

Specific security deed (marketable securities)

Cooinda Lodge Kakadu

Djigardaba Enterprise Aboriginal Corporation
(**Grantor**)

Commonwealth of Australia as represented by the
National Indigenous Australians Agency (**Secured
Party**)

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Cooinda Lodge Kakadu

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Details

Date

Parties

Name	Djigardaba Enterprise Aboriginal Corporation
ICN	4023
ABN	46 184 296 702
Entity type (for the purposes of the PPS Regulations)	Body corporate
Short form name	Grantor
Notice details	Email: deac.kakadu@gmail.com Attention: Louisa Bayne

Name	Commonwealth of Australia as represented by the National Indigenous Australians Agency
ABN	30 429 895 164
Short form name	Secured Party
Notice details	[Charles Perkins House, 16 Bowes Place, Woden ACT 2606] Email: ArnhemGrooteAgreements@official.niaa.gov.au Attention: s47F

Background

- A The Grantor agrees to grant the Secured Party a security interest in the Collateral to secure payment of the Secured Money and performance of the Secured Obligations.
- B The Grantor does this in return for the Secured Party entering into the Finance Documents, the transactions contemplated by those documents and other valuable consideration.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

In this document:

Accounting Standards means accounting standards, principles and practices applying by law or otherwise generally accepted and consistently applied in Australia.

AML/CTF Laws means the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth), the *Anti-Money Laundering and Counter-Terrorism Financing Rules* and any other anti-money laundering or counter-terrorism financing laws or regulations including without limitation, any laws or regulations imposing 'know your customer' or other identification checks or procedures, that apply to the Secured Party, in any jurisdiction in connection with this document.

Attorney means an attorney appointed by the Grantor under this document.

Authorisation means any consent, authorisation, registration, filing, agreement, notarisation, certificate, permit, licence, approval, authority or exemption of, from or required by, a Government Agency or required by law. Where intervention or action of a Government Agency within a specified period would fully or partly prohibit or restrict something by law, **Authorisation** includes the expiry of that period without that intervention or action.

Authorised Representative means a director or company secretary, or:

- (a) in respect of the Grantor, a person it notifies to the Secured Party (with a certified copy of that person's specimen signature) as being its authorised representative for the purposes of the Finance Documents where:
 - (i) that person's identity has been verified to the Secured Party's satisfaction in order to complete the Commonwealth's KYC Checks and comply with AML/CTF Laws; and
 - (ii) the Secured Party has no notice of revocation of that authority; and
- (b) in respect of the Secured Party, a person whose title or acting title includes 'associate', 'manager', 'director', 'executive', 'chief', 'head', 'counsel' or 'president', or a person notified to the other parties as being its authorised representative for the purposes of the Finance Documents.

Avoidance has the meaning given to that term in clause 16.5(a).

Business Day means:

- (a) for receiving a Notice in accordance with clause 14, a week day on which banks are open for general banking business in the place of receipt; and
- (b) for all other purposes, a week day on which banks are open for general banking business in the Australian Capital Territory.

Collateral means all of the Grantor's present and future Relevant Marketable Securities, Rights and Proceeds and any certificate, registration, title or other evidence of ownership of, or rights to, any of those things.

Company means Kakadu Tourism (GLC) Pty Limited ACN 087 366 336 as specified in Schedule 1.

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

Default means an event or circumstance specified in clause 8.1.

Dollars and **A\$** mean the lawful currency of Australia.

Excluded Tax means a Tax imposed by a jurisdiction on, or calculated by reference to, the net income of the Secured Party in a jurisdiction because the Secured Party has a connection with that jurisdiction, other than a Tax:

- (a) calculated by reference to the gross amount of a payment (without allowing for any deduction) derived by the Secured Party under a Finance Document or any other document referred to in a Finance Document; or
- (b) imposed because the Secured Party is taken to be connected with that jurisdiction solely by being a party to a Finance Document or a transaction contemplated by a Finance Document.

External Administrator means an 'administrator', 'controller' or 'managing controller' (each as defined in the Corporations Act), trustee, provisional liquidator, liquidator or any other person (however described) holding or appointed to an analogous office or acting or purporting to act in an analogous capacity.

Finance Document means:

- (a) this document;
- (b) the Project Agreement;
- (c) the Purposes Deed; and
- (d) a document entered into or given under or in connection with, or for the purpose of amending or novating, any document referred to in a paragraph above of this definition.

Government Agency means any government or governmental, semi-governmental, administrative, public, regulatory or judicial entity, body, department, commission, agency or authority.

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

Guarantee means a guarantee, indemnity, letter of credit, legally binding letter of comfort or other obligation of any kind:

- (a) to provide funds (whether by the advance or payment of money, the purchase of or subscription for shares or other securities, the purchase of assets or services, or otherwise) for the payment or discharge of;
- (b) to indemnify any person against the consequences of default in the payment of; or
- (c) to be responsible for,

an obligation or monetary liability of another person or the assumption of any responsibility or obligation in respect of the solvency or financial condition of another person.

Head Agreement means the document titled '*Head Agreement for Indigenous Grants*' between the Secured Party and the Grantor dated on or about the date of this document.

Insolvency Event means, in respect of a person, any of the following occurring:

- (a) it becomes insolvent within the meaning of section 95A, or is taken to have failed to comply with a statutory demand under section 459F(1), or must be presumed by a court to be insolvent under section 459C(2), or is the subject of a circumstance specified in section 461 (whether or not an application to court has been made under that section) or, if the person is a Part 5.7 body, is taken to be unable to pay its debts under section 585, of the Corporations Act;
- (b) except with the Secured Party's consent:
 - (i) it is the subject of a Liquidation, or an order or an application is made for its Liquidation; or
 - (ii) an effective resolution is passed or meeting summoned or convened to consider a resolution for its Liquidation;
- (c) an External Administrator is appointed to it or any of its assets or a step is taken to do so or its Related Body requests such an appointment;

- (d) if a registered corporation under the Corporations Act, a step is taken under sections 601AA, 601AB or 601AC of the Corporations Act to cancel its registration;
- (e) if a trustee of a trust, it is unable to satisfy out of the assets of the trust the liabilities incurred by it as and when those liabilities fall due;
- (f) an analogous or equivalent event to any listed above occurs in any jurisdiction; or
- (g) it stops or suspends payment to creditors generally.

KYC Checks means the Secured Party's 'know your customer' or similar identification and verification checks and procedures required for the Commonwealth to comply with AML/CTF Laws, and to manage anti-money laundering, counter-terrorism financing or economic and trade sanctions risk.

Liquidation means:

- (a) a winding up, dissolution, liquidation, provisional liquidation, administration, bankruptcy or other proceeding for which an External Administrator is appointed, or an analogous or equivalent event or proceeding in any jurisdiction; or
- (b) an arrangement, moratorium, assignment or composition with or for the benefit of creditors or any class or group of them.

Loss means a loss, claim, action, damage, liability, cost, charge, expense, penalty, compensation, fine or outgoing suffered, paid or incurred.

Marketable Security means:

- (a) a 'marketable security' (as defined in the Corporations Act);
- (b) a negotiable instrument (within the ordinary meaning of that term);
- (c) a unit or other interest in a trust or partnership; and
- (d) a right or an option in respect of any of the above, whether issued or unissued.

Notice means a notice, demand, consent, approval or communication given in accordance with clause 14.

Permitted Disposal means a sale or other disposal of any of the Collateral:

- (a) that is expressly permitted by another Finance Document; or
- (b) to which the Secured Party has given its prior written consent.

Permitted Restriction means:

- (a) each Permitted Security Interest;
- (b) a Restriction disclosed in writing to, and consented to in writing by, the Secured Party on or before the date of this document (unless the consent was conditional and any of the conditions are not complied with); and
- (c) a Restriction created after the date of this document which was consented to by the Secured Party in writing on or before its creation (unless the consent was conditional and any of the conditions are not complied with).

Permitted Security Interest means:

- (a) each Security; and
- (b) a Security Interest consented to by the Secured Party in writing (unless the consent was conditional and any of the conditions are not complied with).

Potential Default means any event, thing or circumstance which would become a Default with the giving of notice, the making of a determination under a Finance Document or the passage of time (or any combination of those things).

Power means any right, power, discretion or remedy of the Secured Party, a Receiver or an Attorney under any Finance Document or applicable law.

PPS Law means:

- (a) the PPSA and any regulation made at any time under the PPSA, including the PPS Regulations (each as amended from time to time); and

- (b) any amendment made at any time to any other legislation as a consequence of a law or regulation referred to in paragraph (a) of this definition.

PPS Regulations means the *Personal Property Securities Regulations 2010* (Cth).

PPSA means the *Personal Property Securities Act 2009* (Cth).

Proceeds means all money (in whatever currency) and amounts payable to the Grantor or to which the Grantor is entitled now or in the future (whether alone or with any other person) on any account or in any way whatsoever under, or as holder of, any Relevant Marketable Securities or Rights, including:

- (a) distributions, dividends, bonuses, profits, return of capital, interest and all proceeds of sale (within the ordinary meaning of those words), redemption or disposal; and
- (b) all 'proceeds' (as defined in section 31 of the PPSA), including all proceeds identified in sections 31(1)(a) to 31(1)(c) of the PPSA.

Project Agreement means:

- (a) the Head Agreement;
- (b) the Project Schedule; and
- (c) any attachments to, or document incorporated by reference into, any of those documents.

Project Schedule means the document titled '*Project Schedule – General Grants Jobs Land and Economy Programme Aboriginals Benefit Account (Special Account)*' between the Secured Party and the Grantor dated on or about the date of this document.

Purposes Deed means the document titled '*Purposes Deed*' between the Secured Party and the Grantor dated on or about the date of this document.

Receiver means a receiver or receiver and manager appointed under this document.

Related Body means, regardless of any body's trustee or other capacity, a body corporate which would be related under section 50 of the Corporations Act on the basis that the term 'subsidiary' in that section had the meaning given to that term in this document.

Relevant Marketable Securities means any Marketable Securities (present or future) in which the Grantor has an interest, including the Marketable Securities described in Schedule 1.

Relevant Securities means all present and future Relevant Marketable Securities, Rights and Proceeds and any certificate, registration, title or other evidence of ownership of, or rights to, any of those things.

Restriction means any agreement, obligation or arrangement that restricts, or entitles another person to rights of pre-emption or refusal for, a sale, assignment or other dealing with Relevant Marketable Securities.

Rights means:

- (a) rights to acquire Marketable Securities arising because the Grantor has an interest in the Relevant Marketable Securities, including due to any allotment, offer, substitution, conversion, consolidation, reclassification, redemption, reconstruction, amalgamation, subdivision, reduction of capital, Liquidation or scheme of arrangement in relation to any Relevant Marketable Securities; and
- (b) any other rights of the Grantor of any kind in connection with the Relevant Marketable Securities, including in relation to any Proceeds.

Secured Money means all money and amounts (in any currency) that the Grantor is or may become liable at any time (presently, prospectively or contingently, whether alone or not and in any capacity) to pay to or for the account of the Secured Party (whether alone or not and in any capacity). It includes money and amounts:

- (a) under or in connection with a Finance Document;
- (b) in the nature of principal, interest, fees, costs, charges, expenses, duties, indemnities, Guarantee obligations or damages;

- (c) whether arising or contemplated before or after the date of this document or as a result of the assignment (with or without the Grantor's consent) of any debt, liability or Finance Document; and
- (d) which a person would be liable to pay but for an Insolvency Event in respect of that person.

Secured Obligations means all obligations of the Grantor (whether present, prospective or contingent and whether owed alone or not and in any capacity) to the Secured Party (whether alone or not and in any capacity) under or in connection with a Finance Document. It includes obligations:

- (a) whether arising or contemplated before or after the date of this document or as a result of the assignment (with or without the Grantor's consent) of any debt, liability or Finance Document;
- (b) whether liquidated or sounding in damages only;
- (c) whether relating to the payment of money or the performance or omission of any act;
- (d) whether accruing as a result of a Default; or
- (e) which a person would be liable for but for an Insolvency Event in respect of that person.

Security means:

- (a) this document; and
- (b) each other present or future Security Interest, Guarantee or other document or agreement created or entered into as security (directly or indirectly) for the payment of any Secured Money or the performance of any obligation in favour of the Secured Party under a Finance Document.

Security Interest means any:

- (a) 'security interest' (as defined in the PPS Law);
- (b) security for payment of money, performance of obligations or protection against default (including a mortgage, bill of sale, charge (whether fixed or floating), lien, pledge, hypothecation, encumbrance, trust, power or title retention arrangement, finance lease, right of set-off, assignment of income, garnishee order or monetary claim and flawed deposit arrangements); and
- (c) thing or preferential interest or arrangement of any kind giving a person priority or preference over claims of other persons or creditors with respect to any property or asset,

and includes any agreement to create any of them or allow them to exist.

Subsidiary has the meaning given in the Corporations Act. Also:

- (a) an entity is a Subsidiary of another entity if controlled by that other entity for the purposes of section 50AA of the Corporations Act;
- (b) a trust may be a Subsidiary (and a unit or other beneficial interest in the trust is to be treated as a share accordingly); and
- (c) an entity is to be treated as a Subsidiary of a trust as if that trust were a corporation.

Tax means any tax, levy, duty, rate, impost, charge, deduction or withholding (and any related penalty, fine, fee or interest) imposed, levied or assessed by a Government Agency. It includes stamp duty, GST and any transaction taxes and duties.

Title Documents means each certificate, confirmation, grant, assurance, conveyance, deed and other document of title or evidencing title to, or rights to acquire, possess, use or dispose of, any Collateral.

Unit Trust means the Gagudju Lodge Cooida Trust ABN 47 292 427 570 as specified in Schedule 1.

1.2 PPSA terms incorporated

In this document, unless the context requires otherwise, the following words and expressions (and grammatical variations of them) have the same meanings given to them in the PPSA or the PPS

Regulations (as applicable): **advance, after-acquired property, amendment demand, attach, consumer property, control, financing change statement, financing statement, future advance, investment instrument, personal property, purchase money security interest and verification statement.**

1.3 Interpretation

- (a) In this document:
- (i) headings are for reference only and do not affect interpretation;
 - (ii) unless stated otherwise, all interest, amounts in the nature of interest (including discount amounts) and fees are to be calculated on a daily basis and a year of 365 days;
 - (iii) the singular includes the plural and vice versa, a gender includes other genders and different grammatical forms of defined expressions have corresponding meanings;
 - (iv) a Default or Potential Default '**subsists**' until either:
 - (A) remedied to the Secured Party's satisfaction before a Power relating to that Default or Potential Default is exercised; or
 - (B) waived by the Secured Party in writing in accordance with this document;
 - (v) unless stated otherwise, anything (other than making a payment) required to be done on or by a day which is not a Business Day, must be done on or by the next Business Day;
 - (vi) no provision or expression is to be construed against a party on the basis that the party (or its advisers) was responsible for its drafting; and
 - (vii) examples and use of the word '**including**' and similar expressions do not limit what else may be included.
- (b) Unless the context requires otherwise, a reference in this document to:
- (i) a party to any document includes that person's successors and permitted substitutes and assigns;
 - (ii) an agreement includes any legally enforceable arrangement, understanding, undertaking or representation whether or not in writing;
 - (iii) a document or agreement includes that document or agreement as novated, altered, amended, supplemented or replaced from time to time;
 - (iv) any thing includes any part of it and a reference to a group of things or persons includes each thing or person in that group;
 - (v) clauses, schedules and annexures are to those in this document, and a reference to this document includes any schedule and annexure;
 - (vi) a person, corporation, trust, partnership, unincorporated body or other entity includes any of them;
 - (vii) time is to Sydney time unless stated otherwise;
 - (viii) legislation or other law or a provision of them includes regulations and other instruments under them, and any consolidation, amendment, re-enactment or replacement;
 - (ix) to '**grant a security interest**' includes to charge, mortgage, pledge, encumber, assign by way of security and transfer by way of security; and
 - (x) '**property**' or an '**asset**' includes any real or personal, present or future, tangible or intangible property or asset and any right, interest, revenue or benefit in, under or derived from the property or asset.

2. Grant of security

2.1 Security interest

- (a) The Grantor grants a security interest in the Collateral to the Secured Party to secure payment of the Secured Money and for performance of the Secured Obligations.
- (b) For the purposes of section 20(2)(b) of the PPSA (but without limiting the meaning of 'Collateral' in this document), this security interest is taken in all the Grantor's present and after-acquired property, except any such property which is not Collateral.
- (c) This security interest is a charge. If for any reason it is necessary to determine the nature of this charge, it is a fixed charge over the Collateral.

2.2 Continuing security and obligations

Each Security Interest granted under this document is a continuing security until the Secured Party releases all Collateral from the Security Interest, despite any intermediate payment, discharge, settlement, release or other matter. The Grantor's obligations under this document continue despite any full or partial release of the Collateral and no full or partial release of Collateral will release the Grantor from personal liability under this document until all Secured Money has in fact been received by the Secured Party and is not liable to be disgorged.

3. Dealings with Collateral

The Grantor must not do, or agree to do, any of the following unless it is expressly permitted to do so by another provision in a Finance Document:

- (a) create or allow another interest (including without limitation any Security Interest) in any Collateral, other than a Permitted Security Interest (or if by law its creation cannot be restricted, the Grantor must procure that the holder of the Security Interest first enters into a priority arrangement in form and substance acceptable to the Secured Party); or
- (b) transfer or dispose or part with possession of any Collateral except for a Permitted Disposal.

4. Priority

4.1 Priority of Security Interest in Collateral

- (a) The parties intend that a Security Interest created under this document:
 - (i) takes priority over all other Security Interests and other interests in the Collateral at any time other than any Permitted Security Interest as agreed in writing by the Secured Party as having priority or as mandatorily preferred by law; and
 - (ii) has the same priority in relation to all Secured Money, including future advances.
- (b) Nothing in this clause 4.1 restricts the Secured Party from claiming that a Security Interest granted under this document is a purchase money security interest in respect of all or part of the Collateral.

4.2 No agreement or consent to subordination or attachment

Nothing in this document may be construed as an agreement or consent by the Secured Party to:

- (a) **(subordination)** subordinate a Security Interest created under this document in favour of any person;
- (b) **(security)** any Security Interest other than any Permitted Security Interest attaching to, or being created in, any Collateral; or
- (c) **(deferral of attachment)** defer or postpone the date of attachment of a Security Interest created under this document in any Collateral.

5. General security provisions

5.1 Security continuing and independent

Each of this document, each Security Interest created under it and each Security is:

- (a) in addition to and enforceable independently of any other Security Interest, Guarantee or Security; and
- (b) to remain in full force and effect (whether or not at any given time the Grantor is indebted to the Secured Party) until the execution by the Secured Party and delivery to the Grantor of an unconditional release of this document and each Security.

5.2 Collateral Securities

This document is collateral to each other Security. This document and each other Security will be read and construed together so that:

- (a) a default under one of them will be deemed to be a default under each of them; and
- (b) the Secured Party may exercise any of its rights under any one or more of them separately or concurrently or not at all, and in such order as it chooses.

5.3 Release of Collateral

The Grantor may require the Secured Party to release the Collateral from this document or the Security Interest created under it if the Secured Party is satisfied that:

- (a) all Secured Money has been irrevocably paid in full and all commitments which might give rise to Secured Money have terminated;
- (b) all Secured Obligations have been satisfied and there are no liabilities or obligations which will subsequently fall within the description of the Secured Obligations;
- (c) no amount will subsequently become Secured Money due to an Avoidance; and
- (d) if a Default has occurred, the Secured Party has not sold or agreed to sell any Collateral and is not deemed to have taken any Collateral in satisfaction of the Secured Money or the Secured Obligations.

6. Representations and warranties

6.1 Representations and warranties

The Grantor represents and warrants to the Secured Party, except as to matters disclosed by it to the Secured Party and accepted by the Secured Party in writing, that:

- (a) **(status)** it is properly registered and incorporated as a corporation and validly exists under the laws of its jurisdiction of incorporation;
- (b) **(capacity)** except as specified otherwise in this document, it acts on its own behalf in entering into the Finance Documents, and not as a trustee or on another person's behalf;
- (c) **(power and authority)** it has the power, right and necessary corporate authority to own its assets, carry on its current and contemplated business, and to enter into, and exercise its rights and observe and perform its obligations under, each Finance Document to which it is expressed to be a party;
- (d) **(no immunity)** neither it nor any of its assets is immune from suit or execution
- (e) **(Finance Documents)** each Finance Document to which it is expressed to be a party is (subject to equitable principles and insolvency laws generally affecting creditors' rights and, applicable stamping and registration) valid, binding and enforceable against it in accordance with the terms of those documents, and the transactions contemplated by those documents are for its commercial benefit;

- (f) **(no conflicts)** its execution and performance of each Finance Document to which it is expressed to be a party do not and will not:
- (i) conflict with or contravene section 208 or section 260A of the Corporations Act;
 - (ii) conflict with or contravene any other law or a judgment, ruling, order, document or agreement applying to it or its assets, its constituent documents or any Authorisation;
 - (iii) result in a Security Interest being created on, or crystallising over, any of its assets (other than creation of a Permitted Security Interest); or
 - (iv) result in a default, acceleration of date of payment, cancellation event, prepayment event or similar event (however described) under any agreement relating to any of its Debt;
- (g) **(law, Authorisations)** it has complied with all laws and Authorisations applicable to it or its business;
- (h) **(ranking)** its payment obligations under the Finance Documents rank in right and priority of payment, by virtue of the Security, ahead of the claims of all its other creditors, except those mandatorily preferred by law applying to companies generally or as agreed to by the Secured Party in writing;
- (i) **(solvency)** it is solvent and there are no reasonable grounds to suspect that it is unable to pay its debts as and when they become due and payable;
- (j) **(litigation)** no litigation or administrative, arbitration, Tax claim or other proceeding or action (including any action by a Government Agency), or series of proceedings and actions, is current or pending or, to its knowledge, is likely or threatened;
- (k) **(no Default)** no event has occurred which constitutes a Default or Potential Default;
- (l) **(details of Grantor)** all information in the 'Details' section of this document is true, correct and complete;
- (m) **(no foreign property)** all the Collateral is situated in Australia;
- (n) **(consumer property)** none of the Collateral is consumer property;
- (o) **(ownership of Collateral)** it is the sole legal owner and, subject to any trust which is specified in this document, sole beneficial owner of the Collateral, and it will be the sole legal owner and, subject to any such trust, sole beneficial owner of any property or asset it acquires as Collateral;
- (p) **(Security Interests)** the Collateral is free from any Security Interest other than a Permitted Security Interest;
- (q) **(Securities)** each Security:
- (i) is an effective Security Interest over the property expressed to be secured by it; and
 - (ii) has the priority contemplated in it;
- (r) **(Unit Trust):**
- (i) the certified copy of the deed establishing the Unit Trust last provided to the Secured Party discloses all of the terms of the Unit Trust and those terms have not been varied or terminated;
 - (ii) the Grantor is not presently entitled to the assets of the Unit Trust;
 - (iii) the Grantor is not in default of its obligations under the terms of the Unit Trust; and
 - (iv) the Unit Trust has not been determined, and no resolution has been passed or been given by the unitholders to wind up or determine the Unit Trust or to distribute the assets of the Unit Trust;
- (s) **(disclosure of Marketable Securities)** it has disclosed to the Secured Party all Marketable Securities held by it in the Company and the Unit Trust and any agreement, arrangement or understanding under which further Marketable Securities in the Company or the Unit Trust may be issued to it;

- (t) (**constitution**) its execution and performance of this document do not and will not conflict with or contravene, and it is not in default under, the constitution of the Company or the Unit Trust;
- (u) (**issue valid**) the Relevant Securities have been validly issued and their issue does not contravene the constitution of the Company or the Unit Trust, any law or any rule or directive of any Government Agency;
- (v) (**fully paid**) the Relevant Marketable Securities are fully paid;
- (w) (**no Restriction**) the Relevant Marketable Securities are free from any Restriction other than a Permitted Restriction;
- (x) (**own enquiries**) it has relied on its own investigations and enquiries regarding the transactions contemplated by the Finance Documents and has not relied on any information, advice or opinion given or offered by or on the Secured Party's behalf even if in answer to any enquiry by or for it;
- (y) (**information accurate**) all information provided by it or on its behalf to the Secured Party in connection with the Finance Documents is at the date of this document (or, if provided later, when provided) accurate in all material respects and not deficient, misleading or deceptive in any material respect (whether by its inclusion or by omission of other information); and
- (z) (**no pre-emptive rights**) there is no agreement, obligation or arrangement (other than a Finance Document) that restricts it from undertaking, or entitles another person to rights of pre-emption or refusal for, a sale, transfer or other dealing with any Secured Property.

6.2 Repetition

The Grantor repeats each representation and warranty in:

- (a) (**generally**) this clause 6 with reference to the facts and circumstances at the time when financial accommodation which is Secured Money is provided or continued and each date on which any of the Secured Money is paid; and
- (b) (**future and after-acquired property**) clauses 6.1(o) and 6.1(p) in respect of any Collateral (including future and after-acquired property) which comes into existence, or in which the Grantor acquires rights or an interest, after the date of this document, at the time that Collateral comes into existence or the Grantor acquires rights or an interest in it.

6.3 Reliance and survival

The Grantor acknowledges that:

- (a) the Secured Party has entered into the Finance Documents in reliance on the representations and warranties in this clause 6; and
- (b) those representations and warranties survive execution and delivery of the Finance Documents and the provision of financial accommodation under them.

7. Undertakings

7.1 General undertakings

The Grantor must:

- (a) (**corporate existence**) maintain its corporate existence and its registration in the place of its registration as at the date of this document;
- (b) (**constituent documents**) not change its constituent documents in any way (other than an administrative or technical amendment which does not affect the ability of Grantor to fully observe and comply with its obligations and meet its liabilities under the Finance Documents);
- (c) (**carry on business**) carry on its business in a proper and efficient way and not do anything to change materially the nature of its business from that conducted at the date of this document;

- (d) (**comply with laws**) comply with all applicable laws, Authorisations and mandatory requirements of any Government Agency;
- (e) (**maintain books**) keep proper and adequate books and records in accordance with the Accounting Standards and not change its financial year;
- (f) (**pay Taxes**) pay all Taxes assessed, levied or imposed on it or its assets within the time period allowed without incurring penalty;
- (g) (**Secured Money**) pay the Secured Money at the times and in the way specified in the Finance Documents, or if no time for payment is specified, on demand;
- (h) (**no set-off**) not directly or indirectly claim, exercise or attempt to exercise a right of set-off or counterclaim (whether its or any other person's right) against the Secured Party;
- (i) (**Secured Obligations**) fully and punctually perform, satisfy, or procure the performance or satisfaction of, all of the Secured Obligations at the times and in the way specified in the relevant Finance Documents;
- (j) (**details of Grantor**):
 - (i) without limiting any restrictions contained in the Finance Documents, not change any of its details as set out in the 'Details' section of this document without giving the Secured Party 14 days' prior written notice; and
 - (ii) provide to the Secured Party, on request, a certified copy of each source or source document necessary (in the Secured Party's opinion), for the purposes of the PPS Regulations, to verify the information in the 'Details' section of this document (or any part of it) or to otherwise register one or more financing statements in relation to any Security Interest in the Collateral created by any Finance Document;
- (k) (**notify details of or changes relating to Collateral**) notify the Secured Party promptly:
 - (i) on the Secured Party's request, of the present location of any Collateral; and
 - (ii) on the Secured Party's request, of the details of each purchase money security interest and each Security Interest perfected by control in any of the Grantor's Collateral;
- (l) (**no Default**) ensure that no Default occurs; and
- (m) (**other information**) ensure that the Secured Party is promptly given:
 - (i) any documents or information requested by the Secured Party that are required for the Secured Party to complete KYC Checks for any reason, including as a result of the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation or any change in the status of the Grantor or a change in the Authorised Representatives of the Grantor; and
 - (ii) whatever other information the Secured Party reasonably requests from time to time about the assets, financial condition or state of affairs of the Grantor.

7.2 Provide information

The Grantor must immediately notify the Secured Party in writing if it becomes aware of the occurrence of the following:

- (a) (**breach of obligation**) any breach by the Grantor or an undertaking or other obligation under a Finance Document;
- (b) (**incorrect representation or warranty**) any representation or warranty made, repeated or taken to be made or repeated by it or on its behalf under this document becoming untrue, incorrect or misleading (whether by omission or otherwise) in any material respect when so made, repeated or taken to be made or repeated;
- (c) (**Default**) any Default or Potential Default;
- (d) (**change in business or internal management**): any material change in its business, the nature of its business or its internal management from that which prevailed at the date of this document; or

- (e) (**safe harbour**) a course of action of the type referred to in section 588GA(1)(a) of the Corporations Act starts to be developed or undertaken in relation to the Grantor or a debt is incurred in connection with any such course of action; and
- (f) (**litigation**) any litigation or administrative, arbitration, Tax claim or other proceeding or action (including any action by a Government Agency), or series of proceedings and actions, is current or pending or, to its knowledge, is likely or threatened.

7.3 Dealing with Collateral

Except for a Permitted Disposal, the Grantor must not, and must not agree or attempt to, sell, assign, transfer, dispose or part with possession of, lease, licence or otherwise deal with, any of the Collateral.

7.4 Undertakings relating to Collateral

The Grantor must:

- (a) (**other Security Interests**) comply with the terms of each Security Interest binding on it in respect of the Collateral from time to time, and unless the Secured Party first consents in writing ensure that there is no increase in the amount secured under a Security Interest held by someone other than the Secured Party in respect of the Collateral;
- (b) (**compliance with laws**) comply with all laws and requirements of Government Agencies in respect of the Collateral;
- (c) (**Title Documents**) unless the Secured Party agrees otherwise in writing, deposit with the Secured Party:
 - (i) all Title Documents relating to the Grantor's interests in the Collateral on execution of this document; and
 - (ii) transfer forms for the Relevant Marketable Securities as specified by the Secured Party, in each case executed by the Grantor as transferor and blank as to the date, consideration and the transferee's name;
- (d) (**replacement Title Documents**) where title to any Relevant Marketable Securities is evidenced by a certificate, obtain the issue of replacement certificates if the original certificates are lost or destroyed or believed by the Secured Party to be so;
- (e) (**protect title**) protect and enforce its title to, and the Secured Party's title as secured party and chargee of, the Collateral;
- (f) (**perform obligations, Taxes**) pay on time all Taxes, calls for payment, instalments and any other amounts for which it is liable as owner of the Collateral;
- (g) (**maintain value**) not do, allow or omit anything which is likely to lower the value of the Collateral;
- (h) (**Restrictions**):
 - (i) comply with the terms of each Permitted Restriction binding on it in respect of the Relevant Securities from time to time;
 - (ii) not create or permit to exist any Restriction over any Relevant Marketable Securities other than a Permitted Restriction; and
 - (iii) not release or vary any Permitted Restriction or waive the obligations of another person in relation to a Permitted Restriction;
- (i) (**new Relevant Securities**) immediately notify the Secured Party of any Rights, Proceeds or Marketable Securities acquired by or accruing to the Grantor, or to which the Grantor becomes entitled, after the date of this document;
- (j) (**exercise Rights**) immediately after being required to do so by the Secured Party, at the Grantor's cost exercise or take up all Rights (other than for Proceeds) as directed by the Secured Party where, in the Secured Party's opinion, failure to do so would be likely to materially lessen the value of, or prejudicially affect, the Collateral or the rights of the Secured Party under a Security Interest granted under this document;
- (k) (**delivery of notices, reports**) deliver to the Secured Party, promptly after receipt, a copy of any material report, notice, circular or other document issued to it as holder of any of

the Relevant Marketable Securities (including any notice convening a meeting of the holders of the Relevant Marketable Securities);

- (l) **(conversion, change of register)** on request by the Secured Party, do all things necessary to effect (but otherwise not consent to, request or effect without the Secured Party's prior written consent):
 - (i) a conversion of the title to any Relevant Marketable Securities as to being certificated or uncertificated; or
 - (ii) a change of register for any Relevant Marketable Securities (including to, from or within an electronic register system) from that on which they are recorded or registered at the date of this document (or if later acquired, the date on which they are recorded or registered);

7.5 Voting powers and Proceeds

- (a) Subject to clause 7.5(b), if the Relevant Marketable Securities are not registered in the Secured Party's name and if no Default or Potential Default subsists, the Grantor may do any of the following without the need for consent or direction from the Secured Party:
 - (i) **(voting powers)** exercise any voting powers it has as holder of the Relevant Securities as it sees fit, provided that it does so prudently and does not otherwise cause or permit a breach of any of the Grantor's other obligations under the Finance Documents; and
 - (ii) **(Proceeds)** retain and use in the ordinary course of its business any Proceeds (other than Proceeds from a reduction of capital, a buy-back of shares under a buy-back scheme or otherwise under a scheme of arrangement).
- (b) If a Default or Potential Default subsists, the rights of the Grantor under clauses 7.5(a)(i) and 7.5(a)(ii) immediately cease, and:
 - (i) **(voting powers)** the Secured Party is entitled to exercise all voting rights in respect of all of the Relevant Securities to the exclusion of the Grantor; and
 - (ii) **(Proceeds)** the Grantor must pay over amounts of any Proceeds, or otherwise must ensure that any Proceeds are paid directly, to the Secured Party to be applied in accordance with clause 11.2.
- (c) Nothing in this clause 7.5 obliges the Secured Party to vote or exercise other rights in relation to the Relevant Securities or to obtain any Proceeds, and the Secured Party will have no responsibility or liability for any Loss arising due to the Secured Party's failure or delay in so acting.

7.6 Further assurances

The Grantor must do (and must procure that anyone else who has an interest in the Collateral or who claims under or in trust for the Grantor does) whatever the Secured Party requires to:

- (a) better secure the Collateral for payment of the Secured Money and for performance or satisfaction of the Secured Obligations, and to enable the better exercise of any Power (including the granting of further specific security in the form required by the Secured Party and depositing with the Secured Party documents or evidence of titles and transfers in relation to investment instruments); and
- (b) perfect, preserve, maintain, protect or otherwise give full effect to the Collateral, this document or each Security Interest intended to be created under this document, and the priority of that Security Interest required by the Secured Party,

including:

- (c) anything the Secured Party requires in order for it to:
 - (i) register and maintain (including renew before expiry) one or more financing statements in relation to any Security Interest in personal property created by any Finance Document;
 - (ii) remove any financing statement which is registered against the Grantor in relation to any Security Interest which is not a Permitted Security Interest; or

- (iii) obtain possession or control of any Collateral for the purpose of perfecting the Secured Party's Security Interest in that Collateral by possession or control;
- (d) providing details of the Collateral and noting the interest of the Secured Party on the share register of the Company or the unit register of the Unit Trust;
- (e) procuring that any other person holding a Security Interest in all or any part of the Collateral provides to the Secured Party such information in relation to that Security Interest as the Secured Party may reasonably request;
- (f) perfecting or improving the Grantor's title to, or other right or interest in, all or any part of the Collateral;
- (g) facilitating the exercise of any right by the Secured Party or any Receiver or Attorney at any time or the realisation of the Collateral following the occurrence of a Default, including the exercise of all rights of inspection and taking all necessary copies, which the Grantor is entitled to exercise or take;
- (h) paying any Taxes on this document;
- (i) executing and delivering to the Secured Party transfer forms in relation to any of the Collateral, undated and blank as to transferee and consideration; and
- (j) otherwise enabling the Secured Party to obtain the full benefit of the provisions of any Finance Document.

8. Default and consequences

8.1 Specified Defaults

A Default occurs if any one or more of the following occurs (whether or not within the Grantor's control (within the ordinary meaning of that term)):

- (a) an event or circumstance specified in clause 89 (*Termination or reduction in scope – for default*) of the Head Agreement occurs; or
- (b) the Security Provider reasonably believes the Grantor has breached the Purposes Deed.

8.2 Consequences of Default

- (a) If a Default occurs:
 - (i) **(acceleration of Secured Money)** the Secured Party may by notice to the Grantor declare that all or any part of the Secured Money is immediately due and payable. On receipt of that notice, the Grantor immediately must pay that Secured Money to the Secured Party; and
 - (ii) **(Security Interest)** the Security Interest created under this document will become immediately enforceable.
- (b) The Secured Party agrees that it will not exercise any Power to seize the Collateral under Chapter 4 of the PPSA until a Default subsists.

8.3 Secured Party's general powers

While a Default subsists, regardless of whether the Secured Party has appointed a Receiver, the Secured Party may, without demand or notice to anyone (unless notice is required as described in clause 16.1), do all things that a secured party with a Security Interest in, or a mortgagee or an absolute owner of, the Collateral can do, and exercise all rights, powers and remedies:

- (a) of a secured party with a Security Interest in, or a mortgagee or an absolute owner of, the Collateral;
- (b) given to a Receiver under the Corporations Act; and
- (c) specified in clause 8.5.

8.4 Secured Party's PPSA powers – sections 123 and 128

Without limiting any other provision of this document, any Security or any other Finance Document, the Grantor agrees that, at any time while a Default subsists, the Secured Party may:

- (a) seize any Collateral; and/or
- (b) dispose of any Collateral in such manner and generally on such terms and conditions as the Secured Party thinks desirable,

and otherwise do anything that the Grantor could do in relation to the Collateral.

8.5 Secured Party's specific powers

While a Default subsists, the Secured Party may do any or all of the following in connection with its Powers, whether in its or the Grantor's name or otherwise and whether or not it has possession of the Collateral:

- (a) **(recover, possess and control)** access, recover, manage, take or give up possession or 'control' (within the ordinary meaning of that term and as defined in the PPSA) of, and surrender or release, any Collateral;
- (b) **(receive income and profits)** receive the income and profits of the Collateral;
- (c) **(insurance)** insure the Collateral and settle and compromise insurance claims;
- (d) **(sell, assign or exchange)** sell, assign or help sell all or any Collateral to any person or exchange it for any other property or rights, on terms the Secured Party thinks fit, with or without other property;
- (e) **(deposited documents)** complete and deal with any document deposited with the Secured Party relating to any Collateral, including any transfer in blank;
- (f) **(options and rights)** grant, acquire, renew, vary, accept the surrender of or terminate an option or other right over the Collateral on the terms it thinks fit, and with or without any other property;
- (g) **(hive off)** promote the formation of any company to acquire any Collateral or assume obligations of the Grantor or both;
- (h) **(contracts, instruments and rights)** perform or observe the Grantor's obligations or enforce or exercise the Grantor's rights, powers, discretions or remedies (or refrain from doing so) under:
 - (i) a contract, instrument, arrangement or Marketable Security forming part of the Collateral (including voting and proxy rights); or
 - (ii) a Finance Document (including to cure a Default) or other document entered into by the Secured Party or a Receiver in exercise of a Power,
 and vary, terminate or rescind any of them or novate or otherwise transfer to any person the Grantor's obligations under any of them;
- (i) **(Liquidation)** initiate and participate in any Liquidation of any person (including voting at meetings and appointing proxies);
- (j) **(proceedings)** commence, prosecute, defend, discontinue, compromise, submit to arbitration and settle proceedings in connection with this document or the Collateral, whether in or before a Government Agency;
- (k) **(Marketable Securities)** exercise the rights and powers of an absolute owner in connection with Marketable Securities which form part of the Relevant Securities (including voting at meetings and appointing proxies, and effecting conversion of the title to any Marketable Securities as to being certificated or uncertificated);
- (l) **(raise money)** obtain financial accommodation (including from the Secured Party or its associate) and give Guarantees, in each case with or without granting a Security Interest over the Collateral and regardless of priority ranking;
- (m) **(receipts)** give receipts for money and other property it receives;
- (n) **(employ and delegate)** employ and discharge staff, professional advisers, consultants, contractors, agents and auctioneers for the purposes of this document, and at the

remuneration that the Secured Party thinks fit, and to delegate to any person any of its Powers (including this right of delegation);

- (o) **(Authorisations)** apply for any Authorisation which is necessary or desirable in connection with the exercise of a Power; and
- (p) **(incidental power)** do anything expedient or incidental to exercise any of its Powers, without limiting those Powers.

8.6 Discharge or acquire prior Security Interest

- (a) While a Default subsists, the Secured Party may do any one or more of the following:
 - (i) purchase a debt or liability secured by a prior Security Interest (including a debt secured by a Permitted Security Interest);
 - (ii) pay the amount required to discharge or satisfy that debt or liability; and
 - (iii) take a transfer or assignment of that Security Interest and any Guarantee, document or right ancillary or collateral to it.
- (b) If the Secured Party exercises its rights under clause 8.6(a):
 - (i) the Grantor is indebted to the Secured Party for the same amount paid by the Secured Party or the amount of the debt or liability acquired (whichever is higher) and that amount is immediately payable to the Secured Party and forms part of the Secured Money;
 - (ii) the Secured Party may rely on a written notice from the holder of a prior Security Interest (**Prior Secured Party**), or on an ancillary or collateral document, as to the amount and property secured by that prior Security Interest;
 - (iii) the Prior Secured Party need not enquire whether any amount is owing under a Finance Document; and
 - (iv) the Grantor irrevocably directs any such Prior Secured Party to give the Secured Party any information it requires in connection with the prior Security Interest.

8.7 Co-operation in exercise of power of sale

If the Secured Party or a Receiver wishes to exercise a right to sell any Collateral, the Grantor must do or cause to be done all things necessary to enable an expeditious sale and transfer to the purchaser for the value as estimated by the Secured Party, in the manner and on terms the Secured Party thinks fit.

8.8 Appoint Receivers

- (a) While a Default subsists, the Secured Party may do any one or more of the following:
 - (i) appoint one or more persons (severally, unless specified otherwise in the instrument of appointment) to be a receiver or receiver and manager of all or any of the Collateral;
 - (ii) fix and vary the Receiver's remuneration at an amount agreed between the Secured Party and the Receiver from time to time;
 - (iii) terminate a receivership or remove or replace a Receiver; and
 - (iv) appoint an additional Receiver.
- (b) The Secured Party may do any of these things even if a resolution or order for the Grantor's Liquidation has been passed or made.
- (c) Each party agrees that if a Receiver is appointed under this document on the basis of a Default which subsequently ceases to subsist, the Default is taken to continue to subsist for the purposes of the Receiver's appointment under this document.

8.9 Agency of Receiver

To the extent permitted by law, a Receiver is the agent of the Grantor and the Grantor alone is responsible for the Receiver's costs, expenses, remuneration, acts, omissions and defaults. The Secured Party is not liable to the Grantor for the acts or omissions of the Receiver. To the extent that a Receiver is not, or ceases to be, the agent of the Grantor as a result of a resolution or order

for the Grantor's Liquidation or by operation of law, the Receiver immediately becomes the agent of the Secured Party.

8.10 Receiver's powers

- (a) Unless the terms of a Receiver's appointment say otherwise, the Receiver has the following rights and powers over the Collateral which the Receiver is appointed to:
- (i) deal with all the rights, powers, discretions or remedies given by law to mortgagees in possession, receivers or receivers and managers;
 - (ii) deal with all of the Secured Party's Powers under this document and at law (other than the power to appoint receivers or receivers and managers); and
 - (iii) obtain financial accommodation from the Secured Party and give Guarantees on terms that the Receiver considers expedient in connection with the Collateral, in each case whether alone or together with any other person, and with or without granting a Security Interest (regardless of priority ranking) over the Collateral.
- (b) The Receiver may exercise the rights and powers under clause 8.10(a) in the name of the Grantor or otherwise.

8.11 Appointment of Attorney

- (a) The Grantor for valuable consideration, to secure the performance of the Secured Obligations, irrevocably appoints the Secured Party, each Authorised Representative of the Secured Party and each Receiver separately as its attorney to do any or all of the following on the Grantor's behalf and in the Grantor's or the attorney's name while a Default subsists:
- (i) anything which the Grantor must do under a Finance Document or under law in connection with a Finance Document;
 - (ii) anything which the Attorney considers necessary or expedient to give effect to a Power or exercise of a Power, or to perfect any Finance Document, including by signing any document for that purpose; and
 - (iii) anything which an Attorney is expressly empowered to do under a Finance Document on the Grantor's behalf.
- (b) The Grantor agrees to ratify anything done by its Attorney pursuant to the power of attorney granted by the Grantor under clause 8.11(a). An Attorney may delegate its powers (including the power to delegate) to any person for any period and may revoke the delegation.

8.12 Investigating Experts

The Secured Party may, at any time while a Default or Potential Default subsists, appoint accountants, insolvency practitioners or other experts (**Investigating Experts**) to investigate and report on the affairs and financial position of the Grantor and on the Collateral. The Grantor:

- (a) authorises, and agrees to give all reasonable assistance to, the Investigating Experts to undertake the investigation, and must pay the Investigating Experts' costs on demand by the Secured Party; and
- (b) authorises the disclosure to the Secured Party and its advisers of all information and documentation in connection with the investigation.

9. Costs, Taxes and general indemnity

9.1 Transaction expenses

The Grantor must pay or reimburse on demand by the Secured Party all reasonable costs and expenses of the Secured Party, a Receiver and an Attorney (and any of their respective officers, employees and agents) in connection with:

- (a) the negotiation, preparation, execution, delivery, registration and completion of, and payment of Taxes on, the Finance Documents;

- (b) a variation, release or discharge of any Finance Document and the production of any Title Document;
- (c) preparing, registering and maintaining any financing statement or financing change statement (including pursuant to section 167 of the PPSA);
- (d) complying with any amendment demand in accordance with Part 5.6 of the PPSA;
- (e) giving a consent or approval or waiving a requirement in connection with a Finance Document; and
- (f) valuing, inspecting or reporting on the Collateral.

This includes legal costs and expenses (on a full indemnity basis) and any professional consultant's fees.

9.2 Enforcement and other expenses

The Grantor must pay or reimburse on demand by the Secured Party all costs and expenses of the Secured Party, a Receiver and an Attorney (and any of their respective officers, employees and agents) in connection with:

- (a) enforcing a Finance Document, or exercising, enforcing or protecting a Power, or attempting to do so;
- (b) obtaining or receiving payment of, and distributing, any Secured Money;
- (c) a breach of, obtaining or procuring performance or satisfaction of the Secured Obligations;
- (d) a Default or Potential Default;
- (e) any Government Agency enquiry concerning the Grantor or any of its Related Bodies, or the involvement of the Secured Party in the Finance Documents;
- (f) maintaining, preserving or protecting the Collateral; and
- (g) obtaining professional advice from a person or consultant about any matter of concern to the Secured Party, a Receiver or an Attorney in connection with a Finance Document or the Collateral.

This includes any legal costs and expenses (on a full indemnity basis) and any professional consultant's fees.

9.3 Costs and expenses of Grantor

The Grantor will pay its own costs and expenses in connection with this document.

9.4 Taxes and fees

- (a) The Grantor must pay all:
 - (i) Taxes and fees in connection with any Finance Document or any payment, receipt, supply or other transaction carried out pursuant to, or contemplated by, any Finance Document, including Taxes passed on to the Secured Party by another financial institution or supplier of goods and services; and
 - (ii) fines and penalties for late payment or non-payment of those amounts, except where the Grantor places the Secured Party in cleared funds to make the payment not less than five Business Days before the due date and the Secured Party fails to make the payment.
- (b) The Grantor must pay or reimburse the Secured Party on demand for all amounts which are payable under clause 9.4(a) or which the Secured Party determines in good faith to be payable.

9.5 Tax indemnity

- (a) Subject to clause 9.5(b), the Grantor indemnifies the Secured Party, against, and must pay to the Secured Party on demand amounts equal to, any Loss which the Secured Party determines will be or has been (directly or indirectly) suffered by the Secured Party for or on account of Tax in respect of this document or a transaction or payment under this document.

- (b) Clause 9.5(a) does not apply:
 - (i) with respect to any Excluded Tax; or
 - (ii) to the extent the relevant Loss is compensated for by payment of an additional amount under clause 10.2.

9.6 General indemnity

The Grantor indemnifies the Secured Party, any Receiver and any Attorney (and their respective officers, employees and agents) against, and must pay to the Secured Party on demand amounts equal to, any Loss arising as a result of or in connection with:

- (a) an indemnity given by the Secured Party to a Receiver or administrator of the Grantor;
- (b) this document or the Collateral;
- (c) a Default or Potential Default;
- (d) any payment required under this document not being made on its due date;
- (e) the exercise or attempted exercise of any Power;
- (f) the Secured Party acting or relying in good faith on any Notice or other communication from, or genuinely believed to be from, the Grantor; and
- (g) the Secured Party relying on information supplied by or on behalf of the Grantor which proves to be a misrepresentation or to be misleading or deceptive (including by omission of other information),

including any legal costs and expenses (on a full indemnity basis) and any professional consultant's fees in connection with the above.

10. Payments

10.1 Payment requirements

All payments by the Grantor under this document must be made:

- (a) by 12.00 noon on the due date (or, if not a Business Day, on the next Business Day in the same calendar month or, if none, the preceding Business Day);
- (b) to the Secured Party by payment to an account nominated by the Secured Party or as the Secured Party otherwise directs;
- (c) in Dollars, in immediately available funds, and in full without set-off, counterclaim or, subject to clause 10.2, deduction or withholding; and
- (d) if no date for payment is specified in this document, on demand by the Secured Party.

10.2 Deduction or withholding

If the Grantor is required by law to deduct or withhold Taxes from a payment to the Secured Party in connection with this document, it must:

- (a) make that deduction or withholding (and any further deductions or withholdings contemplated by clause 10.2(b)), pay to the appropriate Government Agency an amount equal to the full amount deducted and/or withheld as required by law and give the Secured Party the original receipt for the payment; and
- (b) unless the Tax is an Excluded Tax, pay additional amounts to the Secured Party which will result in the Secured Party receiving at the time the payment is due (after deduction or withholding of any Taxes in respect of any additional amount) the full amount which the Secured Party would have received if no deduction or withholding had been required.

10.3 GST

- (a) In this clause 10.3:
 - (i) terms defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) apply;

- (ii) reference to a person includes the representative member of any GST group of which the relevant person is a member;
 - (iii) a **Finance Supply** means a supply made or to be made by the Secured Party under or in connection with a Finance Document where the consideration for the supply is not stated to include an amount in respect of GST on the supply; and
 - (iv) **GST Amount** means the amount of any GST payable on a Finance Supply.
- (b) All Finance Supply amounts have been calculated without regard to GST. If GST is or will be imposed on any Finance Supply, the payment to the supplier for that supply will be increased by the GST Amount. Each recipient of a Finance Supply indemnifies the supplier against, and must pay to the supplier on demand amounts equal to, any Loss arising as a result of or in connection with the supplier failing to receive the increased payment amount.
- (c) If a party (**Payer**) is liable under a Finance Document to reimburse or indemnify the Secured Party for any Loss, the reimbursement or indemnity amount will be for the full GST inclusive amount of that Loss less any input tax credit to which the Secured Party determines it is entitled with respect to that Loss, plus any increased amount for GST payable under clause 10.3(b). To the extent that the Secured Party is not entitled to an input tax credit for the GST payable on any supply acquired by or expenditure incurred by the Secured Party directly or indirectly in connection with a Finance Document, the Payer must reimburse the Secured Party for the amount of that unrecoverable GST.
- (d) The supplier of a Finance Supply that is a taxable supply must issue a tax invoice to the recipient no later than 14 days following payment of the GST Amount pursuant to this clause 10.3.
- (e) If it is determined on reasonable grounds that the amount of GST paid or payable to the Commissioner of Taxation by the supplier in connection with a Finance Supply differs for any reason from the GST Amount paid or payable to the supplier by the recipient pursuant to clause 10.3(b), the amount of the difference must be paid by, refunded to or credited to (as applicable), the recipient promptly, and the supplier must issue an adjustment note to the recipient.
- (f) If the GST payable in relation to a Finance Supply is less than the amount that the recipient has paid the supplier under clause 10.3(b), the supplier is only obligated to pay a refund of GST to the recipient to the extent the supplier receives a refund of that GST from the Commissioner of Taxation. This clause 10.3(f) does not apply in relation to adjustment events.

11. Receipt of money and application

11.1 Credit of received payment

The Grantor is only credited with a payment of Secured Money from the date of actual receipt in cleared funds by the Secured Party (whether received from the Grantor or a Receiver).

11.2 Applying or appropriating money received

The Secured Party may apply or appropriate all money received under this document (even if insufficient to discharge all of the Grantor's obligations at that time) to reduce the Secured Money in the order, and to satisfy any part of the Secured Money, as the Secured Party sees fit (including as between principal, interest and other amounts owing to the Secured Party and including so as to enable the Secured Party to preserve any purchase money security interest). An application or appropriation by the Secured Party will override any appropriation made by the Grantor. For the purposes of section 14(6)(a) of the PPSA, this clause 11.2 constitutes the method of payment application agreed by the parties.

11.3 Suspense account

- (a) The Secured Party may credit money received in or towards satisfaction of the Secured Money (including dividends received in any Liquidation) to a suspense account. The Secured Party may keep the money in that account for as long as, and at whatever

interest rate, the Secured Party thinks fit. The Secured Party may apply the money (including interest) to reduce the Secured Money whenever the Secured Party thinks fit.

- (b) If the Secured Money has been fully and finally paid or discharged and the Secured Party is satisfied that such payment or discharge is not liable to be set aside, avoided or reversed, then the balance standing to the credit of the suspense account and any accrued interest must be paid to or for the account of the Grantor and the Secured Party will not have any further liability in relation to it.

11.4 Surplus proceeds

If the Secured Party, a Receiver or an Attorney (as the case may be) holds any surplus money after:

- (a) payment of the Secured Money in full and the application of proceeds in accordance with clause 11.2; and
- (b) the making of all payments that the Secured Party, Receiver or Attorney has the right or obligation to make under the Finance Documents or at law,

then:

- (c) no trust arises, or interest accrues, over that surplus money; and
- (d) the Secured Party, Receiver or Attorney may pay that money to an account in the name of the Grantor with any bank, in which case the Secured Party, Receiver or Attorney will have no further liability in relation to that money.

11.5 Foreign currency amounts

If for any reason the Secured Party receives or recovers any amount under or in relation to this document in a currency other than Dollars (**Foreign Currency Amount**), the amount which the Secured Party will be taken to have received or recovered for the purposes of the Finance Documents will be the Dollar amount to which the Secured Party could have converted the Foreign Currency Amount (in accordance with its normal procedures) at the time of the receipt or recovery, less the costs of the conversion.

12. Statutory powers and notices

12.1 Exclusion of PPSA provisions

To the extent the law permits:

- (a) for the purposes of sections 115(1) and 115(7) of the PPSA:
 - (i) the Secured Party need not comply with sections 95, 118, 121(4), 125, 130, 132(3)(d) or 132(4); and
 - (ii) sections 142 and 143 are excluded;
- (b) for the purposes of section 115(7) of the PPSA, the Secured Party need not comply with sections 132 and 137(3);
- (c) if the PPSA is amended after the date of this document to permit the Grantor and the Secured Party to agree to not comply with or to exclude other provisions of the PPSA, the Secured Party may notify the Grantor that any of these provisions is excluded, or that the Secured Party need not comply with any of these provisions, as notified to the Grantor by the Secured Party; and
- (d) the Grantor agrees not to exercise its rights to make any request of the Secured Party under section 275 of the PPSA, to authorise the disclosure of any information under that section or to waive any duty of confidence that would otherwise permit non-disclosure under that section.

12.2 Exercise of rights by Secured Party

If the Secured Party exercises a Power in connection with this document, that exercise is taken not to be an exercise of a right, power or remedy under the PPSA unless the Secured Party

states otherwise at the time of exercise. However, this clause does not apply to a Power which can only be exercised under the PPSA.

12.3 No notice required unless mandatory

- (a) To the extent the law permits, the Grantor waives:
 - (i) its rights to receive any notice that is required by:
 - (A) any provision of the PPSA (including a notice of a verification statement); or
 - (B) any other law before a secured party or Receiver exercises a Power; and
 - (ii) any time period that must otherwise lapse under any law before a secured party or Receiver exercises a Power.
- (b) If the law which requires a period of notice or a lapse of time cannot be excluded, but the law provides that the period of notice or lapse of time may be agreed, that period or lapse is one day or the minimum period the law allows to be agreed (whichever is the longer).
- (c) However, nothing in this clause prohibits the Secured Party or any Receiver from giving a notice under the PPSA or any other law.

12.4 Appointment of nominee for registration

For the purposes of section 153 of the PPSA, the Secured Party appoints the Grantor as its nominee, and authorises the Grantor to act on its behalf, in connection with a registration under the PPSA of any security interest in favour of the Grantor which is:

- (a) evidenced or created by chattel paper;
- (b) perfected by registration under the PPSA; and
- (c) transferred to the Secured Party under this document.

This authority ceases when the registration is transferred to the Secured Party.

12.5 Other rights

Where the Secured Party has Powers in addition to, or existing separately from, those in Chapter 4 of the PPSA, those Powers will continue to apply and are not limited or excluded (or otherwise adversely affected) by the PPSA. This is despite clause 12.1 or any other provision of a Finance Document.

13. Assignment

13.1 By Grantor

The Grantor may not assign, transfer or otherwise deal with its rights, interests or obligations under this document without the Secured Party's prior written consent.

13.2 By Secured Party

Subject to the Finance Documents, the Secured Party may assign, transfer, novate or otherwise deal with its rights, interests and obligations under this document without the consent of, or notice to, the Grantor, and may disclose to a proposed party to such assignment or dealing any information the Secured Party considers appropriate about the Grantor, the Finance Documents and any transaction in connection with any of them.

13.3 Assistance

The Grantor agrees to do or execute anything reasonably requested by the Secured Party to effect an assignment, transfer, novation or other dealing under this clause 13.

14. Notices, demands and communications

14.1 Service

A notice, demand, consent, approval or communication given by a party in connection with this document must be:

- (a) in writing, in English and signed by an Authorised Representative of the party; and
- (b) hand delivered or sent by prepaid post (or airmail if applicable) or facsimile to the recipient's address for notices specified in the 'Details' section of this document (as varied by any Notice given by the recipient to the party).

14.2 Effective on receipt

A Notice given in accordance with this clause 14 takes effect when received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, on the second Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia); or
- (c) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless, within eight hours after the transmission (being counted as hours from 9.00am to 5.00pm on a Business Day), the recipient informs the sender that it has not received the entire Notice,

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm (addressee's time) on a Business Day, the Notice is taken to be received at 9.00am (addressee's time) on the next Business Day.

14.3 Validity

A Notice is validly given by the Secured Party even if returned unclaimed or if the recipient has been wound up or is absent from the place the Notice is delivered or sent to.

14.4 Other methods

This clause 14 does not limit any provision for giving Notices in another Finance Document, or limit any other method for giving Notices or serving demands provided for by law.

15. Protection of third parties

15.1 Receipt of Secured Party, Receiver or Attorney

A receipt given by the Secured Party (or its Authorised Representative), a Receiver or an Attorney for any money payable to it, or any asset receivable by it, relieves the person paying that money or delivering the asset from all liability to enquire as to the dealing with, or application of, that money or asset.

15.2 Third parties need not enquire

A person dealing with the Secured Party, a Receiver or an Attorney is protected from any impropriety or irregularity of that dealing, and need not enquire whether:

- (a) any of them has been properly appointed or has executed or registered an instrument or exercised a Power properly or with authority; or
- (b) any Secured Money has become due, a Finance Document is enforceable or a default (however described) has occurred under a Finance Document.

16. Protection of Secured Party, Receiver and Attorney

16.1 Notice, demand or lapse of time required by law

If a notice, demand or lapse of time is required by law before the Secured Party can exercise a Power, then for the purposes of this document:

- (a) that notice, demand or lapse of time is dispensed with to the extent allowed by that law; or
- (b) if not allowed to be dispensed with, but the period of notice, demand or lapse of time is allowed by that law to be shortened or fixed, it is shortened and fixed to one day.

16.2 Secured Party and Receiver not restricted

The Secured Party or a Receiver need not:

- (a) exercise a Power, give a consent or make a decision under this document unless a Finance Document expressly provides otherwise; or
- (b) resort to a Security or Power before resorting to any other of them.

16.3 Secured Party, Receiver and Attorney not mortgagee in possession or liable

To the extent permitted by law, the Secured Party, a Receiver and any Attorney will:

- (a) not be, nor account or be liable as, mortgagee in possession due to exercise of a Power; or
- (b) not be liable to anyone for any Loss in relation to an exercise or attempted exercise of a Power, or a failure or delay in exercising a Power.

16.4 Secured Party may set off

At any time while a Default subsists, the Secured Party may, without any demand or notice, set off and apply indebtedness it owes to the Grantor (whatever the currency) against any money owing to it by the Grantor under any Finance Document, whether or not the amount owed by the Secured Party or the Grantor is immediately payable or is owed alone or with any other person. The Grantor irrevocably authorises the Secured Party to do anything necessary (including to sign any document and effect appropriate currency exchanges) for that purpose.

16.5 Reinstating avoided transaction

- (a) The Grantor agrees that if a payment or other transaction relating to the Secured Money or the Secured Obligations is void, voidable, unenforceable or defective for any reason or a related claim is upheld, conceded or settled (each an **Avoidance**), then even though the Secured Party knew or should have known of the Avoidance:
 - (i) each Power and the Grantor's liability under each Finance Document will be what it would have been, and will continue, as if the payment or transaction the subject of the Avoidance had not occurred; and
 - (ii) the Grantor will immediately execute and do anything required by the Secured Party to restore the Secured Party to its position immediately before the Avoidance (including reinstating any Finance Document).
- (b) This clause 16.5 survives any termination or full or partial discharge or release of any Finance Document.

16.6 Authorised Representatives and communications

The Grantor irrevocably authorises the Secured Party to rely on a certificate by any person purporting to be its director or company secretary as to the identity and signatures of its Authorised Representatives, and to rely on any Notice or other document contemplated by any Finance Document which bears the purported signature (whether given by facsimile or otherwise) of its Authorised Representative. The Grantor warrants that those persons have been authorised to give notices and communications under or in connection with the Finance Documents.

16.7 Secured Party's opinion

An opinion or view of the Secured Party for the purposes of this document may be formed or held on its behalf by its Authorised Representative, its board of directors or by any other person it authorises to act on its behalf in relation to the Finance Documents.

17. General provisions**17.1 Consideration**

The Grantor acknowledges entering into this document in return for the Secured Party entering into the Finance Documents, the transactions contemplated by those documents and other valuable consideration.

17.2 Prompt performance

If a time is not specified for the performance by the Grantor of an obligation under this document, it must be performed promptly.

17.3 Performance of Grantor's obligations by Secured Party

The Secured Party may do anything which the Grantor fails to do as required by, or in accordance with, this document. This does not limit or exclude the Secured Party's Powers in any way.

17.4 Powers

Powers under the Finance Documents are cumulative and do not limit or exclude Powers under law. Full or partial exercise of a Power does not prevent a further exercise of that or any other Power. No failure or delay in exercising a Power operates as a waiver or representation. Unless expressly provided in a Finance Document], no Power or Finance Document merges in, limits or excludes any other Power, Finance Document or judgment which the Secured Party or a Receiver (or anyone claiming through it) may have or obtain.

17.5 Consent and waivers

A consent or waiver by the Secured Party or a Receiver in relation to this document is effective only if in writing. If given subject to conditions, the consent or waiver only takes effect subject to compliance with those conditions to the Secured Party's or Receiver's satisfaction.

17.6 Indemnities and reimbursement obligations

The Secured Party or a Receiver need not incur an expense or make a payment before enforcing an indemnity or reimbursement obligation in a Finance Document. Unless otherwise stated, each such indemnity or reimbursement obligation is separate and independent of each other obligation of the party giving it, is absolute, irrevocable, unconditional and payable on demand and continues despite any settlement of account, termination of any Finance Document or anything else.

17.7 Notices or demands as evidence

A notice or certificate from or demand by the Secured Party stating that a Default has occurred, or that a specified sum of money is owing or payable under a Finance Document or stating any other fact or determination relevant to the rights or obligations of the Secured Party or the Grantor under a Finance Document, is taken to be correct unless proved incorrect.

17.8 Law and legislation

To the extent permitted by law:

- (a) each Finance Document to which the Grantor is expressed to be a party prevails to the extent of inconsistency with any law; and
- (b) any present or future legislation operating to reduce the Grantor's obligations under a Finance Document or the effectiveness of the Powers is excluded.

17.9 Severability

A provision of this document that is illegal, invalid or unenforceable in a jurisdiction is ineffective in that jurisdiction to the extent of the illegality, invalidity or unenforceability. This does not affect the validity or enforceability of that provision in any other jurisdiction, nor the remainder of this document in any jurisdiction.

17.10 Variation

A variation of this document must be in writing and signed by or on behalf of each party to it.

17.11 Governing law - security agreement

This document is governed by the laws of the Australian Capital Territory.

17.12 Governing law - Security Interest

- (a) Subject to clause 17.12(b), each Security Interest created under this document is governed by the laws of Australian Capital Territory.
- (b) Clause 17.12(a) does not apply to the extent that a Security Interest is created under this document in any personal property described in section 237(2) of the PPSA, in which case the law determined by the PPSA will govern the Security Interest in that property.

17.13 Jurisdiction

Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of the Australian Capital Territory (and any court of appeal) and waives any right to object to an action being brought in those courts, including on the basis of an inconvenient forum or those courts not having jurisdiction.

17.14 Service of process

Without preventing any other mode of service, any document in an action or process may be served on any party by being delivered to or left for that party at its address for service of Notices under this document.

17.15 Counterparts

This document may be executed by physical signature in wet ink in any number of counterparts. Each counterpart constitutes an original of this document, all of which together constitute one instrument. A party who has executed a counterpart of this document may exchange it with another party by faxing, or by emailing a pdf (portable document format) copy of, the executed counterpart to that other party, and if requested by that other party, will promptly deliver the original by hand or post. Failure to make that delivery will not affect the validity of this document.

Schedule 1 - Relevant Marketable Securities

Shares:

Grantor (who holds shares in the Company)	ACN / ABN	Company	Relevant Marketable Securities
Djigardaba Enterprise Aboriginal Corporation (ICN 4023)	46 184 296 702	Kakadu Tourism (GLC) Pty Limited ACN 087 366 336	48.0% of the issued capital of the Company, which as at the date of this document consists of 648,000 shares fully paid.

Unit Trust:

Grantor (being a unitholder of a Unit Trust)	ACN / ABN	Unit Trust	Trustee details	Relevant Marketable Securities
Djigardaba Enterprise Aboriginal Corporation (ICN 4023)	46 184 296 702	Gagudju Lodge Cooinda Trust ABN 47 292 427 570	Indigenous Business Australia (ABN 25 192 932 833) of Level 2, 15 Lancaster Place, Majura Park ACT 2609	48.0% of the issued units of the Unit Trust, which as at the date of this document consists of 1,936,281 units fully paid .

Signing page

EXECUTED as a deed.

Each signatory executing this document (electronically or otherwise) intends by that execution to be bound by this document, and where the signatory has signed as an officer or attorney of a party, for that party to be bound by this document. Each attorney executing this document under a power of attorney certifies, by that execution, that the attorney has no notice of the revocation of the power of attorney.

Grantor

SIGNED for and on behalf of **Djigardaba Enterprise Aboriginal Corporation (ABN 46 184 296 702)** in accordance with s99.5 Corporations (Aboriginal and Torres Strait Islander) Act 2006:

Louisa Bayne contact person
(Name and position held by Signatory)

s47F
(Signature)

18/12/23

Aysha Alderson
(Name and position held by second Signatory /
Name of Witness)

s47F
(Signature of second Signatory / Witness)

18/12/23

Secured Party

SIGNED for and on behalf of the **Commonwealth of Australia as represented by the National Indigenous Australians Agency:**

s47F

(Name of Agency Representative)

s47F

(Signature of Agency Representative)

Acting Regional Manager

(Position of Agency Representative)

21.12.2023

s47F

(Name of Witness in full)

s47F

(Signature of Witness)

21.12.2023