

Execution Version



Government of **Western Australia**
Department of **Treasury**
Strategic Projects

Eastern Goldfields Regional Prison Redevelopment Project

Tender Number: **BMW 213419/11**

Independent Certifier Deed of Appointment

The State of Western Australia represented by the Minister for Works, a body corporate constituted under section 5 of the *Public Works Act 1902 (WA)* and the Honourable Murray John Cowper MLA, Minister for Corrective Services (**State**)

Assure Partners (EGRP) 1 Pty Ltd ACN 160 900 149 as trustee of the Assure Partners (EGRP) Unit Trust 1 for and on behalf of the Assure Partners (EGRP) Partnership; and

Assure Partners (EGRP) 2 Pty Ltd ACN 161 471 316 as trustee of the Assure Partners (EGRP) Unit Trust 2 for and on behalf of the Assure Partners (EGRP) Partnership

(together, **Project Co**)

Donald Cant Watts Corke (WA) Pty Ltd (ABN 54 123 100 087) (**Independent Certifier**)

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Independent Certifier Deed of Appointment made on

Parties

The State of Western Australia represented by the Minister for Works, a body corporate constituted under section 5 of the *Public Works Act 1902 (WA)* and the Honourable Murray John Cowper MLA, Minister for Corrective Services (**State**)

Assure Partners (EGRP) 1 Pty Ltd ACN 160 900 149 as trustee of the Assure Partners (EGRP) Unit Trust 1 for and on behalf of the Assure Partners (EGRP) Partnership; and

Assure Partners (EGRP) 2 Pty Ltd ACN 161 471 316 as trustee of the Assure Partners (EGRP) Unit Trust 2 for and on behalf of the Assure Partners (EGRP) Partnership,

of Level 8, 136 Exhibition Street, Melbourne, VIC 3000 (together, **Project Co**)

Donald Cant Watts Corke (WA) Pty Ltd ABN 54 123 100 087 of Level 2, 982 Wellington Street, West Perth, WA 6005 (**Independent Certifier**)

Background

- A. On or about the date of this document, Project Co entered into the Agreement with the State in connection with the Project.
- B. The State Project Documents contemplate that the Independent Certifier will discharge certain functions, including those set out in Schedule 2.
- C. The Independent Certifier will perform its obligations in accordance with the terms and conditions of this document.

Operative provisions

1. Definitions and interpretation

1.1 General

Unless the context otherwise requires, or where defined in Clause 1.2, capitalised terms in this document have the meaning given to them in Clause 1.1 of the Agreement.

1.2 Definitions

In this document:

Adjustment Formula means the formula set out below and then rounded upwards or downwards to the nearest dollar:

$$\text{Adjusted amount} = \text{Indexation Factor} \times \text{Original Amount}$$

where:

Indexation Factor = the quarterly CPI figure published immediately before the relevant 1 July divided by the annual CPI figure for the equivalent quarter in the previous year.

Original Amount = the amount (whether previously adjusted or not) applicable immediately prior to the relevant 1 July (disregarding rounding (if any) applied to that amount at the previous 1 July).

Agreement means the document entitled "Eastern Goldfields Regional Prison Redevelopment Project - Project Agreement" entered into between the State and Project Co dated on or about the date of this document.

Audit has the meaning given to it in Clause 6.5(b)(i).

Commencement Date means the later of the date of execution of:

- (a) this document by all parties; and
- (b) the Agreement by the State and Project Co.

Contract Particulars means the particulars set out in Schedule 1.

Default Notice has the meaning given in Clause 9.1.

Executive Negotiator means each of the persons named in the Contract Particulars.

Expiry Date means the date which is the earlier of:

- (a) the end of the Term; and
- (b) termination of this document in accordance with Clause 10 or otherwise at Law.

Fee means the sum of the Time Cost Fee and the Monthly Fees.

Fee Schedule means Schedule 4 (Fee Schedule).

Independent Certifier's Associate means any officers, agents, advisers, consultants, contractors and employees of the Independent Certifier.

Independent Certifier's Representative means the person named in the Contract Particulars or any other person appointed by the Independent Certifier with the approval of the State and Project Co from time to time to replace that person.

Insurances means the policies of insurance effected by the Independent Certifier in accordance with Clause 8.

Monthly Fee means the amount payable to the Independent Certifier for the performance of the Services in connection with each Month as set out in the Fee Schedule.

Quality Assurance System means the quality assurance system prepared by the Independent Certifier in accordance with Clause 6.5.

Quarter means:

- (a) the period commencing on the Commencement Date and ending on the first Quarterly Date during the Term;
- (b) each 3 Month period commencing on a Quarterly Date; and

- (c) the period commencing on the last Quarterly Date during the Term and ending on the Expiry Date.

Quarterly Date means every 1 January, 1 April, 1 July and 1 October during the Term.

Schedule of Rates means the schedule of rates and prices set out in Schedule 5 (Schedule of Rates) as adjusted from time to time in accordance with Schedule 3 (Payment Schedule).

Services means:

- (a) all functions conferred on the Independent Certifier in accordance with this document (including those functions identified in Schedule 2 (Services)); and
- (b) all other things which the Independent Certifier must do to comply with its obligations in accordance with this document or the other State Project Documents or which should have been reasonably anticipated by an experienced and expert professional provider of similar services as being necessary for the performance of those things or which are otherwise capable of inference from this document.

Services Records has the meaning given to it in Clause 11.2(a)(i).

Sub-Independent Certifier means the entity engaged under the Sub-Independent Certifier Deed of Appointment.

Sub-Independent Certifier Deed of Appointment means the document entitled "Eastern Goldfields Regional Prison Redevelopment Project - Sub-Independent Certifier Deed of Appointment" entered into between Project Co, the Builder and the Sub-Independent Certifier.

Term means the period commencing on the Commencement Date and expiring on the date one Month after the expiry of the D&C Phase or such later date as agreed by the parties.

Time Cost Fee is the amount payable for any variation or any suspension under Clause 6.7 that the Independent Certifier carries out.

Transition Out Period means the period of 3 Months prior to the end of the Term.

Transition Out Plan means a plan prepared by the Independent Certifier to meet its obligations in accordance with Clause 11 which is in a form reasonably agreed to by the State and Project Co.

1.3 Interpretation

In this document unless the context otherwise requires:

- (a) **(references)**: references to a person include an individual, a body politic, the estate of an individual, a firm, a corporation, an authority, an association or joint venture (whether incorporated or unincorporated), or a partnership;
- (b) **(includes)**: the words "including", "includes" and "include" will be read as if followed by the words "without limitation";
- (c) **(or)**: the meaning of "or" will be that of the inclusive "or", that is meaning one, some or all of a number of possibilities;
- (d) **(party)**: a reference to a "party" is to a party to this document;
- (e) **(other persons)**: a reference to any party or person includes each of their legal representatives, executors, administrators, successors, and permitted substitutes and assigns, including any person taking part by way of novation;
- (f) **(Authority)**: a reference to any Authority, institute, association or body is:

- (i) if that Authority, institute, association or body is reconstituted, renamed or replaced or if the powers or functions of that Authority, institute, association or body are transferred to another organisation, a reference to the reconstituted, renamed or replaced organisation or the organisation to which the powers or functions are transferred, as applicable; and
 - (ii) if that Authority, institute, association or body ceases to exist, a reference to the organisation which serves substantially the same purposes or objectives as that Authority, institute, association or body;
- (g) **(this document)**: a reference to this document or to any other deed, agreement, document or instrument includes a reference to this document or such other deed, agreement, document or instrument as amended, novated, supplemented, varied or replaced from time to time;
- (h) **(Legislation)**: a reference to any legislation or to any section or provision of it includes any amendment to or re-enactment of, or any statutory provision substituted for that legislation, section or provision;
- (i) **(rights)**: a reference to a right includes any benefit, remedy, discretion, authority or power;
- (j) **(singular)**: words in the singular include the plural (and vice versa) and words denoting any gender include all genders;
- (k) **(headings)**: headings are for convenience only and do not affect the interpretation of this document;
- (l) **(inclusive)**: a reference to this document includes all Schedules and Attachments;
- (m) **(Clauses)**: a reference to:
 - (i) a Clause or Schedule is a reference to a Clause or Schedule of or to this document;
 - (ii) a paragraph or sub-paragraph is a reference to a paragraph or sub-paragraph in the Clause in which the reference appears; and
 - (iii) a Section is a section of a Schedule;
- (n) **(defined meaning)**: where any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (o) **(\$)**: a reference to "\$" is to Australian currency;
- (p) **(time)**: a reference to time is a reference to Australian Western Standard Time;
- (q) **(form)**: writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmissions and communication by email;
- (r) **(construction)**: no rule of construction applies to the disadvantage of a party on the basis that the party put forward or drafted this document or any part;
- (s) **(information)**: a reference to "information" includes information, representations, statements, data, samples, calculations, assumptions, deductions, determinations, drawings, design, specifications, models, plans and other documents in all forms including the electronic form in which it was generated;

- (t) **(may)**: the term may, when used in the context of a power or right exercisable by the State or Project Co, means that the State or Project Co (as applicable) can exercise that right or power in its absolute and unfettered discretion and the State or Project Co (as applicable) has no obligation to the Independent Certifier to do so;
- (u) **(remedy)**: the use of the word “remedy” or any form of it in this document means that the event to be remedied must be cured or its effects overcome;
- (v) **(no double counting)**: if this document requires calculation of an amount payable to a party there should be no double counting in calculating that amount; and
- (w) **(writing)**: references to a notice, request, Claim, consent, approval, record or report means that the notice, request, Claim, consent, approval, record or report must be in writing unless otherwise agreed by the parties or expressly stated in this document.

1.4 Related matters

- (a) Any provision of this document which seeks either expressly or by implication to limit or exclude any Liability of a party is to be construed as doing so only to the extent permitted by Law.
- (b) If the day on or by which any thing is to be done in accordance with this document is not a Business Day, that thing must be done on the next Business Day.
- (c) A consent or approval in accordance with this document from the State, Project Co, the State Representative or the Project Co Representative may be given or withheld, or may be given subject to such conditions (other than the payment of money), as the State, Project Co, the State Representative or the Project Co Representative (as applicable) (in its absolute discretion) considers fit, unless this document states otherwise.

1.5 Several liability

If a provision of this document binds the State and Project Co, that provision binds each of them severally and not jointly and severally.

1.6 Schedule 2

The parties agree that Schedule 2 (Services) is indicative only and is not intended to be a complete description of the Services.

2. Conditions precedent

2.1 Commencement

The rights and obligations of the parties in accordance with this document commence on the Commencement Date and continue for the Term.

2.2 Failure to achieve Financial Close

If the State and Project Co do not achieve Financial Close in accordance with the Agreement by the Conditions Precedent Deadline Date, then the State and Project Co may, at their option, terminate this document by notice in writing to the Independent Certifier and no party will have any liability to the other in connection with the termination.

3. Delegation

3.1 Parties' representatives

The parties may exercise their rights or perform their obligations in accordance with this document through their representatives appointed in accordance with the Agreement.

3.2 Further State delegations

- (a) The State may at any time delegate the exercise of any of its power or authority in accordance with this document to a person other than the State Representative and may terminate or vary that delegation.
- (b) In respect of any delegation in accordance with paragraph (a), the State will promptly notify Project Co and the Independent Certifier of the identity of each delegate, the powers and authority delegated (including any conditions applying to the delegated power) and of any termination or variation to that delegation.
- (c) Any direction given by a State delegate in accordance with its delegation in accordance with this Clause 3.2 will be deemed to be a direction of the State.

4. General obligations

4.1 Appointment

- (a) The State and Project Co appoint the Independent Certifier in accordance with this document to perform the Services for the sole benefit of each of the State and Project Co.
- (b) The Independent Certifier accepts the appointment in paragraph (a).

4.2 Conflict of interest

- (a) The Independent Certifier warrants that:
 - (i) as at the date of this document, no conflict of interest arises out of its engagement by the State and Project Co in accordance with this document; and
 - (ii) if, during the Term, it becomes aware of the existence or possibility of a conflict of interest, it will:
 - A. immediately notify the State and Project Co of that conflict of interest or possible conflict of interest; and
 - B. take such steps to avoid or mitigate the conflict of interest or possible conflict of interest as the State and Project Co may reasonably require.
- (b) The State and Project Co acknowledge that the Independent Certifier is only entitled to act and may only accept an appointment to act as an independent certifier in accordance with clause 5.8(g) of the Agreement.
- (c) The Independent Certifier must not act in any role under or relating to the D&C Subcontract, the FM Subcontract, any other Subcontract or the Project other than in accordance with this deed (including under Clause 7.4), without the prior written consent of the State Representative and on such terms approved by the State Representative.

5. **Paramourncy of Independent Certifier Services**

The parties acknowledge and agree that the functions of the Independent Certifier in respect of the Agreement (**Upstream Services**) are paramount to the functions of any Sub-Independent Certifier in respect of the D&C Subcontract (**Downstream Services**), with the intent that:

- (a) if there is any ambiguity, conflict, discrepancy or inconsistency between any Upstream Services and the Downstream Services, the Upstream Services will prevail as between the parties;
- (b) neither the existence nor terms of the Downstream Services nor the exercise, failure to exercise or manner of exercise of a Downstream Service will be a precedent for, limit or otherwise affect the exercise of, or be construed in any way as an aid to interpretation of, an Upstream Service; and
- (c) neither:
 - (i) the receipt by the Independent Certifier of any notice, claim, plan, program, report, manual, model or any other document or information nor the giving of any notice, the making of any comment or any other act or omission by the Sub-Independent Certifier arising from, in relation to, in respect of or in connection with a Downstream Service; nor
 - (ii) the existence or performance of any function by, any consultation with, or any notice, report, certificate, comment or any other document or information provided to the Independent Certifier by any other reviewer, certifier, engineer, adviser or other consultant engaged by any party other than the State,will:
 - (iii) give rise to any obligation on the part of the Independent Certifier to exercise (or exercise in a particular manner) any Upstream Service;
 - (iv) relieve Project Co from the giving of any notice, claim, plan, program, report, manual, model or any other document or information or the doing of any other thing in respect of any Services in order to give rise to any obligation on the part of the Independent Certifier to exercise that Upstream Service; or
 - (v) be a precedent for, limit or otherwise affect the exercise of, or be construed in any way as to aid the interpretation of an Upstream Service.

6. **Performance and Fee**

6.1 **Services**

- (a) The Independent Certifier must perform the Services in accordance with this document for the Term.
- (b) In consideration of the Independent Certifier performing the Services and subject to Clause 7.4, the State and Project Co must pay to the Independent Certifier the Fee in accordance with Schedule 3 (Payment Schedule).

6.2 **Performance**

In performing the Services, the Independent Certifier must:

- (a) **(standard of care)**: exercise the standard of care, skill and diligence which would be expected of an expert professional provider of the Services experienced in providing services similar to the Services;
- (b) **(duty to act honestly and fairly)**: act honestly, professionally and independently of the State and Project Co and their respective contractors, suppliers and consultants;
- (c) **(no fraud)**: not engage in fraud, collusion or misleading or deceptive conduct;
- (d) **(Laws)**: comply with all Laws;
- (e) **(co-operate)**: co-operate with the State and Project Co and their contractors, suppliers and consultants;
- (f) **(co-ordinate)**: co-ordinate the Services with the work to be performed by the State and Project Co and their contractors, suppliers and consultants;
- (g) **(interference)**: avoid any unreasonable interference, disruption or delay to the work to be performed by the State and Project Co and their contractors, suppliers and consultants;
- (h) **(timely manner)**: act within the time limits stated in the relevant document and otherwise in a timely manner; and
- (i) **(personnel)**: provide sufficient numbers of experienced and competent personnel to perform its obligations in accordance with this document.

6.3 Reliance and knowledge

- (a) The Independent Certifier agrees that the State and Project Co:
 - (i) is entitled to, and will, rely on:
 - A. the skill and expertise of the Independent Certifier in the performance of the Services; and
 - B. any certificate signed or given by the Independent Certifier in accordance with the State Project Documents; and
 - (ii) may suffer Liability if the Independent Certifier does not perform the Services in accordance with the requirements of this document.
- (b) The Independent Certifier warrants that:
 - (i) it has informed itself of the requirements (including time requirements) of the State Project Documents in so far as they relate to the Services;
 - (ii) it has informed itself of the nature of the work necessary for the performance of the Services; and
 - (iii) it has satisfied itself as to the sufficiency of the Fee having regard to the costs which it will incur in complying with its obligations in accordance with this document.

6.4 Right to enter, inspect and test

- (a) Subject to Clause 6.2(g), during the Term, the Independent Certifier:
 - (i) may enter any Construction Site upon giving reasonable notice to Project Co; and

- (ii) may inspect or test, or require Project Co to inspect or test, any part of the Works upon giving reasonable notice to Project Co.
- (b) Project Co must assist the Independent Certifier to exercise its right to inspect and test the Works.

6.5 Quality assurance

- (a) The Independent Certifier must:
 - (i) plan, develop and implement a Quality Assurance System which meets the requirements of the relevant AS/NZS ISO Standards as and when they are published; and
 - (ii) within 14 days of the date of this deed, provide the State Representative and Project Co's Representative with details of the Quality Assurance System which complies with paragraph (i) and which the Independent Certifier proposes to adopt.
- (b) The Independent Certifier must:
 - (i) allow the State and Project Co or a third party appointed by the State and Project Co to audit its Quality Assurance System (**Audit**), at the request of the State or Project Co and at the cost of that party; and
 - (ii) fully co-operate with the State, Project Co or a third party in connection with carrying out of the Audit.
- (c) Without limiting paragraph (b), the Independent Certifier must, at all times:
 - (i) give to the State and Project Co or the third party appointed by the State and Project Co access to premises occupied by the Independent Certifier where the Services are being undertaken; and
 - (ii) permit the State and Project Co or the third party appointed by the State and Project Co to inspect applicable information relevant to the Audit.
- (d) The Independent Certifier will not be relieved of any obligations in accordance with this document as a result of:
 - (i) compliance with the requirements of this Clause 6.5; or
 - (ii) any acts or omissions of the State and Project Co in connection with the requirements of this Clause 6.5.

6.6 Non-complying services

The Independent Certifier must at its cost:

- (a) unless directed otherwise by the State and Project Co, re-perform all Services which have not been performed in accordance with this document; and
- (b) take all steps reasonably necessary to:
 - (i) mitigate the effect on the State and Project Co of the failure to perform the Services in accordance with this document; and
 - (ii) put the State and Project Co (as closely as possible) in the positions in which they would have been had the Independent Certifier performed the Services in accordance with this document, including all such steps as may be reasonably directed by the State and Project Co in writing.

6.7 Suspension of Services

The State and Project Co may, by joint notice to the Independent Certifier, instruct the Independent Certifier to suspend and, after a suspension has been instructed, to recommence, the performance of any or all of the Services.

6.8 Independent Expert

- (a) The Independent Certifier must perform each obligation and discharge each function and duty of the Independent Expert where the Independent Certifier is appointed by the State and Project Co to be the Independent Expert or where the Independent Certifier is nominated as Independent Expert in accordance with clause 45.3 of the Agreement, except if the Independent Expert is:
 - (i) of the reasonable opinion that it would be inappropriate for the Independent Certifier to act as Independent Expert in light of the performance and nature of the Services; or
 - (ii) not reasonably capable of acting as Independent Expert.
- (b) Where the Independent Certifier acts as Independent Expert in accordance with paragraph (a):
 - (i) subject to paragraph (b)(iii) the Independent Certifier will be subject to all the requirements of the Independent Expert as set out in the Agreement and any agreement entered into with the State and Project Co under clause 45.3(e) of the Agreement;
 - (ii) the Independent Certifier will be paid a fee for its determination in accordance with Schedule 3 (Payment Schedule) (such fee to be the costs of the Independent Expert contemplated by clause 45.3(q) of the Agreement); and
 - (iii) where there is an inconsistency between the functions, obligations or requirements of the Independent Certifier and the Independent Expert under the Agreement, the functions, obligations or requirements of the Independent Expert will apply but only:
 - A. to the extent of the inconsistency; and
 - B. in relation to the particular matter for which the Independent Certifier has been appointed or nominated (as appropriate) to act as Independent Expert.

7. Reporting, meetings and communications

7.1 Communications

The Independent Certifier must ensure that a copy of each written communication between the Independent Certifier and the State or Project Co which relates to the Project is promptly given to the other party.

7.2 Management Team

The Independent Certifier must attend each meeting of the Management Team, if requested by one or more of the parties to the Agreement:

7.3 Progress reports

The Independent Certifier must submit a written report to the State and Project Co 2 Business Days before each meeting of the Management Team in accordance with Clause 5.7 (Management Team) of the Agreement containing details of:

- (a) **(compliance)**: Project Co's compliance and any non-compliances with the State Project Documents;
- (b) **(D&C Phase review)**: the results of any review of the construction of the Works in accordance with Clause 12.12 (Independent Certifier's review of construction) of the Agreement;
- (c) **(review of other documents)**: the review of any documents submitted to the Independent Certifier in accordance with the Review Procedures;
- (d) **(notices)**: any notices given by the State or Project Co to the Independent Certifier and any notices issued by the Independent Certifier;
- (e) **(Certificates of Completion)**: any Certificates of Completion or other certificates issued or requested by Project Co or the State in relation to any of the Works;
- (f) **(cost forecasts)**: the forecast cost of the Services (including for the current and following Quarter), taking into account current expenditure, resourcing and future forecasts;
- (g) **(reports)**: notification of reports requested by the State or Project Co in accordance with Clause 7.4; and
- (h) **(other matters)**: such other matters in connection with the Services that the State and Project Co (acting jointly) reasonably request from time to time.

7.4 Reports requested by one party

- (a) The State or Project Co may request the Independent Certifier to prepare a report which is not otherwise required by the State Project Documents.
- (b) The Independent Certifier must prepare the additional report requested in paragraph (a), except if the Independent Certifier is:
 - (i) of the reasonable opinion that it would be inappropriate to prepare the report in light of the performance and nature of the Services; or
 - (ii) not reasonably capable of preparing the report.
- (c) The cost of additional reports prepared in accordance with this Clause 7.4 will be paid to the Independent Certifier in accordance with Schedule 3 (Payment Schedule).

8. Insurance

8.1 Insurances

From the Commencement Date, the Independent Certifier must effect and maintain or cause to be effected and maintained each of the Insurances:

- (a) specified in Schedule 6 (Insurances); and
- (b) as a prudent service provider would obtain and maintain when undertaking work of a similar nature to the Services.

8.2 General insurance requirements

The Independent Certifier must:

- (a) **(Reputable Insurers)**: ensure that all Insurances are effected by Reputable Insurers;
- (b) **(deductibles)**: pay all deductibles payable in connection with any of the Insurances including if the claim is made by the State and Project Co or any State Associate or Project Co Associate insured in accordance with the Insurance except to the extent that the insured risk for which the deductible is to be paid has occurred as a consequence of any breach of a Project Document by the State and Project Co or any negligent act or omission by the State or Project Co or any State Associate or Project Co Associate;
- (c) **(premiums)**: punctually pay all premiums and other amounts payable in connection with the Insurances effected by it, and give the State and Project Co copies of receipts for payment of premiums if and when requested by either the State or Project Co;
- (d) **(no alteration)**: not alter, extend or discontinue or cancel any Insurance, or allow any Insurance to lapse, without the prior approval of both State and Project Co;
- (e) **(do not prejudice)**: not do or permit, or omit to do, anything which prejudices any Insurance;
- (f) **(rectify)**: promptly rectify anything which might, if not rectified, prejudice any Insurance;
- (g) **(fully disclose)**: fully and promptly disclose all material information to all relevant insurers (and any persons acting on their behalf) relating to the Insurances (whether held solely or jointly with others) in all respects;
- (h) **(comply)**: comply at all times with the terms of each Insurance;
- (i) **(do everything reasonably required to enable recovery)**: do everything reasonably required by the State and Project Co or any State Associate or Project Co Associate in whose name an Insurance policy is effected and maintained to enable the State and Project Co or any State Associate or Project Co Associate (as applicable) to claim, and to collect or recover, money due in accordance with or in connection with any Insurance policy;
- (j) **(indemnities secondary)**: ensure that the terms of the Insurances do not require the State and Project Co to exhaust any indemnities referred to in this document as a condition precedent to the insurer considering or responding to any claim; and
- (k) **(notify)**: promptly notify the State and Project Co of any occurrence that may give rise to a claim in connection with the Project in accordance with any Insurance, except in relation to any employers' liability and workers' compensation insurance.

8.3 Terms of Insurances

The Independent Certifier will ensure that each of the Insurances it is responsible for effecting and maintaining in accordance with this document:

- (a) contains terms, if relevant and to the extent legally permissible, to the effect that:
 - (i) the insurer:

- A. will not impute to any insured party any knowledge or intention or a state of mind possessed or allegedly possessed by any other insured party;
 - B. in the case of Insurances in accordance with which the State and Project Co are also entitled to cover, agrees that the interests of the insured include the entire assets and undertaking of the Project and the Facility; and
 - C. in the case of liability insurances, agrees to treat each insured as a separate insured party as though a separate contract of insurance had been entered into with each of the insured parties, without increasing the number of deductibles or the overall limit of indemnity; and
 - D. no reduction in limits or coverage affecting the Project or the Facility will be made during the period of insurance, except under the circumstances and to the extent permitted by the *Insurance Contracts Act 1984* (Cth) and with not less than 30 days prior notification to the State and Project Co; and
- (b) take proper account of the nature and objectives of the Project and the Facility, the responsibilities and entitlements of the various insureds in connection with this document and are on terms otherwise acceptable to the State (whose acceptance will not unreasonably be withheld).

8.4 Insurances primary

- (a) Except for the professional indemnity insurance referred to in Schedule 6 (Insurances), the Insurances are primary and not secondary to the indemnities referred to in this document.
- (b) The State and Project Co are not obliged to make a Claim or institute proceedings against any insurer under the Insurances before enforcing any of its rights or remedies under the indemnities referred to in this document or generally.
- (c) The Independent Certifier is not relieved from and remains fully responsible for its obligations in accordance with this document regardless of whether the Insurances respond or fail to respond to any claim and regardless of the reason why any Insurance responds or fails to respond.

8.5 Evidence of Insurance

- (a) The Independent Certifier must give the State and Project Co:
 - (i) certified copies of all policies, certificates of currency, renewal certificates and endorsement slips, as soon as it receives them from the insurer of the relevant Insurance; and
 - (ii) evidence satisfactory to the State and Project Co that the Insurances continue to be maintained in accordance with this document, whenever reasonably requested by the State and Project Co.
- (b) The Independent Certifier will, every 12 Months, provide the State and Project Co with a report as to each Insurance policy it is required to effect and maintain including claims and other material events with respect to each Insurance policy as at the date of the report and during the previous 12 Months.

8.6 Insurances

- (a) The State and Project Co may (but are not obliged to) procure or effect and maintain the relevant Insurances and pay the premium:
 - (i) if the Independent Certifier fails to provide evidence satisfactory to the State and Project Co within 10 days of a request in accordance with Clause 8.5; or
 - (ii) in the event of any default by the Independent Certifier in obtaining or maintaining Insurances in accordance with this Clause 8 or if any Insurance that the Independent Certifier is responsible for effecting and maintaining in accordance with this document becomes void or voidable.
- (b) The costs reasonably incurred by the State and Project Co in connection with taking such action will be recoverable from the Independent Certifier as a debt due and payable from the Independent Certifier to the State and Project Co.

9. Default

9.1 Notice of Default

If a Default occurs, the State and Project Co may give the Independent Certifier a joint notice (**Default Notice**) which contains:

- (a) details of the Default;
- (b) if the Default is capable of being remedied, a date by which the Independent Certifier must remedy the Default; and
- (c) if the Default is not capable of being remedied, a date by which the Independent Certifier must comply with any reasonable requirements of the State and Project Co in connection with that Default.

9.2 Compliance

If the State and Project Co give a Default Notice to the Independent Certifier, then:

- (a) the Independent Certifier must comply with the Default Notice; and
- (b) unless the relevant Default is a failure to pay money:
 - (i) the Independent Certifier must give the State and Project Co a program to either remedy the Default or comply with any reasonable requirements of the State and Project Co in accordance with the terms of the Default Notice which will specify steps to address the underlying cause of the Default and to avoid similar Events of Default occurring in the future;
 - (ii) the parties must consult to develop and agree the remedy program; and
 - (iii) following agreement or determination of the remedy program, the Independent Certifier must implement and comply with the remedy program.

9.3 Requests for extensions to remedy period

- (a) If the Independent Certifier considers, in good faith, that the time stated in a Default Notice is not reasonable, it must immediately notify the State and Project Co of that belief, the reasons for that belief and the time which it believes is reasonably required to remedy the Default or comply with any reasonable requirements of the State and Project Co.

- (b) The Independent Certifier may give a notice in accordance with paragraph (a), even if the Independent Certifier has previously given one or more such notices.

9.4 When extensions to be given

If the Independent Certifier gives a notice in accordance with Clause 9.3(a) and the Independent Certifier is and has been diligently pursuing:

- (a) the remediation of the Default; or
- (b) compliance with any reasonable requirements of the State and Project Co in connection with an Default that is not capable of remedy,

then the time stated in the Default Notice will be extended by such period as the State and Project Co determine is reasonably required to enable the Independent Certifier to either remedy the Default or comply with any reasonable requirements of the State and Project Co.

10. Termination

10.1 Termination for convenience

The State and Project Co may, at any time, terminate this document at their convenience by jointly giving the Independent Certifier not less than 20 Business Days notice.

10.2 Termination for Default

- (a) The State and Project Co may terminate this document by jointly giving the Independent Certifier a notice if any of the following events occurs:
 - (i) the Independent Certifier fails to remedy a Default within the period set out in the Default Notice (as extended, if at all, in accordance with Clause 9.4); or
 - (ii) if a Default is not capable of remedy, the Independent Certifier fails to diligently comply with any reasonable requirements of the State and Project Co to overcome the consequences of, or compensate the State and Project Co for that Default within the time stated in the notice given by the State in accordance with Clause 9.1 (as extended in accordance with Clause 9.3).
- (b) Termination of this document for a Default will take effect upon the date stated in the notice given by the State and Project Co in accordance with paragraph (a).

10.3 Termination for Insolvency Event

The State and Project Co may terminate this document by jointly giving the Independent Certifier a notice if an Insolvency Event occurs.

10.4 Payments on termination

- (a) If this document is terminated by the State and Project Co in accordance with Clause 10.1, the State and Project Co must pay the Independent Certifier:
 - (i) the proportion of the Fee for Services performed up to the date of the termination; and
 - (ii) a reasonable amount for any unavoidable liabilities incurred by the Independent Certifier as a consequence of the termination, except to the extent the Independent Certifier fails to mitigate such liabilities.

- (b) The State must pay the Independent Certifier the relevant amount in accordance with paragraph (a) within 20 Business Days of termination.
- (c) The Independent Certifier will not be entitled to bring any Claim against either the State or Project Co in connection with the termination of this document

10.5 Termination without prejudice

Termination of the appointment of the Independent Certifier will be without prejudice to any other rights which the State and Project Co may have in connection with any breach of the terms of this document which occurred prior to the date of termination.

11. Transition

11.1 Transition Out Period

- (a) During the Transition Out Period, the Independent Certifier must:
 - (i) provide the Services required in accordance with, and otherwise comply with, the Transition Out Plan; and
 - (ii) without being limited by paragraph (a)(i), cooperate and consult with the State and Project Co and do all such tasks and things as may be reasonably necessary to ensure:
 - A. the smooth transition to the State and Project Co of the Independent Certifier's responsibilities for the monitoring of Project Co's performance of the Works or the Services (as defined in the Agreement); and
 - B. the final completion of all the Services and the full discharge of all of the Independent Certifier's obligations in accordance with this document.
- (b) For the purposes of paragraph (a), the Independent Certifier must:
 - (i) prepare a draft of the Transition Out Plan and provide it to the State and Project Co by no later than 30 Business Days before the commencement of the Transition Out Period which takes into account all relevant considerations which have arisen during the Term;
 - (ii) provide all drafts of the Transition Out Plan to the State and Project Co for review and consult with the State and Project Co as required in relation to the drafts;
 - (iii) review and, if necessary, update the Transition Out Plan and make all amendments as may be reasonably required by the State and Project Co to any draft of the Transition Out Plan; and
 - (iv) finalise, to the reasonable satisfaction of the State and Project Co, the Transition Out Plan by no later than 20 Business Days before the commencement of the Transition Out Period.
- (c) The Independent Certifier must review the Transition Out Plan at least once every 2 Months during the Transition Out Period. The State and Project Co may require the Independent Certifier, by notice, to make reasonable amendments to the Transition Out Plan during the Transition Out Period, if reasonably necessary to achieve the objectives stated in paragraph (a)(ii).

11.2 Delivery of documents

- (a) Upon completion of the Services, or upon the termination of the appointment of the Independent Certifier, the Independent Certifier:
 - (i) must deliver up to the State and Project Co or to such other person as the State and Project Co may direct, all books, records, drawings, specifications and other documentation in the possession, custody or control of the Independent Certifier relating to the Services (**Services Records**); and
 - (ii) agrees that the State and Project Co have the right to use all Services Records for the purposes of the Project.
- (b) Notwithstanding paragraph (a), the Independent Certifier may retain a copy of all Services Records.

11.3 Reasonable assistance

Prior to completion of the Services, or upon the termination of the appointment of the Independent Certifier, the Independent Certifier must provide full assistance to the State and Project Co and any successor to the Independent Certifier appointed to enable such successor to be in a position to perform the Services with effect from the appointment date of the successor.

12. Confidentiality

12.1 Confidential Information

- (a) (**Confidentiality obligations**): Subject to paragraphs (b) and (c) the Independent Certifier must and must ensure that the Independent Certifier's Associates keep confidential the State Project Documents, all Records and all Disclosed Information (**Confidential Information**).
- (b) (**Permitted disclosure**): The Independent Certifier is not obliged to keep confidential any information:
 - (i) which is in the public domain through no default of any party; or
 - (ii) the disclosure of which is:
 - A. required by Law, including in accordance with the *Freedom of Information Act 1992 (WA)*;
 - B. required by a relevant stock exchange;
 - C. consented to by the State; or
 - D. made to a court in the course of proceedings to which the disclosing person is a party.
- (c) (**Disclosure to Project Co's Associates**): Without limiting the Independent Certifier's obligations in accordance with paragraph (a), the Independent Certifier may disclose Confidential Information to:
 - (i) the Independent Certifier's Associates to the extent necessary for the purpose of undertaking the Project; or
 - (ii) subject to paragraph (d), any prospective financier or equity investor of the Project.

- (d) **(No disclosure)**: The Independent Certifier must not disclose any Confidential Information to any prospective financier or equity investor of the Project until, if required by the State, the State has carried out any Probity Investigations in connection with the relevant entities.
- (e) **(State may disclose)**: The State may at any time disclose the Confidential Information and any other information in connection with the Project:
- (i) to any State department or Minister;
 - (ii) to any State Associate to the extent necessary for the purpose of the Project;
 - (iii) in accordance with all Laws;
 - (iv) in the course of official duties by the Minister for Works and Minister for Corrective Services of Western Australia, the Premier of Western Australia, the Trust, the Treasurer of Western Australia, the Department of Works of Western Australia, DCS or the Department of Treasury of Western Australia;
 - (v) to satisfy the requirements of parliamentary accountability;
 - (vi) to the Western Australian Auditor-General for the purposes of satisfying its statutory duties;
 - (vii) in accordance with policies of the Western Australian government;
 - (viii) in annual reports of Western Australia Department of Works, DCS and the Department of Treasury; and
 - (ix) in accordance with the *Freedom of Information Act 1992 (WA)* or the *Parliamentary Commissioners Act 1971 (WA)*.
- (f) **(State will not disclose)**: The State will not disclose or publish:
- (i) the Financial Model; or
 - (ii) the terms of any Project Documents designated as confidential by the parties in Schedule 16 (Confidential Provisions) of the Agreement,
without the prior written consent of Project Co except:
 - (iii) to any State department or Minister provided that such Confidential Information is not further disclosed other than in accordance with this paragraph 12.1(f);
 - (iv) to any State Associate but only to the extent necessary for the purpose of the Project and provided that such information is not further disclosed other than in accordance with this paragraph 12.1(f);
 - (v) to satisfy the requirements of parliamentary accountability and parliamentary disclosure obligations;
 - (vi) where required by the Director General, Chief Executive Officer or the Commissioner of the Department of Corrective Services where required to do so to exercise the duties of his office provided that such information is not further disclosed other than in accordance with this paragraph (f);
 - (vii) in accordance with all Laws and its obligations under Laws; or

- (viii) to the extent the State believes it is necessary to disclose the information in a value for money analysis of the Project.
- (g) (**Government websites**): Subject to paragraph (f), the contents of the State Project Documents and any other document in connection with the Project which is authored or authorised by the State or a Governmental Agency may be published on any Western Australian government internet website.

12.2 Public announcements

The Independent Certifier must not make any public disclosures, announcements or statements in relation to the Project without the State's prior consent (which will not be unreasonably withheld).

13. Liability and indemnity

13.1 Indemnity

The Independent Certifier indemnifies the State and Project Co against any Claim or Liability incurred by them:

- (a) to the extent that Claim or Liability arises out of:
 - (i) any damage to or loss of property; or
 - (ii) death of or injury to any person,in connection with any wrongful act or omission of the Independent Certifier or its agents or consultants or any breach of this document; or
- (b) in connection with breach of this document by the Independent Certifier, or any negligent act or omission of the Independent Certifier, (including any Claim brought against the State or Project Co by the other party and any Liability incurred by the State or Project Co to the other party),

in connection with this document.

13.2 Limitation of liability

Subject to Clause 13.3, the Independent Certifier's liability in accordance with this document from all claims howsoever arising (including negligence and breach of statutory duty) will be limited in aggregate to the amount stated in the Contract Particulars or any higher amount for which the Independent Certifier has professional indemnity insurance of the type contemplated in Clause 8.1.

13.3 Exclusions

The limitation of liability in Clause 13.2 does not apply to any claims in connection with the Independent Certifier's or the Independent Certifier's Associates':

- (a) fraudulent acts or omissions;
- (b) conduct, act or omission done or to be done which results from conscious or intentional indifference to any provision of this document or the rights or welfare of those who are or may be affected by that conduct, act or omission; or
- (c) negligent act or omission which the Independent Certifier knew, or ought reasonably to have been aware, would result in substantial Liabilities being incurred by the State or Project Co.

13.4 No Liability

The State and Project Co will not be liable to each other for any act or omission by the Independent Certifier whether or not in accordance with or purportedly in accordance with this document, the State Project Documents or otherwise.

14. Dispute resolution

14.1 Process

If a matter is referred for determination in accordance with this Clause 14:

- (a) any dispute or difference of opinion arising between the parties in relation to that matter must be resolved in the same manner that disputes or differences of opinion referred for expert determination in accordance with the Agreement are resolved; and
- (b) accordingly, the provisions of clause 45 (Dispute resolution) of the Agreement are incorporated into this document but as if:
 - (i) the only persons party to the Agreement, and the only persons party to the relevant dispute or difference of opinion, are the parties to the relevant dispute;
 - (ii) in Clause 45.2 of the Agreement, references to "Management Team" are references to "Executive Negotiators";
 - (iii) in Clause 45.4(a) of the Agreement, reference to "Management Team has" is a reference to "Executive Negotiators have";
 - (iv) Clause 45.3(d) will be deleted; and
 - (v) the only matters for expert determination in accordance with those provisions are the matters referred for expert determination in accordance this document.

14.2 Matters

Each party may refer any dispute in accordance with this document for resolution in accordance with this Clause 14.

15. GST

- (a) **(Construction):** In this Clause 15:
 - (i) words and expressions which are not defined in this document but which have a defined meaning in GST Law have the same meaning as in the GST Law;
 - (ii) GST Law has the same meaning given to that expression in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth); and
 - (iii) references to GST payable and input tax credit entitlement include GST payable by, and the input tax credit entitlement of, the representative member for a GST group of which the entity is a member.
- (b) **(Nominated entity):** The State confirms that the entity nominated to be responsible for the administration of the State's GST reporting obligations (**Nominated Entity**) is registered for GST as at the date of this document. The parties acknowledge that

the Nominated Entity will be responsible for administering the obligations in accordance with this Clause on behalf of the State.

- (c) **(Additional amount):** Unless otherwise expressly stated, and except in connection with a supply to which paragraph (d) applies, all prices or other sums payable or consideration to be provided in accordance with this document are exclusive of GST.
- (d) **(Non-monetary consideration):** Subject to paragraph (i), if some or all of the consideration for a taxable supply made by a party in connection with this document is not expressed as an amount of money (**Non Monetary Consideration**) and also constitutes a taxable supply by the recipient, the parties agree that:
 - (i) the Non Monetary Consideration is GST inclusive and will not be increased on account of GST under paragraph (e); and
 - (ii) the Independent Certifier will, after consultation with and the approval of the State (such approval not to be unreasonably withheld or delayed), instruct a suitably qualified professional valuer to determine, in accordance with the principles set out by the Commissioner of Taxation in GST Ruling GSTR 2001/6 or any replacement ruling, the GST inclusive market value of any Non Monetary Consideration provided by the supplier and the recipient; and
 - (iii) the Independent Certifier will notify the State of the amount determined by the valuer within 15 days of the end of the Month in which this document is entered.
- (e) **(Payment of GST):**
 - (i) Subject to paragraph (d)(i), if GST is payable on any supply made by a party (**Supplier**) under or in connection with this document, the recipient will pay to the Supplier an amount equal to the GST payable on the supply.
 - (ii) The recipient will pay the amount referred to in paragraph (i) in addition to and at the same time that the consideration for the supply is to be provided in accordance with this document.
- (f) **(Gross-up of non-monetary consideration supplies):** If, at any time a supplier has a GST liability for a tax period in connection with a taxable supply to which paragraph (d) applies (**Non Monetary Consideration Supplies**) that exceeds the input tax credit to which the supplier is entitled in respect of its acquisition of the recipient's taxable supplies (**Acquisition**) for that tax period:
 - (i) the consideration for the Non Monetary Consideration Supplies is not GST inclusive and that consideration must be increased on account of GST under paragraph (e);
 - (ii) the recipient of the Non Monetary Consideration Supply must pay to the supplier the amount by which that consideration must be increased on account of GST under paragraph (e) less the input tax credit (if any) to which the supplier is entitled in respect of the Acquisitions within 5 Business Days of being requested in writing by the supplier to do so; and
 - (iii) the parties will do all things required, including issuing new tax invoices and adjustments notes (if necessary) to give effect to this paragraph (f).
- (g) **(Tax invoices):**

- (i) The Supplier must deliver an Invoice or an adjustment note to the recipient before the Supplier is entitled to payment of an amount under paragraph (e) or (f).
 - (ii) The recipient can withhold payment of any amount payable in accordance with this Clause 15 until the Supplier provides an Invoice or an adjustment note, as appropriate.
- (h) **(Adjustment event):** If an adjustment event arises in connection with a taxable supply made by a Supplier in accordance with this document, the amount payable by the recipient in accordance with this Clause 15 will be recalculated to reflect the adjustment event and a payment will be made by the recipient to the Supplier or by the Supplier to the recipient as the case requires.
- (i) **(Reimbursements):** Where a party is required in accordance with this document to pay or reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:
- (i) the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party is entitled; and
 - (ii) if the payment or reimbursement is subject to GST, an amount equal to that GST.

16. Notices

- (a) **(Form of notices):** Each communication (including each notice, consent, approval, request and demand) in accordance with or in connection with this document (in this Clause 16, "**Notices**"):
- (i) must be in writing; and
 - (ii) must be signed by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary, Partner Representative or authorised agent of, that party.
- (b) **(Procedure for sending notices):** All Notices must be:
- (i) delivered or posted by prepaid post to the address; or
 - (ii) sent by email in the form of a .pdf file letter (or such other form agreed by the State) to the email address,
- of the addressee set out below (or as otherwise notified by that party to each other party from time to time).
- [not disclosed]*
- (c) **(Date of Receipt):** Subject to paragraph (d), a Notice is taken to be received by the addressee:
- (i) in the case of prepaid post, on the third Business Day after the date of posting to an address within Australia, and on the fifth Business Day after the date of posting by airmail to an address outside Australia;
 - (ii) in the case of email, at the time in the place to which it is sent equivalent to the time shown on the automatic receipt notification received by the party sending the email from the recipient; and
 - (iii) in the case of delivery by hand, on delivery.

- (d) **(Next Business Day):** If the communication is taken to be received on a day which is not a Business Day or after 5.00 pm, it is taken to be received at 9.00 am on the next Business Day.
- (e) **(Notices sent by email):** In connection with Notices sent by email:
 - (i) only the letter in .pdf format attached to the email and any attachments to such letter which are referred to in the letter, will form part of the communication in accordance with this Clause 16. Any text in the body of the email or the subject line will not form part of the Notice; and
 - (ii) Project Co must ensure that, in connection with any communications in accordance with or in connection with this document:
 - A. its firewall and/or mail server (as applicable):
 - 1) allows messages of up to 14 MB to be received;
 - 2) does not trap any messages in the spam filter which have been sent from any State domain; and
 - 3) automatically sends a receipt notification to the sender upon receipt of a message; and
 - B. its systems automatically send a notification message to each of the sender and the recipient when a message is received by the recipient's domain but cannot or will not be delivered to the recipient.

17. General

17.1 Assignment

- (a) The Independent Certifier may not assign, novate or otherwise transfer any or its rights and obligations in accordance with this document without the consent of the State and Project Co.
- (b) Project Co may mortgage, charge or encumber its rights under this document pursuant to the Agreement and the Financing Documents.

17.2 Relationship of parties

- (a) No duty of good faith is implied on the State in connection with its relationship with any of the parties.
- (b) Neither the Project Documents nor the relationship created by them, are intended to create, and will not be construed as creating, any partnership or joint venture as between the parties.
- (c) The Independent Certifier must not act as or represent itself to be the servant or agent of the State or Project Co.

17.3 State's rights, duties, powers and functions

- (a) **(State's own interests):** Unless this document expressly provides otherwise, nothing in this document gives rise to any duty on the part of the State to consider interests other than its own interests when exercising any of its rights or performing any of its obligations in accordance with the State Project Documents.
- (b) **(State's powers, functions or duties):** Notwithstanding anything contained or implied in this document to the contrary, the parties expressly agree that the State

is not obliged to exercise a power, function or duty which is granted to or within the responsibility of any other Governmental Agency, or to influence, over-ride or direct any Governmental Agency in the proper exercise and performance of its legal duties and functions.

- (c) **(No fettering)**: Nothing contained in this document or contemplated by this document has the effect of constraining the State or placing any fetter on the State's discretion to exercise or not to exercise any of its statutory rights, duties, powers or functions.
- (d) **(No Claim)**: Subject to paragraph (e), Project Co and the Independent Certifier will not be entitled to make any Claim against the State for any Liability relating to any exercise or failure of the State to exercise its statutory rights or duties.
- (e) **(Liability for breach)**: Paragraphs (a) to (d) do not limit any Liability of the State which the State would have had to any party in accordance with any State Project Document as a result of a breach by the State of a term of any State Project Document but for paragraphs (a) to (d).

17.4 Reasonable endeavours

If there is any statement in this document that the State will use "reasonable endeavours" in relation to an outcome it means that:

- (a) the State will take steps to bring about the relevant outcome so far as it is reasonably able to do so having regard to its resources and other responsibilities;
- (b) the State cannot guarantee the relevant outcome; and
- (c) the State, by undertaking to exercise reasonable endeavours, is not required to:
 - (i) interfere with or influence the exercise of any statutory power or discretion by any body, including a Governmental Agency; or
 - (ii) act in any other way that the State regards as not in the public interest.

17.5 Entire agreement

This document constitutes the entire agreement and understanding between the parties and supersede any prior agreement (whether in writing or not), negotiations, discussions, understandings and agreements between the parties in relation to the subject matter of this document.

17.6 Counterparts

This document may be executed in any number of counterparts and all of such counterparts taken together will be deemed to constitute one and the same instrument.

17.7 Governing law

This document is governed by and will be construed according to the Laws of Western Australia and the parties irrevocably submit to the non-exclusive jurisdiction of the courts of that State and the courts competent to determine appeals from those courts.

17.8 No waivers

- (a) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by Law or this document by the State or Project Co will not in any way preclude, or operate as a waiver of, any exercise or enforcement of that or any other right, power or remedy provided by Law or this document.
- (b) No waiver by the State or Project Co of a breach of any term of this document will operate as a waiver of another breach of that term or of a breach of any other term of this document.

17.9 Variations and waiver

No variation, modification or waiver of any provision in this document, nor consent to any departure by any party from any such provision, will be of any effect unless it is in writing and signed by the parties or (in the case of a waiver) by the party giving it. Any such variation, modification, waiver or consent will be effective only to the extent to or for which it may be made or given.

17.10 Amendments

This document may only be varied by a deed executed by or on behalf of each party.

17.11 Joint and several liability

- (a) If Project Co consists of more than one person, then the rights and Liabilities of Project Co in accordance with this document are joint and several as between those persons.
- (b) If the Independent Certifier consists of more than one person, then the rights and Liabilities of the Independent Certifier in accordance with this document are joint and several as between those persons.

17.12 Indemnities

- (a) Each indemnity in this document is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination or expiration of this document.
- (b) It is not necessary for a party to incur expense or to make any payment before enforcing a right of indemnity conferred by this document.
- (c) A party must pay on demand any amount it must pay in accordance with an indemnity in this document.
- (d) The State, the Independent Certifier and Project Co agree that:
 - (i) each indemnity or promise referred to in this document in favour of Indemnified Persons is held on trust by the State for the benefit of any of the Indemnified Persons; and
 - (ii) the consent of the Indemnified Persons referred to in paragraph (i) will not be required for any amendment to, or waiver of rights in accordance with a State Project Document.

17.13 Clauses to survive termination

- (a) All provisions of this document which expressly or by implication from their nature are intended to survive termination, completion or expiration of this document will survive such termination, completion or expiration, including any provision which is in connection with:
 - (i) the State's rights to set-off and to recover money;
 - (ii) confidentiality or privacy;
 - (iii) any obligation to make any Records available to the State;
 - (iv) any indemnity given in accordance with this document; or
 - (v) any right or obligation arising on termination of this document.
- (b) Nothing in this Clause 17.13 prevents any other provision of this document, as a matter of interpretation, also surviving the termination of this document.
- (c) No right or obligation of any party will merge on completion of any transaction in accordance with this document. All rights and obligations in accordance with this document survive the execution and delivery of any transfer or other agreement which implements any transaction in accordance with this document.

17.14 Costs and expenses

Except as otherwise provided in this document, each party must:

- (a) pay its own costs and expenses in connection with negotiating, preparing, executing and performing this document; and
- (b) perform its obligations in accordance with this document at its own cost.

17.15 Further acts and documents

Each party must promptly do all further acts and execute and deliver all further documents ((in form and content reasonably satisfactory to each party) required by Law or reasonably requested by another party to give effect to this document.

17.16 Representations and warranties

Each party represents and warrants to each other party that at the date of this document:

- (a) it has the power to execute, deliver and perform its obligations under or as contemplated by this document and all necessary action has been taken to authorise its execution, delivery and performance;
- (b) this document constitutes its valid and binding obligations enforceable against it in accordance with its terms, subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject to the availability of equitable remedies; and
- (c) the execution by it of, the performance by it of its obligations under, and the compliance by it with the provisions of, this document does not and will not contravene any existing Law to which it is subject.

17.17 Severability of provisions

Any provision of this document that is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does

not invalidate the remaining provisions of this document nor affect the validity or enforceability of that provision in any other jurisdiction.

Executed as a deed.

Executed for and on behalf of the Minister For Works by Troy Raymond Buswell MLA, Treasurer of Western Australia pursuant to a delegation from the Minister for Works to the Treasurer dated 1 July 2011 made pursuant to section 5A(f) of the Public Works Act 1902 in the presence of:

Signature of **Troy Raymond Buswell MLA, Treasurer of Western Australia**

Signature of witness

Name of witness

Executed for and on behalf of the State of Western Australia by the Honourable Murray John Cowper MLA, Minister for Training and Workforce Development; Corrective Services in the presence of:

Signature of **Honourable Murray John Cowper MLA, Minister for Training and Workforce Development; Corrective Services**

Signature of witness

Name of witness

Executed by Assure Partners (EGRP) 1 Pty Ltd (ACN 160 900 149) as trustee of the Assure Partners (EGRP) Unit Trust 1 for and on behalf of the Assure Partners (EGRP) Partnership by its attorney under Power of Attorney dated 7 December 2012 in the presence of:

Signature of Witness

Print full name of Witness

Signature of Attorney who declares that the attorney has not received any notice of the revocation of the power of attorney

Print name of Attorney

Executed by Assure Partners (EGRP) 2 Pty Ltd (ACN 161 471 316) as trustee of the Assure Partners (EGRP) Unit Trust 2 for and on behalf of the Assure Partners (EGRP) Partnership by its attorneys under Power of Attorney dated 7 December 2012 in the presence of:

Signature of Witness

Print full name of Witness

Signature of Attorney who declares that the attorney has not received any notice of the revocation of the power of attorney

Print name of Attorney

Signature of Witness

Print full name of Witness

Signature of Attorney who declares that the attorney has not received any notice of the revocation of the power of attorney

Print name of Attorney

Executed by Donald Cant Watts Corke (WA) Pty Ltd (ABN 54 123 100 087) in accordance with section 127 of the *Corporations Act* by or in the presence of:

Signature of Director

Name of Director in full

Signature of Secretary/other Director

Name of Secretary/other Director in full

Schedule 1 - Contract Particulars

1. Independent Certifier's Representative

[not disclosed]

2. Representatives

[not disclosed]

3. Limitation on Independent Certifier's liability

Limit: *[not disclosed]*

Executive Negotiators *[not disclosed]*

Schedule 2 - Services

1. Agreement

The Independent Certifier's functions under the Agreement include, but are not necessarily limited to:

Clause reference	Independent Certifier's Role
Definition of "Completion Test"	Independent Certifier may require Technical Completion Tests, the Commercial Acceptance Tests and any other completion tests to be performed in accordance with the Agreement.
Definition of "FF&E Modification"	Provide comments with respect to the Group 1 FF&E made in accordance with Schedule 3 to the Agreement (Review Procedures).
Definition of "Fixed Force Majeure Costs"	Consider evidence in respect of Fixed Force Majeure Costs.
Definition of "Outstanding Item"	Express an opinion as to whether a minor Defect is an Outstanding Item.
Definition of "Technical Completion"	Determine whether the relevant Technical Completion Criteria, in connection with each Stage, has been satisfied.
Definition of "Technical Completion Tests"	Request that Technical Completion Tests be carried out in order to determine whether the relevant Technical Completion Criteria, in connection with each Stage, has been satisfied.
Definition of "Works Program"	Request details in respect of a Works Program.
Clause 5.7(d) - Management Team	Provide the Management Team with progress reports.
Clause 5.7(i) - Management Team	Where the State requires, attend any meeting of the Management Team.
Clause 5.8(k) - Independent Certifier	A new Independent Certifier is bound by the exercise of any functions performed or decisions made by the previous Independent Certifier which would have been binding on the previous Independent Certifier.
Clause 6.1(a) and (b) - General obligations	Review D&C Plans and Reports in accordance with the Review Procedures and request any additional information from Project Co in connection with such D&C Plans and Reports.
Clause 6.2(a) - Works Program	Review the Works Program submitted by Project Co in accordance with Schedule 3 to the Agreement (Review Procedures).
Clause 8.3(c) - Occupational	Request that Project Co demonstrate compliance with OHS Laws.

Clause reference	Independent Certifier's Role
health, safety and rehabilitation	
Clause 9.2(c) - Design Development Process	Review the Design Documentation to confirm compliance with the design subprogram requirements of Schedule 5 to the Agreement (Design Development) and Schedule 3 to the Agreement (Review Procedures).
Clause 9.4 - Changes to Design Deliverables	Review changes to Attachment 1 to the Agreement (Bid Design Documentation) or Design Deliverables in accordance with Schedule 3 to the Agreement (Review Procedures).
Clause 11.1(b) - Selection and procurement of Group 1 FF&E	Comment on the Group 1 FF&E in accordance with Schedule 3 to the Agreement (Review Procedures).
Clause 12.3(b) - Site Security, interference, obstruction and nuisance	<p>Provide opinion where the levels of nuisance or interference are not reasonable or are not in the interests of the safety of persons on the Construction Sites or any other areas adjacent to the Construction Sites and where that is the case provide a reasonable direction to:</p> <p style="padding-left: 40px;">(a) stop or change the manner of undertaking the Works; and</p> <p style="padding-left: 40px;">(b) amend the Project Management Plan.</p>
Clause 12.12 - Independent Certifier's review of construction and definition of "Event of Default"	<p>Review the construction of the Works to ensure that the Works are being undertaken in accordance with the Works Program and the other requirements of the Agreement and that Commercial Acceptance will be achieved by the relevant Date for Commercial Acceptance.</p> <p>Review the Works to ensure that the Works Program accurately reflects the actual progress of the Works.</p> <p>Provide an opinion to the State and Project Co where the Independent Certifier believes that Project Co is not undertaking the Works in accordance with the Works Program and the other requirements of the Agreement or that in its opinion Project Co will not achieve Commercial Acceptance by the relevant Date for Commercial Acceptance together with its reasons for forming that opinion.</p> <p>Notify the State and Project Co of its opinion as to whether or not the Explanation or the Rectification Plan satisfactorily addresses its concerns together with its reasons for forming that opinion.</p>
Clause 14.1(b)(iii) - Off-Site Infrastructure Completion	Inspect the Off-Site Infrastructure jointly with Project Co and the owner of the Off-Site Infrastructure.
Clause 14.1(b)(iv) - Off-Site Infrastructure Completion	Issue a notice to the State, the owner of the Off-Site Infrastructure and Project Co confirming that the Off-Site Infrastructure has been completed subject only to Outstanding Items.

Clause reference	Independent Certifier's Role
Clause 14.3(b) - Correction of Defects in Off-Site Infrastructure Works	Receive notice that a Defect has been corrected promptly after the correction of that Defect by Project Co.
Clauses 16.2 and 16.4 - Time	Receive notice (including any updated notice) where Project Co reasonably forms the view that it will be delayed, or is likely to be delayed, in achieving Completion.
Clause 16.6 - Extension of time	Grant any extension of time to the relevant Date for Completion by a reasonable period and notify Project Co of the extension granted.
Clause 17.1 - Notice before Technical Completion	Receive notices of when Project Co reasonably expects to achieve Technical Completion.
Clause 17.2(a)-(b) - Technical Completion Plan	Review draft and updated Technical Completion Plan in accordance with Schedule 3 to the Agreement (Review Procedures).
Clause 17.2(c) - Technical Completion Plan	Require Project Co to include additional Technical Completion Tests in the Technical Completion Plan if the Independent Certifier considers that the Technical Completion Tests proposed by Project Co are not sufficient to demonstrate that the Technical Completion Criteria are satisfied.
Clause 17.3(b) - Technical Completion Tests	<p>Take samples, make measurements and otherwise carry out whatever checks and investigations they may reasonably require in order to ensure that any Technical Completion Test has been successfully carried out.</p> <p>Review conduct of Technical Completion Tests.</p> <p>Provide directions in relation to the conduct of any Technical Completion Tests.</p>
Clause 17.4 - Unsuccessful Technical Completion Test	<p>If Project Co fails to successfully complete a Technical Completion Test (which must be successfully completed prior to Technical Completion), the Independent Certifier may:</p> <ul style="list-style-type: none"> (c) refuse to issue the certificate of Technical Completion; or (d) subject to Clause 17.8 of the Agreement, identify the unsuccessful Technical Completion Test as an Outstanding Item. <p>The Independent Certifier may waive the requirement for Project Co to satisfy a Technical Completion Test.</p>
Clause 17.5(a)-(b) - Initial Technical Completion Report	Review drafts of the Technical Completion Report in accordance with Schedule 3 to the Agreement (Review Procedures).
Clause 17.7 - Determination of	Issue to Project Co a certificate of Technical Completion stating the date on which Project Co achieved Technical Completion where in the opinion of the Independent

Clause reference	Independent Certifier's Role
Technical Completion	<p>Certifier, Technical Completion is achieved.</p> <p>Issue to Project Co and the State a notice containing details of the outstanding Technical Completion Criteria that must be satisfied by Project Co as a condition precedent to achieving Technical Completion if Technical Completion has not been satisfied.</p> <p>The Independent Certifier may in its sole and absolute discretion issue a certificate of Technical Completion if Technical Completion has been achieved notwithstanding that Project Co has not issued a notice in accordance with Clause 17.6(a) of the Agreement.</p>
Clause 17.8(a) - Outstanding Items	The Independent Certifier may issue a certificate of Technical Completion with an attached list of Outstanding Items which Project Co must rectify within a reasonable period of time as determined by the Independent Certifier.
Clause 17.8(b) - Outstanding Items	Review in accordance with Schedule 3 to the Agreement (Review Procedures), a program for the completion of the Outstanding Items.
Clause 23(a) - Operating Plans, Reports and Manuals	Review Operating Plans, Reports and Manuals in accordance with Schedule 3 to the Agreement (Review Schedule).
Clause 23(b) - Operating Plans, Reports and Manuals	The Independent Certifier may reasonably request information from Project Co in relation to the Operating Plans, Reports and Manuals.
Clause 45.3(c) - Independent Expert	Act as the Independent Expert unless the Dispute is in connection with a determination by the Independent Certifier.

2. Schedule 3 to the Agreement (Review Schedule)

The Independent Certifier's functions under the Schedule 3 to the Agreement (Review Schedule) include, but are not necessarily limited to:

Clause reference	Independent Certifier's Role
Section 1.2 - Review	Review the Submitted Document submitted in accordance with Section 1.1 of Schedule 3 to the Agreement (Review Schedule) and provide any comments in writing to Project Co in accordance with Schedule 3 to the Agreement (Review Schedule) and the Agreement within the Review Period.
Section 2 - Further information	The Independent Certifier may reasonably request further information from Project Co in order to review the Submitted Document in accordance with Schedule 3 to the Agreement (Review Schedule).
Sections 4.1 and 4.2 - Comments on Submitted	The Independent Certifier may return a Submitted Document to Project Co with or without comment or approve or reject the Submitted Document.

Clause reference	Independent Certifier's Role
Document	
Section 4.4 - Substantiate rejection or comments	If the Independent Certifier provides Project Co with comments in connection with the Submitted Document or rejects the Submitted Document in accordance with Section 5 of Schedule 3 to the Agreement (Review Schedule), the Independent Certifier must provide sufficient detail to Project Co to substantiate those comments or that rejection.
Section 5.1 - Grounds in which State and the Independent Certifier may comment or reject (General)	The Independent Certifier may provide comments in connection with, or reject, a Submitted Document as set out in Section 5.1.
Section 5.2 - Grounds in which State and the Independent Certifier may comment or reject (Works Program)	If the Submitted Document is the Works Program, the Independent Certifier may provide comments in connection with the Works Program or reject the Works Program as set out in Section 5.2.
Section 5.3 - Grounds in which State and the Independent Certifier may comment or reject (Maintenance Plan)	If the Submitted Document is an Operating Phase Maintenance Lifecycle Plan, Annual Works Plan or Monthly Works Plan, or any revision to any such plan, the Independent Certifier may provide comments in respect of the Submitted Document or reject the Submitted Document as set out in Section 5.3.
Section 5.4 - Grounds in which State and the Independent Certifier may comment or reject (Utilities, Medical Gases, Reviewable Services and Mural Works agreements)	Where the Submitted Document is an agreement for the supply of Utilities or Medical Gases or in respect of Reviewable Services or the Mural Works, the Independent Certifier may provide comments as set out in Section 5.4.
Section 5.5 - Grounds in which State and the Independent Certifier may comment or reject (Design Documentation)	If the Submitted Document is Design Documentation, the Independent Certifier may provide comments as set out in Section 5.5.

Clause reference	Independent Certifier's Role
Section 7.2(a) - Disputed amendments	If Project Co does not agree that any amendments requested by the Independent Certifier to a Submitted Document are required, Project Co and the Independent Certifier must meet to try to resolve the difference of opinion in good faith.

3. Schedule 6 to the Agreement (Programming Requirements)

The Independent Certifier's functions under the Schedule 6 to the Agreement (Programming Requirements) include, but are not necessarily limited to:

Clause reference	Independent Certifier's Role
Section 2.1 and 3.4 - Form of the Works Program	Make reasonable requests in respect of the requirements for the Works Program.
Section 2.2 - Content of the Works Program	Request information in respect of the Works Program.
Section 4.4 - Submission of report with any updated Works Program	Receive and review the Works Program and the written report reconciling the updated Works Program with the version of the Works Program produced for the previous reporting period.

4. Schedule 7 to the Agreement (Completion Criteria)

The Independent Certifier's functions under the Schedule 7 to the Agreement (Completion Criteria) to the Agreement include, but are not necessarily limited to:

Clause reference	Independent Certifier's Role
Stage 1 Works in accordance with For Construction Documentation	Review the Stage 1 Works to confirm they are in accordance with the For Construction Documentation, the Design Requirements and other requirements of the Agreement and that there are no issues that would prevent the Stage 1 Facility from being Fit For Purpose.
Stage 1 Authorisations	Receive copies of all Authorisations and certificates of compliance required for the occupation of the Stage 1 Facility. To the extent that any Authorisations contain conditions, those conditions must not in the opinion of the Independent Certifier (acting reasonably) impact on the ability for the Stage 1 Facility to be Fit For Purpose and for Project Co to otherwise satisfy the FFP Warranty.
Off-Site Infrastructure Works	Receive copies of all Authorisations required in connection with the Off-Site Infrastructure Works.

Other documents	Receive all documents and information reasonably required for the: <ul style="list-style-type: none"> • operation of the Stage 1 Facility; • provision of the Facility Functions at the Stage 1 Facility; and provision of the Services.
Stage 2 Works in accordance with For Construction Documentation	Review the Stage 2 Works to confirm they are in accordance with the For Construction Documentation, the Design Requirements and other requirements of the Agreement and that there are no issues that would prevent the Facility from being Fit For Purpose.
Stage 2 Authorisations	Receive copies of all Authorisations and certificates of compliance required for the occupation of the Facility. To the extent that any Authorisations contain conditions, those conditions must not in the opinion of the Independent Certifier (acting reasonably) impact on the ability for the Facility to be Fit For Purpose and for Project Co to otherwise satisfy the FFP Warranty.
Facility Operator capable of obtaining Authorisations to perform Facility Functions	Receive written confirmation from the Project Director that the Facility is in a condition such that the State and State Associates will not be prevented from obtaining any Authorisation necessary (and which Project Co is not required by the Agreement to obtain) to enable the State, and relevant State Associates, to perform the Facility Functions.

5. Schedule 18 to the Agreement (D&C Plans and Reports)

The Independent Certifier's functions under the Schedule 18 to the Agreement (D&C Plans and Reports) include, but are not necessarily limited to:

Clause reference	Independent Certifier's Role
Section 1.2(b)-(c) - D&C Plans	Review the Communication Plan and the Project Management Plan and any updated versions of the document in accordance with Schedule 3 to the Agreement (Review Procedures).
Section 6.1(n) - Content of Technical Completion Plan	Reasonably request information for inclusion in the Technical Completion Plan.
Section 7.1(m) - Content of Commercial Acceptance Plan	Reasonably request information for inclusion in the Commercial Acceptance Plan.

Schedule 3 - Payment Schedule

1. Payment Claims

The Independent Certifier must:

- (a) prepare and submit monthly to the State and Project Co for approval a payment claim setting out:
 - (i) a breakdown of the Services (in a form and including such information as the State and Project Co may require from time to time) actually carried out during the period for which payment is sought;
 - (ii) the part of the Fee then payable;
 - (iii) that part of the Fee relating to determinations made by the Independent Certifier (acting as Independent Expert as contemplated by clause 6.8) during the period for which payment is sought; and
 - (iv) that part of the Fee relating to the preparation of additional reports requested in accordance with Clause 7.4;
- (b) provide to the State and Project Co all supporting documentation that they may reasonably require; and
- (c) allow the State and Project Co access to all records relating to the Services in order to check the accuracy of the payment claim.

2. Payment

Within 30 days of the State and Project Co receiving a payment claim, Project Co will, subject to Section 3 pay the Independent Certifier the Fee which Project Co believes represents the contract value of the Services performed by the Independent Certifier during the period for which the payment claim is submitted.

3. Payment for special reports

Where any part of a payment claim relates to the preparation of reports by the Independent Certifier requested by the State or Project Co, the party that requested the additional report in accordance with Clause 7.4 will pay the Independent Certifier the amounts payable in respect of the preparation of the report within 30 days of the State and Project Co receiving the relevant payment claim.

4. Payment for acting as Independent Expert

Where any part of a payment claim relates to a determination made by the Independent Certifier acting as Independent Expert as contemplated by Clause 6.8, the State and Project Co will:

- (a) unless paragraph (b) applies, each pay to the Independent Certifier one half of the amount payable in respect of the determination; or
- (b) pay to the Independent Certifier the amount payable in respect of the determination in accordance with the Independent Expert's determination of costs where the determination is made against the party who issued the Notice of Dispute and the Independent Expert determines that that party will bear all or a greater portion of the Independent Expert's costs in connection with the Dispute,

within 30 days of the State and Project Co receiving the relevant payment claim.

5. Monthly Fee

The Monthly Fee payable each Month will be calculated in accordance with Schedule 4 (**Fee Schedule**).

6. Adjustment of Schedule of Rates

The amounts with respect to the rates and prices set out in Schedule 5 (**Schedule of Rates**) are to be indexed on each anniversary of Financial Close during the Term, after the first year of the Term, in accordance with the Adjustment Formula.

7. Agreement of amount payable

- (a) Where the State and Project Co receive a payment claim from the Independent Certifier in accordance with Section 1, the State and Project Co must, subject to paragraph (b), agree the amount payable to the Independent Certifier:
- (i) within 28 days of the State and Project Co receiving the payment claim; or
 - (ii) where the payment claim is made pursuant to the *Construction Contracts Act 2004 (WA)*, within such shorter period, as is provided in accordance with that Act for a payment schedule to be issued, less 2 Business Days.
- (b) Where the State and Project Co are unable to agree on the amount payable to the Independent Certifier within the time required under paragraph (a):
- (i) the amount payable to the Independent Certifier will be determined by the State in accordance with this document;
 - (ii) the amount payable as determined by the State under paragraph (a)(i) will be paid by the State;
 - (iii) Project Co will reimburse the State one half of the amount paid by the State under paragraph (ii), subject to Sections 3 and 8; and
 - (iv) if Project Co wishes to dispute any amount paid by the State under paragraph (ii), it must:
 - A. first, reimburse the State in accordance with paragraph (iii); and
 - B. refer the dispute for resolution in accordance with Clause 14.

8. Set off

Notwithstanding any other provision of this document, the State and Project Co may set off or deduct from any moneys payable to the Independent Certifier, in accordance with this document or otherwise, any amounts:

- (a) for which the Independent Certifier must reimburse the State and Project Co;
- (b) which the State and Project Co pay on the Independent Certifier's behalf; or
- (c) which are then due and payable by the Independent Certifier to the State and Project Co (whether or not such amounts are expressed to be a debt due and payable from the Independent Certifier to the State and Project Co),

in connection with this document or arising in connection with the Services.

9. Not evidence

The payment of moneys to the Independent Certifier by the State and Project Co is not evidence of the value of the Services provided, an admission of Liability or evidence that the Services were executed properly but are paid on account only.

Schedule 4 - Fee Schedule

Contract Period	Monthly Fee excluding GST (AUD\$)
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]
[not disclosed]	[not disclosed]

Schedule 5 - [Not disclosed]

Schedule 6 - [Not disclosed]
