

**SCHEDULE 9 - DEED OF COVENANT FOR NEW CONSERVATION AREAS
UNDER SECTION 15 OF THE *LAND ADMINISTRATION ACT***

**SCHEDULE 9 - DEED OF COVENANT FOR NEW CONSERVATION AREAS
UNDER SECTION 15 OF THE *LAND ADMINISTRATION ACT***

THIS DEED OF COVENANT is made the day of 200

B E T W E E N

[MG Community Trustees Pty Ltd] (*Covenantor*)

and

THE MINISTER FOR LANDS, a body corporate under the *Land Administration Act 1997* (WA) of care of the Department of Land Administration, 1 Midland Square, Midland, Western Australia (*Covenantee*)

RECITALS

- A. The Covenantor is or is entitled to be the registered proprietor of the Land.
- B. While the Land was Crown land, the Covenantor entered into the Ratification Deed with the Covenantee by which the Covenantor agreed to be bound by the Ord Final Agreement. The Ord Final Agreement was an agreement for the use of land and the Land is "agreement land" for the purposes of section 15 of the LAA.
- C. This deed gives effect to the provisions of the Ord Final Agreement, by creating restrictive and positive covenants under section 15 of the LAA which are to be registered on the title to the Land.

THE PARTIES AGREE AS FOLLOWS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this deed, unless the context requires otherwise:

Contracting Parties means the persons who are defined as such in the Ord Final Agreement.

Covenant means the covenant set out in clause 2 of this deed, as amended, varied or supplemented by a modification registered on the certificate of title from time to time.

Covenantee means the Minister for Lands and its successors in title to the benefit of these Covenants under section 15 of the LAA.

Covenantor means the [MG Community Trustees Pty Ltd] being the registered proprietor of the Land from time to time, and its successors in title.

LAA means the *Land Administration Act 1997* (WA), as amended from time to time.

Land means the New Conservation Areas as that term is defined in the Ord Final Agreement.

**SCHEDULE 9 - DEED OF COVENANT FOR NEW CONSERVATION AREAS
UNDER SECTION 15 OF THE *LAND ADMINISTRATION ACT***

Ord Final Agreement means a deed entitled Ord Final Agreement dated [xx] 2005, entered into by the State of Western Australia, the Western Australian Land Authority, the Conservation Commission of Western Australia, the Miriuwung and Gajerrong #1 (Native Title Prescribed Body Corporate) Aboriginal Corporation, Ben Ward, Kim Aldus, Frank Chulung, Sheba Dignari, Maggie John, Chocolate Thomas, Danny Wallace, Carol Hapke, Nancy Dilyai, Pamela Simon, Jerry Moore and Paddy Carlton (Miriwung Gajerrong No.4 Claimants), Kimberley Land Council Aboriginal Corporation, Consolidated Pastoral Company Pty Ltd, Carlton Hill Pty Ltd, Crosswalk Pty Ltd, Baines River Cattle Co Pty Ltd, Ord River District Cooperative Ltd and JJ McDonald and Sons Engineering Pty Ltd dated [].

Ratification Deed means the deed referred to in clause 20 12 of the Ord Final Agreement.

written law has the same meaning as that term is defined in the *Interpretation Act 1984* (WA).

1.2 Interpretation

In this deed, unless the context requires otherwise:

- (a) a reference to a clause is a reference to a clause of this deed;
- (b) a reference to a written law includes consolidations, amendments, re-enactments or replacements of that written law;
- (c) the singular includes the plural, the plural includes the singular and any gender includes each other gender;
- (d) the word person includes a firm, a body corporate, an unincorporated association or an authority;
- (e) a reference to a person which has ceased to exist or has reconstituted, amalgamated, reconstructed or merged or the functions of which have become exercisable by another person, is a reference to the person established or constituted in its place or by which its functions have become exercisable;
- (f) a reference to a thing includes a reference to the whole or any part of that thing;
- (g) if a word or phrase is defined, cognate words and phrases have a corresponding meaning;
- (h) headings are for convenience only and do not affect the interpretation of this deed;
- (i) the word including is deemed to be followed by the words, but not limited to.

2. COVENANT

2.1 Terms of covenant

- (a) Pursuant to section 15 of the LAA, the Covenantor covenants, in favour of the Covenantee, that the natural, heritage, cultural, environmental, wildlife and plant life value relating to the Land will be protected, preserved, conserved, maintained, enhanced, restored or kept in its natural or existing state.
- (b) For the avoidance of doubt, the grant of a mining tenement to any person or the exercise by any person of any right conferred by, or in relation to, a mining

<p>SCHEDULE 9 - DEED OF COVENANT FOR NEW CONSERVATION AREAS UNDER SECTION 15 OF THE <i>LAND ADMINISTRATION ACT</i></p>

tenement does not constitute a breach of the Covenant.

2.2 Definitions

For the purposes of this clause 2 *mining tenement* has the same meaning as defined in the *Mining Act 1978* (WA).

3. REGISTRATION OF THIS DEED

- (a) This deed must be registered against the certificate of title for the Land, and the Covenantor consents to that registration.
- (b) The Covenantor acknowledges and agrees that the Covenant runs with and binds the Land pursuant to section 15(6)(c) of the LAA.
- (c) The Covenantor acknowledges and agrees that the Covenant is enforceable against the Covenantor and its successors in title.

4. GENERAL PROVISIONS

- (a) If a Court determines that a word, phrase, sentence, paragraph or clause in this deed is unenforceable, illegal or void, then it shall be severed and the other provisions of this deed shall remain operative.
- (b) This deed shall be construed and interpreted in accordance with the laws of Western Australia. The parties submit to the non-exclusive jurisdiction of the Courts of Western Australia and appeal Courts from those Courts.

5. FURTHER ASSURANCES

The parties will do all things and execute all further documents necessary to enable this deed and any modifications of it to be registered on the certificate of title to the Land, and to give full effect to this deed and all transactions contemplated under it.