make any Claim against the Seller (before or after Completion), raise any objection or requisition, rescind or terminate this Contract or delay Completion.

**Parliament House Vista** means the Parliament House Vista as described in the Commonwealth Heritage List entry for the Parliament House Vista (Place ID 105466).

**Parliament House Vista Extension – Portal Buildings** means the Parliament House Vista Extension – Portal Buildings as described in the Commonwealth Heritage List entry for the Parliament House Vista Extension – Portal Buildings (Place ID 105474).

**Property** means the Crown Lease, the Land and any improvements on the Land.

## **Clauses**

### **34. NATIONAL LAND**

#### **34.1 Declaration of National Land**

The Land is National Land and was declared to be National Land pursuant to the Declaration of National Land.

#### **34.2 Seller's intention in relation to revocation of National Land Status**

- (a) Promptly after registration of a Crown Lease in the Registrar-General's Office, the Seller represented by the Department of Finance intends to recommend to the Minister for Finance that the Minister revoke the Declaration of National Land in respect of the land the subject of that Crown Lease so that the Land will become Territory Land.
- (b) If the Minister revokes the Declaration of National Land in respect of the land the subject of that Crown Lease, the Seller must lodge a duly completed and signed application form to note the revocation of the Declaration of National Land on the

title to that Land.

**34.3 Buyer's acknowledgment**

The Buyer acknowledges that the statement of intention in clause 34.2 is not binding and that the Buyer cannot Object before or after Completion on the basis that the Minister for Finance has not revoked the Declaration of National Land in respect of all or part of the Land.

**34.4 Seller's intention to re-declare the Land National Land**

The Buyer acknowledges and agrees that:

- (a) redevelopment of the ANZAC Park West Building and ANZAC Park West Area to re-establish the portal framing function of the Parliament House Vista by the improvements erected on the corner of ANZAC Parade and Constitution Avenue:
  - (i) are critical to protecting the heritage value of the Parliament House Vista; and
  - (ii) is a use of the Land by the Commonwealth of Australia; and
- (b) where the Buyer fails to comply with clause 36, the Seller, represented by the Department of Finance, may, at its election, recommend to the Minister for Finance that the Minister declare the Land to be National Land pursuant to s.27 of CALO.

**34.5 Buyer's acknowledgment**

- (a) The Buyer acknowledges that the statement of intention in clause 34.4 is not binding on the Seller.
- (b) The Buyer:
  - (i) cannot object if the Minister for Finance re-declares the Land to be National Land; or
  - (ii) must not challenge the re-declaration of the Land to be National Land.

**35. DEED OF COVENANT**

**35.1 Application of clause**

This clause 35 will cease to apply when the Development is Completed.

**35.2 Deed of Covenant**

- (a) The Buyer must not dispose, sell, transfer or assign its interest in the Crown Lease (**Sale**) to a 3rd party (**Proposed Crown Lessee**), unless the Buyer:
  - (i) gives not less than 30 days prior written notice to the Seller of the intended Sale;
  - (ii) ensures the Proposed Crown Lessee executes a Deed of Covenant; and
  - (iii) gives the Seller a copy of the Deed of Covenant, which has been properly executed by the Proposed Crown Lessee not less than five Business Days before completion of the Sale; and

- (iv) gives the Seller the original Deed of Covenant properly executed by the Proposed Crown Lessee, no later than 5 Business Days after completion of the Sale.

36. **DEMOLITION AND REDEVELOPMENT OF ANZAC PARK WEST BUILDING**

36.1 **Obligation to Demolish and Redevelop**

- (a) The Buyer must, no later than the day that is [to be inserted – but not more than 30 years] after the commencement of the Crown Lease issued for the Property, Complete the Development.
- (b) Once the Buyer commences the Development, the Buyer must:
  - (i) proceed with the Development with due expedition and without delay to:
    - (A) Complete the Development; and
    - (B) obtain a Certificate of Occupancy and Use for the Development; and
  - (ii) not suspend the whole or any part of the Development without valid excuse.
- (c) The Buyer waives any right to compensation for the demolition of the ANZAC Park West Building, in recognition that the Purchase Price was determined with the knowledge of the Buyer's demolition and redevelopment obligations under this Sale Contract.

37. **SURVIVAL OF OBLIGATIONS**

The obligations in clause 35 and 36 survive Completion of this Contract.

38. **PLANNING CONDITIONS**

38.1 **Seller not consent authority**

The Buyer acknowledges and agrees that:

- (a) the Land is included within a designated area under the National Capital Plan; and
- (b) the National Capital Authority is responsible for development consents and approvals in relation to the Land.

38.2 **Release by Buyer**

The Buyer releases and discharges the Seller from all liability to the Buyer, its officers, agents or employees in relation to disturbance, loss or detriment caused by the National Capital Authority granting or denying any consent or approval in relation to the Land.

38.3 **No implied consent**

The Buyer acknowledges and agrees that nothing in this Contract or the fact of Completion implies or means that any required approvals, consents or licences regarding planning, design, siting and any other matters relating to the development of the Land will be granted by the National Capital Authority or any other Authority with or without conditions.



39. **HERITAGE**

39.1 **Seller's Disclosure**

The Seller discloses to the Buyer and the Buyer acknowledges that the Property is:

- (a) registered on the Commonwealth Heritage List as part of the Parliament House Vista Extension – Portal Buildings; and
- (b) registered on the Commonwealth Heritage List as part of the Parliament House Vista.

39.2 **Heritage values**

The Buyer acknowledges that:

- (a) it has read:
  - (i) the listings on the Commonwealth Heritage List referred to in clause 39.1(a) and (b); and
  - (ii) the ANZAC Park West Building Heritage Management Plan;
- (b) the ANZAC Park West Building Heritage Management Plan:
  - (i) records the Commonwealth Heritage Values of the Property; and
  - (ii) provides a guide for the management of those Commonwealth Heritage Values; and
- (c) the Buyer has had the opportunity to obtain its own independent advice, and has satisfied itself, in respect of the Commonwealth Heritage Values of the Property.

39.3 **Buyer cannot Object**

The Buyer cannot Object to:

- (a) anything in this clause 39; and
- (b) any obligation imposed upon the Buyer by Law because of the Commonwealth Heritage Values of the Property.

39.4 **Indemnity**

The Buyer indemnifies the Seller against any Claim against the Seller to the extent that Claim arises from or in connection with the Buyer's failure to comply with all or any part of this clause 39.

**CROWN LEASE – ANZAC PARK WEST BUILDING**

1. **INTERPRETATION**

1.1 In this Lease, unless the contrary intention appears:

- (b) **ANZAC Park West Area** means that part of the Land designated as such on the plan in Annexure B;
- (c) **ANZAC Park West Building** means the building located on the ANZAC Park West Area at the commencement of this Lease, which is known as ANZAC Park West, and the services and civil works supporting that building;

- (d) **Building** means any building or structure, constructed or partially constructed, or to be constructed on the Land to replace the same in accordance with the covenants of this Lease, together with all fixtures, fittings, plant, amenities and appurtenances thereof and therein contained or thereon affixed or if the context so admits any part thereof owned by the Lessee;
- (e) **Business Day** means a day that is not a Saturday, Sunday or public or bank holiday in the Territory;
- (j) **Completed** means the Lessee has provided evidence to:
  - (i) if the Land is National Land, the Commonwealth; and
  - (ii) if the Land is Territory Land, the Commonwealth and the Territory,
 

that:

    - (iii) a Certificate of Occupancy and Use has issued for the Development; and
    - (iv) the Development is consistent with:
      - (A) the master plan implementation strategy approved under clause 3(b);
      - (B) the National Capital Plan and the Detailed Conditions of Planning, Design and Development;
      - (C) the approvals issued by the National Capital Authority, including the approved plans; and
      - (D) all approvals required by law;
- (k) **Contract of Sale** means the contract of sale dated [*insert*], between the Commonwealth of Australia represented by the Department of Finance (as seller) and the original lessee named in this Lease (as buyer), pursuant to which this Lease was granted;
- (l) **Deed of Covenant** means a deed in the form contained in Annexure A;
- (m) **Development** means demolition of the ANZAC Park West Building and construction of the new portal building on the ANZAC Park West Area consistent with:
  - (i) the master plan implementation strategy approved under clause 3(b);
  - (ii) the National Capital Plan and the Detailed Conditions of Planning, Design and Development;
  - (iii) the approvals issued by the National Capital Authority, including the approved plans; and
  - (iv) all approvals required by law;
- (n) **Detailed Conditions of Planning, Design and Development** means the ANZAC Park East and ANZAC Park West Detailed Conditions of Planning, Design and Development prepared by the National Capital Authority.
- (q) **National Capital Authority** means any body, whether incorporated or unincorporated which from time to time exercises substantially the same powers

as the powers which are at the date of the commencement of the Lease exercised by the National Capital Authority under the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth);

(r) **National Capital Plan** means the plan (from time to time) prepared by the National Capital Authority under Part III of the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth);

1.3 Any reference to the Department of Environment and Energy in this Lease is a reference to the Commonwealth Department of Environment and Energy (or its successor Department) regardless of whether the Land is or has become Territory Land.

3. **THE LESSEE FURTHER COVENANTS WITH THE COMMONWEALTH AS FOLLOWS:**

<p><b>MASTER PLAN IMPLEMENTATION STRATEGY</b></p>	<p>(b)</p>	<p>Prior to undertaking any development on the Land, the Lessee must prepare and submit to the National Capital Authority for its approval a master plan implementation strategy for the Land that provides a strategy and plan for the development of the Land that is in accordance with the provisions of the National Capital Plan and the Detailed Conditions of Planning, Design and Development and must include:</p> <p>(i) where the Land is to be subdivided, a plan of subdivision of the Land;</p> <p>(ii) a long term car parking strategy for the Land that includes:</p> <p style="padding-left: 40px;">(A) details of the means by which the relevant conditions of the National Capital Plan and the Detailed Conditions of Planning, Design and Development will be satisfied;</p> <p style="padding-left: 40px;">(B) details of construction, staging and other measures to minimise disruption to and reduction of publicly available Car Parking on the Land during the development of the Land to satisfy the relevant conditions of the National Capital Plan and the Detailed Conditions of Planning, Design and Development; and</p> <p style="padding-left: 40px;">(C) the location or locations of Car Parking to be provided on the Land by reference to a plan;</p> <p>(iii) details of the:</p> <p style="padding-left: 40px;">(A) proposed location or locations of each proposed use of the Land by reference to a plan; and</p> <p style="padding-left: 40px;">(B) the Gross Floor Area of each proposed use of the Land;</p>
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		<p>(iv) details of the proposed location and dimensions of any road(s) to be constructed on the Land to service the Land and the Buildings; and</p> <p>the Lessee must make such amendments to the master plan implementation strategy submitted to the National Capital Authority as required by the National Capital Authority, if any, and promptly resubmit the amended master plan implementation strategy to the National Capital Authority for its approval;</p>
<b>SURRENDER REQUIREMENT</b>	(c)	<p>If the Lessee has not Completed the Development by the day which is [to be inserted – but not more than 30 years] after the day on which this Lease was granted, the Lessee must, if requested by the Commonwealth at any time after that date:</p> <p>(i) promptly execute and return to the Commonwealth all documents necessary to surrender this Lease, not later than 14 days after the Lessee receives those documents from the Commonwealth; and</p> <p>(ii) do all things reasonably necessary to enable the surrender of this Lease to be registered in the Registrar-General's office;</p>
<b>CONSENT REQUIREMENT</b>	(d)	<p>That:</p> <p>(i) this clause 3(d) will cease to apply when the Development is Completed;</p> <p>(ii) subject to clause 3(d)(iii) the Lessee must not assign or transfer its interest in the Premises and this Lease without the prior written consent of the Commonwealth;</p> <p>(iii) the Lessee will not be required to obtain the written consent of the Commonwealth referred to in clause 3(d)(ii) if the Lessee has first obtained and given to the Commonwealth, a Deed of Covenant executed by the assignee or transferee of the Lessee's interest in the Premises and this Lease; and</p> <p>(iv) a reference in this clause 3(d) to the Commonwealth is a reference to the Commonwealth of Australia only, irrespective of whether or not the Land has become or is Territory Land;</p>
<b>BUILDING SUBJECT TO APPROVAL</b>	(k)	<p>That:</p> <p>(i) The Lessee must not without the previous consent in writing of the Commonwealth erect any Building on the Land or make any external structural alterations to the Premises;</p> <p>(ii) A reference in this clause 3(k) to the Commonwealth is a reference to the Commonwealth of Australia only, irrespective of whether or not the Land has become or is Territory Land;</p>
<b>COMPLY WITH LAWS</b>	(u)	<p>That the Lessee must, at its own cost obtain and comply with any licence, permit, consent or registration required to carry on the</p>

		purpose, and comply with all laws in connection with the purpose and the Lessee's use of the Premises;
<b>NAMING</b>	(v)	That the ANZAC Park West Building, and any building erected on the ANZAC Park West Area to replace it, must be named and known as ANZAC Park West.

## **ANZAC PARK WEST CAFETERIA**

### **SALE CONTRACT – ANZAC PARK WEST CAFETERIA**

#### **Definitions**

**Cafeteria** means the building erected on the Land and curtilage at the commencement of the Crown Lease and known as the ANZAC Park West Cafeteria, as shown on the plan in Annexure F.

**Cafeteria Heritage Management Plan** means the operational draft West Portal Cafeteria Heritage Management Plan prepared by Eric Martin and Associates and dated 28 August 2014 and such other plan as prepared by the Buyer in accordance with the Crown Lease.

**Claim** means, in relation to any person or corporation, a claim, action, proceeding for damages, loss, expense, cost or liability incurred by or to be made or recovered by or against the person or corporation, however arising or whether present, unascertained, immediate, future or contingent and includes, without limitation, a claim for compensation.

**Commonwealth Heritage List** means the Commonwealth Heritage List maintained by the Minister for the Environment and Energy under the EPBC Act.

**Commonwealth Heritage Values** means in respect of the Cafeteria:

- (i) if the Cafeteria is not listed as an individual place on the Commonwealth Heritage List, the National Heritage List or the Heritage Register maintained by the Australian Capital Territory, the heritage values of the Cafeteria as specified in the Cafeteria Heritage Management Plan; or
- (ii) if the Cafeteria is listed on any list or register referred to in paragraph (i) as an individual place, the heritage values as specified in the citation for the Cafeteria on that list or register.

**Completion** means the time at which this Contract is completed.

**Crown Lease** means a lease from the Seller to the Buyer in the form of the draft Crown lease included as Annexure A.

**Date of Completion** means the date on which the sale and purchase of the Property is Completed.

**EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

**Land** means the land described at Item 1.

**Law** includes the common law, statutes, legislative instruments (within the meaning of that term in the *Legislative Instruments Act 2003* (Cth)) and the requirements of any Authority.

**Object** means to make any Claim against the Seller (before or after Completion), raise any objection or requisition, rescind or terminate this Contract or delay Completion.

**Property** means the Crown Lease, the Land and any improvements on the Land.

## **Clauses**

### **33. NATIONAL LAND**

#### **33.1 Declaration of National Land**

The Land is National Land and was declared to be National Land pursuant to the Declaration of National Land.

#### **33.2 Seller's intention in relation to revocation of National Land Status**

- (a) Promptly after registration of a Crown Lease in the Registrar-General's Office, the Seller represented by the Department of Finance intends to recommend to the Minister for Finance that the Minister revoke the Declaration of National Land in respect of the land the subject of that Crown Lease so that the Land will become Territory Land.
- (b) If the Minister revokes the Declaration of National Land in respect of the land the subject of that Crown Lease, the Seller must lodge a duly completed and signed application form to note the revocation of the Declaration of National Land on the title to that Land.

#### **33.3 Buyer's acknowledgment**

The Buyer acknowledges that the statement of intention in clause 33.2 is not binding and that the Buyer cannot Object before or after Completion on the basis that the Minister for Finance has not revoked the Declaration of National Land in respect of all or part of the Land.

### **34. PLANNING CONDITIONS**

#### **34.1 Seller not consent authority**

The Buyer acknowledges and agrees that:

- (a) the Land is included within a designated area under the National Capital Plan; and
- (b) the National Capital Authority is responsible for development and building consents and approvals in relation to the Land.

#### **34.2 Release by Buyer**

The Buyer releases and discharges the Seller from all liability to the Buyer, its officers, agents or employees in relation to disturbance, loss or detriment caused by the National Capital Authority granting or denying any consent or approval in relation to the Land.

#### **34.3 No implied consent**

The Buyer acknowledges and agrees that nothing in this Contract or the fact of Completion implies or means that any required approvals, consents or licences regarding planning, design, siting and any other matters relating to the development of the Land will be granted by the National Capital Authority or any other Authority with or without conditions.

35. **HERITAGE**

35.1 **Seller's Disclosure**

The Seller discloses to the Buyer and the Buyer acknowledges that the Cafeteria is nominated to be individually listed on the Commonwealth Heritage List.

35.2 **Heritage values**

The Buyer acknowledges that:

- (a) it has read the Cafeteria Heritage Management Plan;
- (b) the Cafeteria Heritage Management Plan:
  - (i) records the Commonwealth Heritage Values of the Cafeteria; and
  - (ii) provides a guide for the management of those Commonwealth Heritage Values; and
- (c) the Buyer has had the opportunity to obtain its own independent advice, and has satisfied itself, in respect of the Commonwealth Heritage Values of the Cafeteria.

35.3 **Buyer Must Comply**

In respect of the Cafeteria, the Buyer must:

- (a) observe and comply with the legislative requirements of the Cafeteria's heritage listings stipulated in clause 35.1;
- (b) conserve and manage the Cafeteria in a proper, safe and sound standard of repair and condition;
- (c) not take an action, and ensure that nobody takes an action, that has, will have or is likely to have an adverse impact on the Commonwealth Heritage Values of the Cafeteria without the prior written consent of the Department of Environment and Energy;
- (d) occupy, use and manage the Cafeteria in such a way as to protect and conserve the Commonwealth Heritage Values of the Cafeteria in accordance with the Cafeteria Heritage Management Plan;
- (e) not contravene the Cafeteria Heritage Management Plan, or authorise another person to do, or omit to do, anything that, if it were done or omitted to be done would contravene the Cafeteria Heritage Management Plan;
- (f) include, in any lease, licence or other occupancy right granted in respect of the Cafeteria or any part of it, an obligation on the lessee, licensee or occupier to comply with the Cafeteria Heritage Management Plan; and
- (g) ensure that any person who occupies or uses the Cafeteria complies with, and does not take any action which is inconsistent with the Cafeteria Heritage Management Plan.

35.4 **Territory Heritage Register**

- (a) If the Minister revokes the Declaration of National Land so that the Land becomes Territory Land in accordance with clause 33.2(a), the Buyer must, as soon as



practicable after Completion, make an application to list the Cafeteria on the Heritage Register maintained by the Australian Capital Territory.

- (b) The Buyer must:
  - (i) not object to any proposed listing of the Cafeteria on the Commonwealth Heritage List, the National Heritage List or the Heritage Register maintained by the Australian Capital Territory; and
  - (ii) comply with the Seller's reasonable direction before and after Completion regarding any application to have the Cafeteria entered in the Australian Capital Territory Heritage Register under the *Heritage Act 2004* (ACT), the Commonwealth Heritage List or the National Heritage List.

### 35.5 **Buyer cannot Object**

The Buyer cannot Object to:

- (a) anything in this clause 35; and
- (b) any obligation imposed upon the Buyer by Law because of the Commonwealth Heritage Values of the Cafeteria.

### 35.6 **Indemnity**

The Buyer indemnifies the Seller against any Claim against the Seller to the extent that Claim arises from or in connection with the Buyer's failure to comply with all or any part of this clause 35.

## **CROWN LEASE – ANZAC PARK WEST CAFETERIA**

### 1. **INTERPRETATION**

1.1 In this Lease, unless the contrary intention appears:

- (b) **Building** means any building or structure, constructed or partially constructed or to be constructed, on or under the Land, together with all fixtures, fittings, plant, amenities and appurtenances thereof and therein contained or thereon affixed or if the context so admits any part thereof owned by the Lessee;
- (c) **Business Day** means a day that is not a Saturday, Sunday or public or bank holiday in the Territory;
- (d) **Cafeteria** means the building and curtilage designated as such on the plan in Annexure A, and includes all fixtures, fittings, plant, amenities and appurtenances in or on the building (external or internal) or within the curtilage;
- (h) **Commonwealth Heritage List** means the Commonwealth Heritage List maintained by the Minister for the Environment and Energy under the EPBC Act.
- (i) **Commonwealth Heritage Values** means:
  - (i) if the Cafeteria is not listed as an individual place on the Commonwealth Heritage List, the National Heritage List or the Heritage Register maintained by the Territory, the heritage values of the Cafeteria as specified in the Heritage Management Plan; or
  - (ii) if the Cafeteria is listed on any list or register referred to in paragraph (i) as an individual place, the heritage values as specified in the citation for Cafeteria on that list or register;

- (j) **Detailed Conditions of Planning and Design Development** means the ANZAC Park East and ANZAC Park West Detailed Conditions of Planning, Design and Development prepared by the National Capital Authority.
- (l) **Heritage Management Plan** means operational draft West Portal Cafeteria Heritage Management Plan prepared by Eric Martin and Associates and dated 28 August 2014 and such other plan as prepared by the Lessee in accordance with clause 3(f);
- (o) **National Capital Authority** means any body, whether incorporated or unincorporated which from time to time exercises substantially the same powers as the powers which are at the date of the commencement of the Lease exercised by the National Capital Authority under the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth);
- (p) **National Capital Plan** means the plan (from time to time) prepared by the National Capital Authority under Part III of the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth);

**3. THE LESSEE FURTHER COVENANT WITH THE COMMONWEALTH as follows:**

<b>MASTER PLAN IMPLEMENTATION STRATEGY</b>	(b)	<p>Prior to undertaking any development on the Land, the Lessee must prepare and submit to the National Capital Authority for its approval a master plan implementation strategy for the Land that provides a strategy and plan for the development of the Land that is in accordance with the provisions of the National Capital Plan and the Detailed Conditions of Planning, Design and Development and must include:</p> <ul style="list-style-type: none"> <li>(i) where the Land is to be subdivided, a plan of subdivision of the Land;</li> <li style="padding-left: 40px;">(ii) a long term car parking strategy for the Land that includes: <ul style="list-style-type: none"> <li>(A) details of the means by which the relevant conditions of the National Capital Plan and the Detailed Conditions of Planning, Design and Development will be satisfied;</li> <li>(B) details of construction, staging and other measures to minimise disruption to and reduction of publicly available Car Parking on the Land during the development of the Land to satisfy the relevant conditions of the National Capital Plan and the Detailed Conditions of Planning, Design and Development; and</li> <li>(C) the location or locations of Car Parking to be provided on the Land by reference to a plan;</li> </ul> </li> <li style="padding-left: 40px;">(iii) details of the: <ul style="list-style-type: none"> <li>(A) proposed location or locations of each proposed use of the Land by reference to a plan; and</li> <li>(B) the Gross Floor Area of each proposed use of the Land;</li> </ul> </li> </ul>
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		<p>(iv) details of the proposed location and dimensions of any road(s) to be constructed on the Land to service the Land and the Buildings; and</p> <p>the Lessee must make such amendments to the master plan implementation strategy submitted to the National Capital Authority as required by the National Capital Authority, if any, and promptly resubmit the amended master plan implementation strategy to the National Capital Authority for its approval;</p>
<b>CAFETERIA</b>	(c)	<p>The Lessee must:</p> <p>(i) maintain the Cafeteria in good repair and condition and must not demolish it;</p> <p>(ii) obtain all necessary approvals or authorisations required by law from the National Capital Authority or the Department of Environment and Energy for any works proposed to be undertaken to the Cafeteria;</p>
<b>COMMONWEALTH HERITAGE VALUES</b>	(e)	<p>That the Lessee must not, take an action and ensure that no person takes an action that has, will have or is likely to have an adverse impact on the Commonwealth Heritage Values of the Cafeteria without the prior written consent of the Department of Environment and Energy.</p>
<b>HERITAGE MANAGEMENT PLAN</b>	(f)	<p>(i) That the Lessee must:</p> <p>(A) conserve and manage the Cafeteria in a proper, safe and sound standard of repair and condition;</p> <p>(B) occupy, use and manage the Cafeteria in such a way as to protect and conserve the Commonwealth Heritage Values of the Cafeteria in accordance with the Heritage Management Plan;</p> <p>(C) not contravene the Heritage Management Plan or permit another person to do, or omit to do, anything that, if it were done or omitted to be done would contravene the Heritage Management Plan;</p> <p>(D) include in any sublease, licence or other occupancy right granted in respect of the Cafeteria or any part of it, an obligation on the sublessee, licensee or occupier to comply with the Heritage Management Plan; and</p> <p>(E) ensure that any person who occupies or uses the Cafeteria complies with, and does not take any action which is inconsistent with the Heritage Management Plan;</p> <p>(ii) The Lessee must:</p> <p>(A) not later than the day which is 12 months after the date of commencement of the Lease, carry out and provide to the Department of the Environment and</p>

		<p>Energy, a final version of the Heritage Management Plan for its review and approval; and</p> <p>(B) at least once in every five year period after the date of the final version of the Heritage Management Plan referred to in clause 3(f)(ii)(A), carry out and provide to the Department of the Environment and Energy a review of the Heritage Management Plan to the satisfaction of the Department of the Environment and Energy which must:</p> <p>(I) assess whether the Heritage Management Plan is effective in protecting and conserving the Commonwealth Heritage Values of the Cafeteria; and</p> <p>(II) make recommendations for the improved protection and conservation of the Commonwealth Heritage Values of the Cafeteria;</p> <p>(iii) In carrying out the review of the Heritage Management Plan provided for in clause 3(f)(ii)(B), the Lessee must give notice inviting anyone to give the Lessee comments, within 20 Business Days, on the effectiveness of the then Heritage Management Plan in protecting and conserving the Commonwealth Heritage Values of the Cafeteria. That notice must be given in a manner which would satisfy the notice requirements in section 341S of the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth) (regardless of whether or not that section applies to the Lessee) which, at the date of commencement of this Lease, requires the Lessee to publish the notice on the Internet and in a daily newspaper circulating in each State and self-governing Territory;</p> <p>(iv) In carrying out the review of the Heritage Management Plan provided for in clause 3(f)(ii)(B), the Lessee must:</p> <p>(A) consider any comments received in response to the notice referred to in clause 3(f)(iii); and</p> <p>(B) make any amendment required by the Department of Environment and Energy to the Heritage Management Plan necessary to obtain the Department's approval of the Heritage Management Plan;</p>
<p><b>HERITAGE REGISTER LISTING</b></p>	<p>(g)</p>	<p>That the Lessee must:</p> <p>(i) as soon as practicable after the commencement of this Lease and the Land becoming Territory Land, make an application to list the Cafeteria on the Heritage Register maintained by the Territory; and</p> <p>(ii) not object to any proposed listing of the Cafeteria on the Commonwealth Heritage List, the National Heritage List or the Heritage Register maintained by the Territory;</p>

<b>BUILDING SUBJECT TO APPROVAL</b>	(l)	That the Lessee must not without the previous consent in writing of the Commonwealth erect any Building on the Land or make any external structural alterations to the Premises;
<b>COMPLY WITH LAWS</b>	(v)	That the Lessee must, at its own cost obtain and comply with any licence, permit, consent or registration required to carry on the purpose, and comply with all laws in connection with the purpose and the Lessee's use of the Premises.