

THE YAMATJI NATION NATIVE TITLE CLAIM GROUP
THE SOUTHERN YAMATJI CLAIM GROUP
THE MULLEWA WADJARI CLAIM GROUP
THE HUTT RIVER CLAIM GROUP
THE WIDI MOB CLAIM GROUP
BUNDI YAMATJI ABORIGINAL CORPORATION (ICN 9213)
YAMATJI SOUTHERN REGIONAL CORPORATION LTD
(ACN 638 346 684)
STATE OF WESTERN AUSTRALIA
MINISTER FOR ABORIGINAL AFFAIRS
MINISTER FOR ENVIRONMENT
MINISTER FOR LANDS
MINISTER FOR CULTURE AND THE ARTS
MINISTER FOR MINES AND PETROLEUM
MINISTER FOR REGIONAL DEVELOPMENT
MINISTER FOR TOURISM
MINISTER FOR WATER
CONSERVATION AND PARKS COMMISSION
CHIEF EXECUTIVE OFFICER OF THE DEPARTMENT OF
BIODIVERSITY, CONSERVATION AND ATTRACTIONS
HOUSING AUTHORITY
THE ABORIGINAL AFFAIRS PLANNING AUTHORITY
ABORIGINAL LANDS TRUST
MID WEST DEVELOPMENT COMMISSION
WESTERN AUSTRALIAN MUSEUM
WESTERN AUSTRALIAN LAND AUTHORITY (DEVELOPMENTWA)

YAMATJI NATION - INDIGENOUS LAND USE AGREEMENT

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THIS AGREEMENT is made on the day of 2020

BETWEEN

Each of the following **Native Title Parties** (each being a **Native Title Party**):

Frederick Taylor, Garry Hodder, Leedham Papertalk, Lorraine Whitby and Yvette Harris in their capacity as the applicant under section 61 of the Native Title Act for and on behalf of the Yamatji Nation Claim Group, care of Yamatji Marlpa Aboriginal Corporation, Level 8, 12/14 The Esplanade, Perth, Western Australia

AND

Mervyn Councillor, Roberta McKinnon, Stephen Kelly, Leedham Papertalk Snr, Morris Comeagain, Trevor Martin, Rodney Little, Delveen Whitby, Frederick Taylor Snr, Eric Oakley, Maxine Bonney and Glenda Jackamarra in their capacity as the applicant under section 61 of the Native Title Act for and on behalf of the Southern Yamatji Claim Group, care of Yamatji Marlpa Aboriginal Corporation, Level 8, 12/14 The Esplanade, Perth, Western Australia

AND

Leedham Papertalk, Malcolm Papertalk, Douglas Comeagain (dec.), Robert Flanagan (dec.), Charles Collard, Charles Green, Jamie Joseph, Glenda Jackamarra, Karen Jones and Raymond Merritt in their capacity as the applicant under section 61 of the Native Title Act for and on behalf of the Mullewa Wadjari Claim Group, care of Corser & Corser Lawyers, Level 4, Irwin Chambers, Perth, Western Australia

AND

Sandy Davies, David Drage Snr, Irene Kelly and Lindsay Councillor in their capacity as the applicant under section 61 of the Native Title Act for and on behalf of the Hutt River Claim Group, care of Yamatji Marlpa Aboriginal Corporation, Level 8, 12/14 The Esplanade, Perth, Western Australia

AND

Gregory Denis Martin, Kathleen Eva Pinkerton, Shirley Anne McPherson, Justin Robert Martin and Edward James Mullaley in their capacity as the applicant under

section 61 of the Native Title Act for and on behalf of the Widi Mob Claim Group, care of MPS Law, 2/459 Morphett Street, Adelaide, South Australia

(together the **Native Title Claim Groups**)

AND

BUNDI YAMATJI ABORIGINAL CORPORATION ICN 9213

(the **PBC**)

AND

YAMATJI SOUTHERN REGIONAL CORPORATION LTD ACN 638 346 684

(the **Regional Entity**)

AND

The following **State Parties** (each being a **State Party**):

The **STATE OF WESTERN AUSTRALIA**, acting through the **PREMIER OF THE STATE OF WESTERN AUSTRALIA**, care of DPC, 5th Floor, Dumas House, 2 Havelock Street, West Perth, Western Australia (**DPC**)

AND

The MINISTER FOR ABORIGINAL AFFAIRS, care of 11th Floor, Dumas House, 2 Havelock Street, West Perth, Western Australia (**Minister for Aboriginal Affairs**)

AND

The MINISTER FOR ENVIRONMENT, care of 12th Floor, Dumas House, 2 Havelock Street, West Perth, Western Australia (**Minister for Environment**)

AND

The MINISTER FOR LANDS, a body corporate continued under section 7(1) of the LA Act, care of DPLH, Gordon Stephenson House, Level 2, 140 William Street, Perth, Western Australia (**Minister for Lands**)

AND

The MINISTER FOR CULTURE AND THE ARTS, care of Gordon Stephenson House, Level 2, 140 William Street, Perth, Western Australia (**Minister for Culture and the Arts**)

AND

The MINISTER FOR MINES AND PETROLEUM, care of 9th Floor, Dumas House, 2 Havelock Street, West Perth, Western Australia (**Minister for Mines and Petroleum**)

AND

The MINISTER FOR REGIONAL DEVELOPMENT, care of 11th Floor, Dumas House, 2 Havelock Street, West Perth, Western Australia (**Minister for Regional Development**)

AND

The MINISTER FOR TOURISM, care of 10th Floor, Dumas House, 2 Havelock Street, West Perth, Western Australia (**Minister for Tourism**)

AND

The MINISTER FOR WATER, care of 8th Floor, Dumas House, 2 Havelock Street, West Perth, Western Australia (**Minister for Water**)

AND

The CONSERVATION AND PARKS COMMISSION, care of 17 Dick Perry Avenue, Technology Park, Western Precinct, Kensington, Western Australia (**Conservation and Parks Commission**)

AND

The CHIEF EXECUTIVE OFFICER OF THE DEPARTMENT OF BIODIVERSITY, CONSERVATION AND ATTRACTIONS, acting through the **CONSERVATION AND LAND MANAGEMENT EXECUTIVE BODY**, care of 17 Dick Perry Avenue, Technology Park, Western Precinct, Kensington, Western Australia (**DBCA CEO**)

AND

The HOUSING AUTHORITY, care of 99 Plain Street, East Perth, Western Australia (**Housing Authority**)

AND

THE ABORIGINAL AFFAIRS PLANNING AUTHORITY, care of DPLH,
Gordon Stephenson House, 140 William Street, Perth, Western Australia (The **AAPA**)

AND

The **ABORIGINAL LANDS TRUST**, care of DPLH, Gordon Stephenson House,
140 William Street, Perth, Western Australia (**ALT**)

AND

The **MID WEST DEVELOPMENT COMMISSION**, care of 20 Gregory Street,
Geraldton, Western Australia (**MWDC**)

AND

The **WESTERN AUSTRALIAN MUSEUM**, care of 49 Kew Street, Welshpool,
Western Australia (**WA Museum**)

AND

The **WESTERN AUSTRALIAN LAND AUTHORITY**, care of Level 6, 40 The
Esplanade, Perth, Western Australia (**DevelopmentWA**)

PREAMBLE

The Parties acknowledge that:

- (a) The Yamatji Nation continue their spiritual, emotive and physical connection to the lands and waters from the past, into the future and today and for many thousands of years prior to British colonisation.
- (b) The lands of the Yamatji Nation were not terra nullius or 'land belonging to no-one' when European settlement occurred.
- (c) The Yamatji Nation is made up of a number of different identity groups. Variations in pronunciation and spelling occur. Yamatji Nation is made up of people who identify as Amangu, Badimia, Naaguja, Nhanaghardi, Nhanda, Mullewa Wadjari, Wajarri, Wattandee, Widi, and Wilunyu.
- (d) The ancestors of the Yamatji Nation, Old People and spirits, are forever present to protect people, culture and country.
- (e) The traditional laws and custom of the Yamatji Nation guides its people and Traditional Elders in their cultural responsibilities, obligations and continuing relationships to our country, land and waters, including the seas.
- (f) The people of the Yamatji Nation practice cultural, spiritual, familial and social relationship with the land and waters and these practices are recognised in this Agreement.
- (g) The Yamatji Nation assert their inheritance, rights and obligations to maintain and progress significant and unique contributions to the heritage, cultural identity, community and economy of the State.

RECITALS

- A. The State and the Native Title Claim Groups (through the TONT) have negotiated this Indigenous Land Use Agreement under the Native Title Act:
 - (a) to evidence the mutual agreement and shared objectives of the State and the Yamatji Nation to work in ongoing partnership; and
 - (b) in anticipation of a Determination of Native Title in respect of the areas the subject of the Yamatji Nation Claim.

- B. Immediately prior to the making of the Determination of Native Title, the Parties intend that the following native title claims:
- (a) Southern Yamatji Claim;
 - (b) the Hutt River Claim;
 - (c) the Mullewa Wadjari Claim; and
 - (d) the Widi Mob Claim;
- (together **Underlying Claims**),
- will be consolidated with the Yamatji Nation Claim, provided that in the case of the Mullewa Wadjari Claim, the consolidation will only relate to the land the subject of that claim that is within the Agreement Area.
- C. The State is responsible for managing the land and waters in the Agreement Area.
- D. This Agreement evidences full and final settlement of all current and future applications for native title determinations made or to be made by or on behalf of the Yamatji Nation, under the Native Title Act, including pursuant to the Underlying Claims and the Yamatji Nation Claim, for:
- (a) the determination of native title over the Agreement Area; and
 - (b) the determination of the compensation payable by the State, on just terms, to compensate the Yamatji Nation for the loss, surrender, diminution, impairment and other effects on their native title rights and interests, arising from all acts that have been done and may be done in relation to the Agreement Area,
- (the **Settlement**).
- E. The Settlement provides a significant opportunity for the Yamatji Nation to achieve sustainable economic, social and cultural outcomes. The Parties recognise that such outcomes are in the long term interest of both the State and the Yamatji Nation.
- F. The Parties agree to enter into this Agreement as an Indigenous Land Use Agreement (Area Agreement) under the Native Title Act to provide for the terms of the Settlement, including:

- (a) to recognise the native title rights and interests of the Yamatji Nation in the Agreement Area;
- (b) to validate all acts that, historically, may have been done invalidly in relation to the Agreement Area;
- (c) to effect a surrender of native title rights and interests in respect of that portion of the Agreement Area being the Surrender Area;
- (d) in respect of that portion of Agreement Area being the Native Title Area:
 - (1) to disapply the future act regime of the Native Title Act, wherever it might apply, to any future acts; and
 - (2) to apply the non-extinguishment principle, wherever it might otherwise not apply;
- (e) to compensate the Yamatji Nation for any other loss, surrender, diminution, impairment or other effects on their native title rights and interests of all acts affecting native title that have been done in relation to the Agreement Area before the Conclusive Registration Date;
- (f) to include the package of payments and benefits as set out in this Agreement.

G. The package of payments and benefits to be delivered by the State to the Yamatji Nation comprises:

- (a) the delivery of monetary benefits;
- (b) the purchase of Corporate Headquarters;
- (c) the co-design, establishment and funding of the Business Development Unit;
- (d) the funding for tourism development;
- (e) the transfer of commercial and industrial land and development opportunities;
- (f) the transfer of Housing Assets;

- (g) the establishment of a Strategic Aboriginal Water Reserve, training package for Aboriginal water monitoring services and an Aboriginal water site restoration project;
 - (h) the transfer of unmanaged reserves, managed reserves, unallocated Crown land and freehold land held by a State party, to establish the Yamatji Land Estate;
 - (i) the establishment of a Government Partnership Committee, Implementation Committee and Working Groups;
 - (j) the joint management and joint vesting of land to establish the Yamatji Conservation Estate and funding for Indigenous rangers;
 - (k) the management and curation of Yamatji cultural materials; and
 - (l) the recognition, protection and preservation of Aboriginal Heritage and culture in the Agreement Area.
- H. The Parties intend to register this Agreement as an Indigenous Land Use Agreement on the Register of Indigenous Land Use Agreements under the Native Title Act and that, once registered, this Agreement will bind any holders of native title within the Agreement Area.
- I. Following the determination, the PBC will become the registered native title body corporate and will:
- (a) hold native title rights and interests in the Agreement Area on trust for the Yamatji Nation and make decisions on behalf of the Yamatji Nation in respect of those rights and interests;
 - (b) be the joint vestee of that portion of the Yamatji Conservation Estate that is to be jointly vested as contemplated in this Agreement; and
 - (c) hold the Reserve Allocations in the Agreement Area as allocated under the YLE Strategy.
- J. The Regional Entity will:
- (a) undertake strategic planning for the benefit of the Yamatji Nation;
 - (b) administer the implementation of this Agreement;

- (c) deal with matters relating to Aboriginal Heritage and outcomes for country, culture and community;
- (d) facilitate business and employment opportunities for community members and provide the main interface between the Yamatji Nation and the State, including through the following additional wholly owned subsidiaries of the Regional Entity as outlined in the Joint Governance Principles:
 - (1) the Economic Arm and
 - (2) the Yamatji Trustee Company that will administer the Yamatji Nation Administration Fund, the Yamatji Nation Economic Development Fund, the Yamatji Nation Future Fund, the Yamatji Nation Land Fund and the Yamatji Nation General Fund.

K. This Agreement sets out the terms and conditions that have been reached between the Parties.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

Throughout this Agreement there are terms that are capitalised and they are given a specific meaning that is set out clauses 1.1 and 1.2.

Clause 1.3 sets out the interpretation rules which explain the way in which this Agreement should be read.

1.1 General definitions

In this Agreement, unless it is a defined term in subclause 1.2 or the context otherwise requires:

- (a) Words and expressions defined in the Native Title Act, including **common law holder, future act, Indigenous Land Use Agreement, native title, Native Title Registrar, native title rights and interests, non-extinguishment principle, public work, Register of Indigenous Land Use Agreements, representative body** and **registered native**

title body corporate, have the same meaning when used in this Agreement.

- (b) Words and expressions defined in the CALM Act, including **conservation park, management plan, national park** and **responsible body** have the same meaning when used in this Agreement.
- (c) Words and expressions defined in the LA Act including **Crown land, qualified certificate of Crown land title, management order** and **reserve** have the same meaning when used in this Agreement.

1.2 Specific definitions

In this Agreement, unless the context otherwise requires:

AAPA Act means the *Aboriginal Affairs Planning Authority Act 1972* (WA).

AAPA and ALT Land has the meaning given in clause 15 of the YLE Strategy.

Aboriginal Corporation means the corporate entity as specified in the Joint Governance Principles.

Aboriginal Heritage means land or waters and objects upon those land and waters which are of cultural, social or spiritual significance to the Yamatji Nation.

Aboriginal Heritage Agreement means an agreement between a Proponent or Government Proponent and the Regional Entity concerning the management of Aboriginal heritage and other matters under the AH Act in the Agreement Area. To avoid doubt, both YGSHA the YPSHA is each a form of Aboriginal Heritage Agreement.

Aboriginal Water Sites Restoration Project means the project described in clause 17.4.

Activity means any activity, including physical works or operations, involving entry onto the Agreement Area (whether on the surface of the land or waters or under or over that surface).

ADJR Act means the *Administrative Decisions (Judicial Review) Act 1977* (Cth).

Agreement means this Agreement and includes the Schedules and their Annexures.

Agreement Area means the land and waters within the external boundaries of the area described as 'Agreement Area' in Item 1 of Schedule 1 to this Agreement and shown on the map in Item 2, Part A of Schedule 1 to this Agreement.

AH Act means the *Aboriginal Heritage Act 1972* (WA), as it may from time to time be amended.

Allocated has the meaning set out in the YLE Strategy.

Amended or New Management Plan has the meaning given in clause 21.5(f)(1).

Applicants means the person or persons who, from time to time, are the "applicant" (within the meaning of section 253 of the Native Title Act) for the Native Title Claim Group.

Assign means sell, assign, transfer, convey or otherwise dispose of and **Assigned** and **Assignment** have corresponding meanings.

Authorisation means any approval, authorisation, consent, exemption, licence, notarisation, registration or waiver however described and any renewal of or variation to any of them.

BC Act means the *Biodiversity Conservation Act 2016* (WA).

Business Day means a day other than a Saturday, Sunday or public holiday in Western Australia.

Business Development Unit means the unit of the Regional Entity to be established for the purposes and in accordance with the requirements outlined in clause 12.

CALM Act means the *Conservation and Land Management Act 1984* (WA).

CATSI Act means the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth).

Charitable Trust has the meaning given in clause 9.

Compensation means the compensation and benefits to be provided by the State Parties for the benefit of the Yamatji Nation under this Agreement, in consideration of and in full and final compensation for any diminution, impairment or other effect on native title rights and interests in the Agreement Area, including the monetary payments and funding commitments, grants of interests in land and other benefits in clauses 10 to 18, as summarised in Schedule 4.

Conclusive Registration means, once this Agreement has been Registered, that this Agreement remains Registered:

- (a) at a date that is 60 Business Days after the date on which a decision is made to Register this Agreement, provided that no Legal Proceedings have been commenced in respect of such Registration; or
- (b) otherwise, at a date that is 40 Business Days following the exhaustion and determination of the final available Legal Proceedings in respect of such Registration,

and Conclusively Registered has a corresponding meaning.

Conclusive Registration Date means the date the State has issued the Regional Entity a notice confirming when this Agreement has been Conclusively Registered in accordance with clause 4.7.

Confidential Information has the meaning given in clause 28.1.

Corporate Headquarters means the head office and premises where the executive management and key managerial and support staff of the Regional Entity will be located.

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

CPI means the Consumer Price Index, All Groups Index, number for Perth, Western Australia, published from time to time by the Australian Bureau of Statistics (catalogue number 6401.0). If that index ceases to be published by the Australian Bureau of Statistics then **CPI** will mean such other index as represents the rise in the cost of living in Perth, Western Australia, as the State reasonably determines after consulting with the Regional Entity.

CPI Adjustment Date means the 31 August.

CPI Calculation means:

$$A \times CPI_{In}/CPI_{base}$$

where:

A = the initial base payments as summarised in clause 10.2 of this Agreement;

CPI_{In} = the latest June quarterly CPI number as published each year by the Australian Bureau of Statistics;

CPI_{base} = the June 2020 quarterly CPI number as published by the Australian Bureau of Statistics in the second half of the 2020 calendar year.

DBCA means the Department of Biodiversity, Conservation and Attractions of the State.

Determination of Native Title means orders of the Federal Court or High Court of Australia which constitute an approved determination or determination of native title in respect of the whole of the Agreement Area.

Disclosing Party has the meaning given in clause 28.1.

Dispute has the meaning given in clause 27.1.

DJTSI means the Department of Jobs, Tourism, Science and Innovation of the State.

DLGSCI means the Department of Local Government, Sport and Cultural Industries of the State.

DMIRS means the Department of Mines, Industry Regulation and Safety of the State.

DPC means the Department of the Premier and Cabinet of the State.

DPIRD means the Department of Primary Industries and Regional Development of the State.

DPLH means the Department of Planning, Lands and Heritage of the State.

DWER means the Department of Water and Environmental Regulation of the State.

Economic Arm means the corporate entity as specified in the Joint Governance Principles and includes any subsequent Economic Arm that may be appointed under clause 9.2 of this Agreement by the Yamatji Nation, to be the Economic Arm as described in the Joint Governance Principles.

Encumbrance means a mortgage, charge, bill of sale, lien, pledge, easement, reservation, condition, positive covenant, restrictive covenant, memorial (and any conditions or statements contained in the memorial), Notification, building condition, writ, warrant, caveat (and the claims stated in the caveat) or other right or interest of any third party affecting the land or any part of the land.

Event of Default means any of the events described in clause 26.1(b).

Execution Date means the date on which this Agreement is executed by all the Parties.

Financial Year means 12 months commencing on 1 July and ending on 30 June.

Force Majeure means an event that prevents a Party from performing its obligations, or receiving the benefit of the other Party's obligations, in whole or part, under this Agreement and which is unforeseeable and beyond the reasonable control of the affected Party including:

- (a) acts of God;
- (b) explosion or fire;
- (c) storm or cyclone (of any category);
- (d) flood;
- (e) landslides;
- (f) earthquake or tsunami;
- (g) volcanic eruption;
- (h) impact of vehicles or aircraft;

- (i) failure of a public utility;
- (j) epidemic or pandemic;
- (k) civil unrest;
- (l) industrial action (other than industrial action limited to the affected Party);
- (m) war (including civil war);
- (n) acts of terrorism;
- (o) radioactive or biological contamination;
- (p) the effect of any law or authority exercised by a government official by law (other than a State law or a State government official),

but does not include:

- (a) lack of or inability to use funds for any reason;
- (b) any occurrence which results from the wrongful or negligent act or omission of the affected Party or the failure by the affected Party to act in a reasonable and prudent manner;
- (c) an event or circumstance where the event or circumstance or its effects on the affected Party or the resulting inability of the affected Party to perform its obligations, or receive the benefit of the other Parties' obligations, could have been prevented, overcome or remedied by the exercise by the affected Party of the standard of care and diligence consistent with that of a reasonable and prudent person;
- (d) the failure by a third party to fulfil a contractual commitment with the affected Party other than as a result of any of paragraphs (a) to (p); and
- (e) any act or omission of an agent or contractor of the affected Party.

Governance Framework means the document in Item 2 of Schedule 2.

Government means the Government of the State.

Government Partnership Committee has the meaning set out in clause 19.

Government Partnership Committee Terms of Reference means the terms of reference in Schedule 13.

Government Proponent means:

- (a) the State;
- (b) any other agency or instrumentality of the State that the State at any time during the currency of this Agreement notifies the Regional Entity is to be regarded (whether during the remaining currency of this Agreement or for a more limited time) as falling within this definition.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and includes all associated legislation and regulations and any legislation or regulations substituting for or amending any of the foregoing.

Housing Assets has the meaning given in clause 16.

Hutt River Claim means the registered native title determination application pursuant to the Native Title Act made on behalf of the Hutt River People (Federal Court file no. WAD27/2019; NNTT file no. WC2000/001) and as amended from time to time.

Hutt River Claim Group means the native title claim group mentioned in relation to the Hutt River Claim.

ILUA means Indigenous Land Use Agreement.

ILUA Application means an application to register an Area Agreement Indigenous Land Use Agreement that meets the requirements of the ILUA Regulations and is in the form, or substantially in the form, of the document annexed at Schedule 19.

ILUA Register means the Register of Indigenous Land Use Agreements established under section 199A of the Native Title Act.

ILUA Regulations means the *Native Title (Indigenous Land Use Agreements) Regulations 1999* (Cth).

ILSC means Indigenous Land and Sea Corporation.

Implementation Committee has the meaning given in Annexure A of the Government Partnership Committee Terms of Reference.

Indemnity Payment has the meaning given in clause 24.2.

Interim Joint Management Body means the body appointed as contemplated under clause 21.6.

Invalid Act means any future act (other than an intermediate period act) that:

- (a) was, or is, carried out by the State prior to the Conclusive Registration Date in relation to any part of the Agreement Area; and
- (b) to the extent that such future act affects Native Title, is invalid as a result of section 24OA of the Native Title Act.

Joint Governance Principles means the content of the document in Item 1 of Schedule 2.

Joint Management Agreement means an agreement or agreements substantially in the terms of the agreement in Schedule 15, for the management by the Joint Management Body of an area of land comprised in the Yamatji Conservation Estate, executed on or around the date of this agreement or as soon as practicable after the relevant management plan for that area is approved by the Minister under section 60 of the CALM Act.

Joint Management Body means the body established pursuant to the Joint Management Agreement for the purposes of section 56A of the CALM Act and giving effect to a requirement in applicable management plans prepared under section 54 of the CALM Act for the Yamatji Conservation Estate or an area comprised in it, to be jointly managed.

LA Act means the *Land Administration Act 1997* (WA).

Landgate means the statutory authority established under the *Land Information Authority Act 2006* (WA) which is responsible for Western Australia's land and property information.

Legal Proceedings means:

- (a) an application (**Primary Proceedings**) made, pursuant to sections 5 or 6 (respectively) of the ADJR Act, by a person aggrieved by:
 - (1) a decision of the Native Title Registrar to register this Agreement; or

- (2) conduct engaged, or proposed to be engaged, in by the Native Title Registrar for the purpose of making a decision to register this Agreement,

for an order of review in respect of that decision or conduct (as the case may be);

- (b) an application (also Primary Proceedings) made, pursuant to section 39B of the Judiciary Act 1903 (Cth), in reliance on the original jurisdiction of the Federal Court, for declaratory or other relief with respect to the decision of the Native Title Registrar to register this Agreement; and
- (c) each appeal, rehearing or other court proceedings (**Secondary Proceedings**) that may be commenced in consequence of any judgment handed down in respect of:
 - (1) any Primary Proceedings; or
 - (2) any prior Secondary Proceedings that are ultimately referable to such Primary Proceedings.

Mid West Development Commission means a body corporate established by section 8(1) of the RDC Act.

Mining Act means the *Mining Act 1978* (WA).

Mining Tenement has the meaning given in the Mining Act.

Mullewa Wadjari Claim means the registered native title determination application pursuant to the Native Title Act made on behalf of the Mullewa Wadjari People (Federal Court file no. WAD21/2019; NNTT file no. 1996/093) and as amended from time to time, a portion of which falls outside the Agreement Area.

Mullewa Wadjari Claim Group means the native title claim group mentioned in relation to the Mullewa Wadjari Claim.

MWDC means the Mid West Development Commission.

Native Title Act means the *Native Title Act 1993* (Cth).

Native Title Areas means the land described as 'Native Title Areas' in Item 1 of Schedule 1 to this Agreement and, for ease of reference only, shown on the map in Item 2, Part B of Schedule 1 to this Agreement.

Native Title Claim Group is a reference to each of the following:

- (a) the Southern Yamatji Claim Group;
- (b) the Mullewa Wadjari Claim Group;
- (c) Hutt River Claim Group;
- (d) Widi Mob Claim Group; and
- (e) the Yamatji Nation Claim Group.

Native Title Decision has the meaning given in the *Native Title (Prescribed Bodies Corporate) Regulations 1999* (Cth).

Native Title Parties is a reference to each of the Native Title Claim Groups, the PBC and the Regional Entity.

NNTT means the National Native Title Tribunal.

Notification means a notification endorsed on the certificate of Crown land title for the land under section 70A of the TLA or section 17 of the LA Act.

Objection means any objection, including an objection:

- (a) lodged under the Mining Act to the grant of a Mining Tenement under the provisions of the Mining Act, to the extent that the objection is based on Aboriginal heritage grounds; or
- (b) that is a challenge or proceeding that would have the effect of hindering or delaying the grant of any Tenure, to the extent that the challenge or proceeding is based on Aboriginal heritage grounds.

Party means a party to this Agreement and Parties means two or more of them as the context requires.

PBC means the Bundi Yamatji Aboriginal Corporation (ICN 9213), incorporated under the CATSI Act, to be appointed as the registered native title body corporate.

PD Act means the *Planning and Development Act 2005* (WA).

PGER Act means the *Petroleum and Geothermal Energy Resources Act 1967* (WA).

PGER Title means a permit, drilling reservation, access authority, retention lease, production licence, exploration permit, special prospecting authority and geothermal title granted under the PGER Act.

PIN means the polygon identification number assigned by Landgate to unique land parcels as at the Execution Date.

PP Act means the *Petroleum Pipelines Act 1969* (WA).

PP Act Title means a petroleum pipeline licence granted under the PP Act.

Primary Proceedings has the meaning given in paragraph (a) of the definition of "Legal Proceedings" in this clause 1.2.

Principal Acts means the AAPA Act, BC Act, CALM Act, LA Act, Mining Act, Native Title Act, PGER Act, PP Act and RIWI Act.

Proponent means the registered holder, other than any Government Proponent, at the relevant time or from time to time as the case may be of a Mining Tenement, PGER Title or PP Act Title granted in respect to any part of the Agreement Area after the Conclusive Registration Date.

RDC Act means the *Regional Development Commissions Act 1993* (WA).

Receiver has the meaning given in clause 30.

Receiving Party has the meaning given in clause 28.1.

Recipient has the meaning given in clause 31.3.

Regional Entity means the Yamatji Southern Regional Corporation Ltd (ACN 638 346 684), incorporated under the Corporations Act and includes any replacement registered corporation that may be appointed by the Yamatji Nation, to be the regional entity as described in the Joint Governance Principles, from time to time.

Registered means registered, pursuant to Part 2, Division 3, Subdivision C of the Native Title Act, on the ILUA Register, and both Register and Registration have a corresponding meaning.

Replacement Agreement has the meaning given in clause 25.5.

Resolution Institute means the dispute resolution company of that name. If Resolution Institute ceases to exist as a company, then Resolution Institute will be taken to mean any other dispute resolution organisation with similar objects agreed to by a consensus of the Parties to the relevant dispute or if no consensus can be reached, decided by the Party that first notified the relevant dispute.

Review has the meaning given in clause 9.3(e).

Right to Negotiate means the right to negotiate procedure under and for the purposes of Subdivision P of Division 3 of Part 2 of the Native Title Act, commonly known as the 'right to negotiate'.

RIWI Act means the *Rights in Water and Irrigation Act 1914* (WA).

Secondary Proceedings has the meaning given in paragraph (c) of the definition of "Legal Proceedings" in this clause 1.2.

Sender has the meaning given in clause 30.

Separate Proceeding Area means the Agreement Area.

Settlement has the meaning given in Recital D.

Southern Yamatji Claim means the registered native title determination application pursuant to the Native Title Act made on behalf of the Southern Yamatji People (Federal Court file no. WAD19/2019; NNTT file no. WC2017/02) and as amended from time to time.

Southern Yamatji Claim Group means the native title claim group mentioned in relation to the Southern Yamatji Claim.

State means the State of Western Australia acting through the State Parties.

State Parties means:

- (a) The Premier, the Minister in the Government for the time being responsible for the administration of the DPC;

- (b) The Minister for Aboriginal Affairs, the Minister in the Government for the time being responsible for the administration of the AH Act and the AAPA Act;
- (c) The Minister for Lands, a body corporate continued under section 7(1) of the LA Act, for the time being responsible for the administration of the LA Act, acting through DPLH;
- (d) The Minister for Environment, the Minister in the Government for the time being responsible for the administration of the BC Act and the CALM Act;
- (e) The Minister for Mines and Petroleum, the Minister in the Government for the time being responsible for the administration of the Mining Act, the PGER Act and the PP Act;
- (f) The Minister for Culture and the Arts, the Minister in the Government for the time being responsible for the administration of the DLGSCI;
- (g) The Minister for Regional Development, the Minister in the Government for the time being responsible for the administration of the DPIRD;
- (h) The Minister for Tourism, the Minister in the Government for the time being responsible for the administration of the DJTSI;
- (i) The Minister for Water, the Minister in the Government for the time being responsible for the administration of the RIWI Act; and
- (j) Conservation and Parks Commission, a body corporate established under section 8 of the CALM Act;
- (k) The DBCA CEO, acting through the Conservation and Land Management Executive Body which may perform any of its functions under the BC Act or the CALM Act;
- (l) The Housing Authority, a body corporate established by the section 6(4) of the *Housing Act 1980* (WA);
- (m) The AAPA, a body corporate established under section 8 of the AAPA Act, acting through DPLH;

- (n) The ALT, a body corporate established under section 20 of the AAPA Act, acting through DPLH;
- (o) The MWDC, a body corporate established under section 8(1) of the RDC Act;
- (p) The WA Museum, a body corporate constituted under section 7 of the *Museum Act 1969* (WA); and
- (q) The Western Australian Land Authority, a body corporate established by section 5(1) of the WALA Act and trading as DevelopmentWA.

State Contribution Period means the period of time commencing on the Conclusive Registration Date and ending on the later of:

- (a) the Business Day on which the last cash payment under clause 10.1 is made; and
- (b) the date that is fifteen (15) years from the Commencement Date.

Strategic Aboriginal Water Reserves has the meaning given in clause 17.1(b)(2).

Sunset Date means 31 December 2022, or such later date or dates as, from time to time, may be agreed in writing between the State and the Regional Entity.

Surrender Area means the land described as 'Surrender Area' in Item 1 of Schedule 1 to this Agreement and, for ease of reference only, shown on the map in Item 2, Part C of Schedule 1 to this Agreement.

Tenure means any tenure in land, including a lease, licence, permit or other authority, a Mining Tenement or a PGER Title, that is granted, issued, created or continued under the AAPA Act, BC Act, CALM Act, LA Act, Mining Act, PGER Act or PP Act and any regulations made under those Acts.

Termination Date has the meaning given to that term in clause 5.4.

TLA means the *Transfer of Land Act 1893* (WA).

TONT means the Traditional Owner Negotiation Team comprising 12 people nominated and authorised to represent the Native Title Claim Groups under instruction from each of their working groups.

Trust Deed has the meaning given in clause 9.1.

Trust Effective Date has the meaning given in clause 9.5(a).

WALA Act means the *Western Australian Land Authority Act 1992* (WA).

Water Allocation Plan has the meaning given in clause 17.1(b)(3)(ii).

Widi Mob Claim means the registered native title determination application pursuant to the Native Title Act made on behalf of the Widi People (Federal Court file no. WAD31/2019; NNTT file no. WC1997/072) and as amended from time to time, a portion of which falls outside the Agreement Area.

Widi Mob Claim Group means the native title claim group mentioned in relation to the Widi Mob Claim.

Working Groups means each of the “Working Groups” contemplated in the Government Partnership Committee Terms of Reference, as amended from time to time in accordance with clause 19.2(b).

Yamatji Cultural Business means a funeral, event, or other ceremony or cultural duty that prevents a Native Title Party from performing their obligations, in whole or part, under this Agreement.

Yamatji Land Estate means the land Allocated to the Yamatji Nation pursuant to clause 18 of this Agreement and the YLE Strategy in Schedule 11.

Yamatji Nation means the common law holders of native title in the Agreement Area.

Yamatji Nation Administration Fund means the sub fund established and administered under the Trust Deed.

Yamatji Nation Claim means the unregistered native title determination application pursuant to the Native Title Act made over the whole of the Separate Proceeding Area (Federal Court file no. WAD345/2019; NNTT file no. WC2019/008) and as amended from time to time.

Yamatji Nation Claim Group means the native title claim group mentioned in relation to the Yamatji Nation Claim.

Yamatji Nation Economic Development Fund means the sub fund established and administered under the Trust Deed.

Yamatji Nation Future Fund means the sub fund established and administered under the Trust Deed.

Yamatji Nation General Fund means the sub fund established and administered under the Trust Deed.

Yamatji Nation Governance Structure has the meaning given in clause 9.1.

Yamatji Nation Land Fund means the sub fund established and administered under the Trust Deed.

Yamatji Nation Representatives means the members of Yamatji Nation appointed to the Joint Management Body or the Interim Joint Management Body (as may be relevant).

Yamatji Trustee Company means the corporate entity as specified in the Joint Governance Principles and includes any subsequent Yamatji Trustee Company that may be appointed under clause 9.2 of this Agreement by the Yamatji Nation, to be the Yamatji Trustee Company as described in the Joint Governance Principles.

YGSHA means an agreement entered into by the Regional Entity on or after the Conclusive Registration Date with any Government Proponent that is in the form of the "Yamatji Government Standard Heritage Agreement" in Schedule 16, subject to any necessary modifications as required.

YLE Strategy means the "Yamatji Land Estate Strategy" set out in Schedule 11.

YPSHA means an agreement entered into by the Yamatji Nation Regional Corporation on or after the Conclusive Registration Date with a Proponent that is in the form of the "Yamatji Proponent Standard Heritage Agreement" in Schedule 17, subject to any necessary modifications as required for the relevant Tenure.

1.3 Interpretation – general

In this Agreement, unless the contrary intention appears:

- (a) headings, subheadings and text boxes are for ease of reference only and do not govern the meaning or construction of this Agreement or of any provision contained in this Agreement;
- (b) words expressed in the singular include the plural and vice versa;
- (c) words expressed in one gender include the other;
- (d) a reference to a Party to this Agreement includes that Party's successors, permitted substitutes, persons taking by novation, permitted transferees, receivers, managers, administrators and permitted assignees and, in the case of a natural person, also includes that person's executors and administrators;
- (e) an expression importing a natural person includes a company, partnership, joint venture, association, authority, registered native title body corporate or other body corporate or governmental or semi-governmental entity;
- (f) a reference to a person which has ceased to exist or has reconstituted, amalgamated, reconstructed or merged, or the functions of which have become exercisable by another person, is a reference to the person established or constituted in its place or by which its functions have become exercisable;
- (g) a reference to a person established under any written law includes a reference to any person or body (corporate or unincorporate) established or continuing to perform the same or a substantially similar function;
- (h) a reference to a thing includes any part of a thing but is not taken as implying that performance of part of an obligation is the performance of the whole;
- (i) a reference to a clause, Schedule or annexure is a reference to a clause or Schedule or annexure to this Agreement;
- (j) where the day on or by which a thing is required to be done is not a Business Day that thing must be done on or by the succeeding Business Day;

- (k) an agreement, representation or warranty on the part of or in favour of two or more persons binds, and is enforceable against, those persons jointly and each of them severally;
- (l) no rules of construction apply to the disadvantage of a Party because that Party was responsible for the drafting of this Agreement or of any of the provisions of this Agreement;
- (m) a reference to any statute includes every regulation, code, order, ordinance, by-law, subordinated or delegated legislation and proclamation issued under that statute and all consolidations, amendments, re-enactments and replacements of any of them;
- (n) where a word or phrase is given a defined meaning in this Agreement, any part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (o) a reference to any document, instrument or agreement, including this Agreement, includes a reference to that document, instrument or agreement as amended, novated, supplemented, varied or replaced from time to time;
- (p) a reference to any government department, professional body, committee, council or other body, or to any position within any such body, includes the successors to that body or position or to any relevant activity or function of that body or position;
- (q) "including" means "including, but not limited to".

1.4 Interpretation – liabilities and benefits

In this Agreement, unless the contrary intention appears:

- (a) the members of the Native Title Claim Groups, including the Applicants who are signatories to this Agreement, are jointly (and not severally or jointly and severally):
 - (1) entitled to the benefits conferred on the Native Title Claim Groups under this Agreement; and
 - (2) liable to perform the obligations of the Native Title Claim Groups under this Agreement;

- (b) the State may not bring proceedings in respect of this Agreement against a member of any of the Native Title Claim Groups, including any of the Applicants who are signatories to this Agreement, in his or her individual capacity. Any such proceedings may only be brought in a court of competent jurisdiction against the Applicants on behalf of the Native Title Claim Groups jointly; and
- (c) any agreement, representation, warranty or indemnity in favour of the State, or in favour of more than one State Party, is for the benefit of them severally.

2. RECOGNITION OF NATIVE TITLE IN THE AGREEMENT AREA

In this clause the Parties recognise:

- *the Yamatji Nation's traditional connection to the land and waters in the Agreement Area; and*
- *the native title rights and interests which exist in parts of the Agreement Area – called the "Native Title Areas".*

The State recognises:

- (a) that land is intrinsically linked to the spiritual, social and economic well-being of the Yamatji Nation;
- (b) the relationship of the Yamatji Nation to their traditional land and waters is central to their well-being and to their continuing connection to the emotional, spiritual and non-human world; and
- (c) the existence of native title rights and interests in relation to the Native Title Areas.

3. AREA TO WHICH THIS AGREEMENT APPLIES

This Agreement applies to the land and waters set out in the map in

Item 2, Part A of Schedule 1. This is called the "Agreement Area".

Part of the Mullewa Wadjari Claim is outside of the Agreement Area.

- (a) This Agreement applies to the Agreement Area.
- (b) For the avoidance of doubt, the Agreement Area does not include the land and waters in the portion of the Mullewa Wadjari Claim outside of the Agreement Area.

4. **REGISTRATION OF THIS AGREEMENT UNDER THE NATIVE TITLE ACT**

The Native Title Act says that the Agreement needs to be registered for it to work.

In this clause, the Parties agree to work together to:

- *follow the process for registration under the Native Title Act; and*
- *to make sure the Agreement can be registered as soon as possible after it is signed.*

This means that it will be added to the Register of Indigenous Land Use Agreements as an “Area Agreement”.

If this Agreement is not registered by 31 December 2022, then this clause says that the Agreement may come to an end, unless Court proceedings are on foot.

4.1 **Registration on Register of Indigenous Land Use Agreements**

Each Party acknowledges:

- (a) their intention that this Agreement be registered on the Register of Indigenous Land Use Agreements as an Area Agreement under sections 24CA to 24CL of the Native Title Act and regulation 7 of the ILUA Regulations as soon as reasonably practicable after the Execution Date;
- (b) that, when this Agreement is registered on the Register of Indigenous Land Use Agreements, the Agreement will have the additional effects conferred by sections 24EA, 24EB and 24EBA of the Native Title Act, including the effects on compensation provided by those sections;

- (c) that the Agreement Area is also the agreement area for the purpose of section 24CB of the Native Title Act (Coverage of area agreements); and
- (d) in accordance with the requirements of the Native Title Act for registering this Agreement on the Register of Indigenous Land Use Agreements as an Area Agreement:
 - (1) there is not a registered native title body (or bodies) corporate in relation to the whole of the Agreement Area (a requirement of section 24CC of the Native Title Act); and
 - (2) the Native Title Claim Groups for each of the Underlying Claims, and the Yamatji Nation Claim Group, are Parties to this Agreement.

4.2 Consent to application for registration

Each Party consents to the State:

- (a) preparing an application in writing to the Native Title Registrar for this Agreement to be registered on the Register of Indigenous Land Use Agreements in accordance with section 24CG of the Native Title Act; and
- (b) applying to the Native Title Registrar for this Agreement to be registered on the Register of Indigenous Land Use Agreements as an 'area agreement' under Subdivision C of Division 3 of Part 2 of the Native Title Act.

4.3 Registration procedure

- (a) The Native Title Parties will provide the State with all the necessary supporting documents and information required to effect registration of this Agreement under section 24CG of the Native Title Act, 20 Business Days after the Execution Date.
- (b) The State will apply for registration of this Agreement as an ILUA pursuant to section 24CG of the Native Title Act within 10 Business Days of receipt of the documents and information from the Native Title Parties in clause 4.3(a).

- (c) If, after the 10 Business Days referred to in subclause (b), the State does not apply for registration in accordance with subclause (a) then the PBC may apply for registration of this Agreement pursuant to section 24CG(1) of the Native Title Act.

4.4 Further assurances in respect of registration

Each Party will do all things reasonably necessary to assist with the timely registration of this Agreement on the Register of Indigenous Land Use Agreements and to maintain the registration of this Agreement on the Register of Indigenous Land Use Agreements.

4.5 No objection

- (a) Without limiting clauses 4.3 and 4.4, a Party must not object to the registration of this Agreement on the Register of Indigenous Land Use Agreements.
- (b) If any Party becomes aware of an objection having been lodged in relation to the registration of this Agreement on the Register of Indigenous Land Use Agreements, then that Party must notify the other Parties and each Party must do all things within their power and necessary to be done and incidental to what may be required to be done to ensure that the objection is withdrawn.

4.6 Application for registration to be accompanied by authorisation statement

- (a) The Parties acknowledge that it is intended that the application for registration under clause 4.2(a) will include a statement to the effect that the requirements set out in section 24CG(3)(b) have been met, namely, that:
 - (1) all reasonable efforts have been made to ensure that all persons who hold or may hold native title in relation to land or waters in the area covered by this Agreement have been identified; and
 - (2) all of the persons so identified have authorised the making of this Agreement.

- (b) For the avoidance of doubt, the Parties acknowledge that the application will not be certified by any representative body under section 24CG(3)(a) of the Native Title Act.

4.7 State to issue notice of Conclusive Registration

Subject to clause 4.8, when this Agreement has been Conclusively Registered, the State must within five Business Days issue the Regional Entity with written notice confirming the date upon which this Agreement has been Conclusively Registered.

4.8 Consequences of non-Registration or Legal Proceedings in respect of this Agreement

- (a) Subject to clauses 4.4, 4.8(b), 4.8(c) and 4.8(d), if this Agreement has not been Conclusively Registered by the Sunset Date, the State will in its discretion (by notice to the Regional Entity and the Native Title Claim Groups, within 60 Business Days after the Sunset Date) elect to terminate this Agreement.
- (b) Before exercising the State's discretion to terminate this Agreement as contemplated in clause 4.8(a), the State, the Regional Entity and the Native Title Claim Groups must convene at least one meeting which must be conducted in person.
- (c) If this Agreement is terminated as contemplated in this clause, no Party will have any claim against any other Party with respect to any matter or thing arising out of, done, performed, or omitted to be done or performed under this Agreement.
- (d) If, as at the Sunset Date, Legal Proceedings have commenced in respect of Registration, then the Parties agree that the Sunset Date will be extended to a date that is 40 Business Days following the exhaustion and determination of the final available Legal Proceedings in respect of such Registration in order to enable the Agreement to reach Conclusive Registration.

5. TERM AND TERMINATION

Some of the clauses in this Agreement start when this Agreement is signed by all the Parties.

All other clauses in this Agreement start at different stages, including when:

- *the Agreement reaches a stage called “Conclusive Registration” and the State has notified the Regional Entity that this stage has been reached, which means that the Parties are sure that the Agreement has been registered and nothing can be done to change that; and*
- *the Yamatji Nation’s Charitable Trust is set up to receive benefits from the State, which is called the “Trust Effective Date”.*

This Agreement will continue forever, but it will finish if any of the following things happen:

- *the State chooses to end the Agreement because it does not reach the stage of Conclusive Registration;*
- *the Parties agree in writing to end the Agreement;*
- *the Agreement is removed from the Register of Indigenous Land Use Agreements; or*
- *another agreement replaces this Agreement.*

If the Federal Court takes back the Determination of Native Title, the Parties will meet to discuss what happens to the Agreement.

5.1 The State acting through DPC

In this clause, the reference to the State is a reference to the State acting through the DPC.

5.2 Force and Effect of this Agreement

- (a) Subject to clauses 5.2(b) to 5.2(i), this Agreement commences on the Execution Date and binds each of the Parties, their successors and permitted assigns.

- (b) The rights and obligations in clauses 7.2, 7.3, 15.8, 17.3(e), 20.3(a), 20.4(a), 20.5(a), 20.5(c), 20.5(e), 20.9, 21.1(a), 21.7, 22.4, 22.5 and 22.6 will commence on and from the Conclusive Registration Date.
- (c) Clause 9.5(b) will commence within 6 months of the Conclusive Registration Date.
- (d) Clauses 10.1(a), 11.2(b), 12.4(a), 13.2(a), 14.2(a), 14.5, 15.2(a), 15.5(a), 15.5(b), 17.2(b), 17.3(b), 22.2 and 22.3 will commence on and from the Trust Effective Date.
- (e) Clause 12.3(b) will commence 24 months following the Trust Effective Date.
- (f) Clause 15.1(b) will commence within 12 months of the Trust Effective Date.
- (g) Clause 15.2(c) will commence 24 months following the Trust Effective Date.
- (h) Clause 16.4(a) will commence, as soon as reasonably practicable after, but within 12 months of, the Trust Effective Date.
- (i) Clause 16.6(f) will commence if, within 9 years of the Trust Effective Date, no decision to develop has been made.

5.3 Term

Subject to clause 5.4, this Agreement continues indefinitely.

5.4 Termination

- (a) This Agreement will terminate only on the occurrence of the following events, whichever is the first to occur (the **Termination Date**):
 - (1) where all Parties agree in writing to end the Agreement;
 - (2) where clause 4.7 comes into effect and the State elects, after consultation with the Regional Entity and the Native Title Groups to terminate this Agreement;

- (3) where the Agreement is removed from the Register of Indigenous Land Use Agreements by the Native Title Registrar in accordance with section 199C of the Native Title Act; or
 - (4) where a Replacement Agreement comes into effect in accordance with clause 25.5.
- (b) In the event that, following a Determination of Native Title, the Determination is varied or revoked in accordance with the section 13 of the Native Title Act, all Parties will meet to consult regarding:
 - (1) the effect of the variation or revocation on the Parties' obligations under this Agreement; and
 - (2) whether all Parties agree in writing to end the Agreement under clause 5.4(a)(1).

5.5 No other termination

Except as otherwise provided in clause 5.4, no Party is entitled to terminate this Agreement for any reason, including by reason of breach or repudiation of this Agreement by any Party.

5.6 Consequences of termination

- (a) Unless otherwise provided for in this Agreement, if this Agreement is terminated in accordance with clause 5.4:
 - (1) it ceases to have any force or effect on and from the Termination Date; and
 - (2) all rights and obligations of the Parties which accrued and consents that were given under this Agreement before the Termination Date will remain binding and enforceable.
- (b) If this Agreement is terminated as a result of events described in clauses 5.4(a)(2), 5.4(a)(3) or 5.4(a)(4), the Parties will meet to discuss arrangements for negotiating a replacement or alternative agreement to be registered as an Indigenous Land Use Agreement on the ILUA Register.

- (c) For the avoidance of doubt, neither termination nor anything in relation to the termination of this Agreement affects the validity of any acts done by or on behalf of the State prior to termination in accordance with this Agreement or permitted by this Agreement.

5.7 Termination after registration on the Register of Indigenous Land Use Agreements

- (a) If all Parties propose to terminate this Agreement under clause 5.4(a)(1), then all Parties must advise the Native Title Registrar in writing in accordance with section 199C(1)(c)(ii) of the Native Title Act and request the Native Title Registrar to remove it from the Register of Indigenous Land Use Agreements.
- (b) If this Agreement is terminated for any reason under clause 5.4(a)(2), the State will, for and on behalf of the Parties, advise the Native Title Registrar in writing that this Agreement has been terminated and request the Native Title Registrar to remove it from the Register of Indigenous Land Use Agreements.

5.8 No election to terminate

Breach of this Agreement by any Party will not give to any other Party a right to elect to terminate the Agreement, but any Party may exercise any other remedy available to it in respect of such breach.

5.9 Breach does not affect consent

The breach by any Party of any provision of this Agreement will not invalidate or void the consents given in clause 7.

6. AUTHORITY, REPRESENTATIONS AND WARRANTIES TO ENTER INTO THE AGREEMENT

In this clause, the Parties say:

- *the Native Title Claim Groups are authorised to enter into this Agreement;*
- *the State is authorised to enter into this Agreement; and*

- *they are not aware of anything which would stop them from entering into this Agreement.*

6.1 Native Title Claim Groups' Warranties

The Applicants represent and warrant that:

- (a) they are authorised to enter into this Agreement on behalf of the relevant Native Title Claim Group for which they are the Applicants and registered native title claimants, pursuant to section 251A of the Native Title Act;
- (b) they have informed the relevant representative bodies for the Agreement Area of their intention to enter into this Agreement;
- (c) the terms of this Agreement are binding on them; and
- (d) they know of no impediment to them performing their obligations under this Agreement.

6.2 The PBC and the Regional Entity Authority

The Native Title Parties acknowledge that:

- (a) the PBC enters into this Agreement in anticipation that it will be appointed the registered native title body corporate for the Yamatji Nation pursuant to the Determination of Native Title, to hold native title rights and interests in the Agreement Area on trust for the Yamatji Nation; and
- (b) the Regional Entity enters into this Agreement to carry out a range of functions for the benefit of Yamatji Nation, including through its wholly owned subsidiaries, as specified in the Joint Governance Principles and the Governance Framework and will procure the Trustee of the Charitable Trust to do all things necessary to accept the benefits under this Agreement on behalf of the Yamatji Nation.

6.3 State's warranties

The State represents and warrants:

- (a) it has full power and authority to enter into this Agreement;

- (b) all conditions and things required by applicable law to be fulfilled or done (including the obtaining of any necessary Authorisations) in order to enable it lawfully to enter into, exercise its rights and perform its obligations under this Agreement have been fulfilled or done; and
- (c) it knows of no impediment to it performing its obligations under this Agreement.

6.4 Reliance on such Warranties

The State and the Native Title Parties each acknowledges and agrees that:

- (a) this Agreement is valid and enforceable; and
- (b) they have relied on the warranties provided in this clause 6 (as may be applicable) to enter into this Agreement.

6.5 Acknowledgement regarding legal advice

The State and the Native Title Claim Groups each acknowledges that it has:

- (a) had the benefit of its own legal advice in respect of all matters in this Agreement and the effect of the rights, obligations and liabilities of each of the Parties to it; and
- (b) been provided with an opportunity to consider that advice and all of the provisions of this Agreement before entering into it.

6.6 Application of this Agreement to the State

By entering into this Agreement, the State is bound to carry out the obligations set out in this Agreement.

6.7 Ministers may act through authorised officers

Where in this Agreement reference is made to a Minister of the State, and the relevant Minister may, or is required to, give any notice or do any other act or thing, that notice may be given, and that other act or other thing may be done, by a duly authorised officer of the relevant Department in the name of and on behalf of the relevant Minister.

7. RESOLUTION OF NATIVE TITLE IN THE AGREEMENT AREA

This clause is about how native title rights and interests will be dealt with in the Agreement Area, including the “Native Title Areas” and the “Surrender Area” shown on the maps in Item 2, Parts B and C of Schedule 1.

The Parties agree that:

- *the acts that were considered to be “invalid” in the past will be validated under the Native Title Act;*
- *all native title rights and interests will continue to exist in the Native Title Areas;*
- *all native title rights and interests will be extinguished in the Surrender Area; and*
- *in the Native Title Areas, the future grant of “Tenure” will not trigger future act processes under the Native Title Act and the “non-extinguishment” principle will apply when Tenure is granted.*

7.1 Validating of Invalid Acts in Agreement Area

- (a) The Parties agree to and consent to:
- (1) the validation of all Invalid Acts that have been, or are being, carried out by the State; and
 - (2) the validation of future acts which are public works that have been, or are being, carried out invalidly prior to the Conclusive Registration Date by persons other than the State;
- (b) in relation to any part of the Agreement Area, clause 7.1(a) of this Agreement is a statement for the purposes of section 24EBA(1)(a)(i) of the Native Title Act and regulation 7(5)(d) of the ILUA Regulations.

7.2 Surrender of native title rights and interests in Surrender Area

The Parties agree that:

- (a) on and from the Conclusive Registration Date, the native title rights and interests in the Surrender Area, are surrendered;

- (b) pursuant to section 24CB(e) of the Native Title Act, the surrender in clause 7.2(a) is intended to extinguish all native title rights and interests in the Surrender Area as of the date of the surrender; and
- (c) clause 7.2(b) of this Agreement is a statement for the purposes of:
 - (1) section 24EB(1)(b)(i) and 24EB(1)(d) of the Native Title Act; and
 - (2) regulation 7(5)(a) and 7(5)(c) of the ILUA Regulations.

7.3 No Right to Negotiate or procedural requirements in Native Title Areas but non-extinguishment principle applies

- (a) The Parties agree that on and from the Conclusive Registration Date:
 - (1) to the extent that any grants of Tenure made by or on behalf of the State in respect of the Native Title Area are future acts, each Party consents to any such grants of Tenure with the intent that such statement of consent satisfies the requirements of section 24EB(1)(b) of the Native Title Act;
 - (2) the Right to Negotiate does not apply to any future acts carried out in the Native Title Areas, with the intent that such statement satisfies the requirement of section 24EB(1)(c) of the Native Title Act; and
 - (3) no other procedural requirements in Part 2 Division 3 of the Native Title Act apply to any future acts carried out in the Native Title Areas.
- (b) Subject to subclause 7.3(a), the Parties acknowledge that the disapplication of the Right to Negotiate and the procedural requirements in Part 2 Division 3 of the Native Title Act in respect of the Native Title Areas does not constitute abandonment or relinquishment of native title rights and interests.
- (c) The Parties acknowledge that the non-extinguishment principle applies to any future acts in the Native Title Areas.

7.4 No Objection

- (a) Each Native Title Party agrees:
- (1) not to make any Objection including in respect of the Right to Negotiate, or any other procedural rights, in the Native Title Areas as contemplated in clause 7.3 and not to authorise any other person to make any Objection on its behalf or on behalf of any member of the Native Title Party; and
 - (2) not to challenge the validity (under the Native Title Act, the LA Act or otherwise) of any of the matters in clauses 7.1, 7.2 and 7.3, and not to authorise any other person to make any such challenge on its behalf or on behalf of any member of the Native Title Party.
- (b) If a Native Title Party or any of its members makes any Objection or other challenges in breach of clause 7.4(a), the State, the Native Title Parties or any member of a Native Title Party may plead the terms of this Agreement in bar of that claim.

7.5 Consent preserved in event of breach

A breach of this Agreement by any Party does not nullify the effect of clauses 7.1, 7.2 and 7.3 in respect of the Agreement Area.

7.6 Customary purposes defence

To avoid doubt, nothing in this Agreement is intended to derogate from the defences available under section 103A of the CALM Act and section 182 of the BC Act.

8. FULL AND FINAL COMPENSATION

In this clause:

- *The Parties agree that the money and benefits to be provided by the State to the Yamatji Nation under this Agreement is for the impact on native title rights and interests in the Agreement Area.*

- *This means that the Yamatji Nation promises not to ask for any more compensation from the State for any past actions in the Agreement Area and anything in the future done in accordance with this Agreement.*

8.1 General

- (a) The State will provide the Compensation in consideration of the agreements and consent in clause 7 of this Agreement as Compensation for any loss, diminution, impairment or other effect on native title rights and interests in the Agreement Area, up to and including the date on which the surrender of native title rights and interests in the Surrender Area takes effect under clause 7.2 of this Agreement.
- (b) The Parties acknowledge that the Compensation, the Joint Governance Principles and the Governance Framework, have been designed to ensure that the Compensation is to be applied for the benefit of the members of Yamatji Nation.

8.2 Full and final Compensation

The Native Title Parties acknowledge and agree that the Compensation constitutes full and final compensation in relation to:

- (a) the extinguishment (by the surrender of native title rights and interests in clause 7.2 or otherwise) of their native title rights and interests in the Agreement Area up to and including the date on which the surrender of native title takes effect under clause 7.2 of this Agreement;
- (b) any impairment of their native title rights and interests in the Agreement Area up to and including the date on which the surrender of native title rights and interests takes effect under clause 7.2 of this Agreement; and
- (c) the validation of all Invalid Acts in the Agreement Area.

8.3 No Compensation claim

The Native Title Parties:

- (a) release the State from any liability for compensation, other than Compensation provided for and delivered under this Agreement, in relation to the extinguishment and impairment of native title rights and interests in the Agreement Area by the acts consented to or the validity of which is confirmed in this Agreement, or the exercise of any right or obligation created by such acts; and
- (b) acknowledge and agree that:
 - (1) they will not make any claim for compensation under the Principal Acts or any other Law, nor will they authorise any other person to bring such a claim on their behalf, against the State in respect of the matters in clause 8.3(a); and
 - (2) if the Native Title Parties or any member of the Yamatji Nation makes a claim for compensation in breach of clause 8.3(a), the State may plead the terms of this Agreement in bar of that claim.

9. YAMATJI NATION GOVERNANCE ARRANGEMENTS

The Yamatji Nation has set up a “Yamatji Nation Governance Structure” which meets the Joint Governance Principles and Governance Framework.

The Yamatji Nation Governance Structure will be made up of:

- *a Regional Entity;*
- *an Aboriginal Corporation (the PBC);*
- *an Economic Arm;*
- *a Yamatji Trustee Company; and*
- *a Charitable Trust,*

and these entities will look after the money and other benefits to be provided by the State to the Yamatji Nation under this Agreement.

Even though the Charitable Trust is not a Party to this Agreement, the Regional Entity will make sure the Trustee of the Charitable Trust does the things it is supposed to do under this Agreement on behalf of the Yamatji Nation.

In this clause:

Administration Funding has the meaning given in the Trust Deed.

Charitable Trust means the Yamatji Nation Trust to be established by the Trust Deed.

Formal Handover Process has the meaning given in the Trust Deed.

Joint Trustees means the initial trustee of the Charitable Trust, comprising a Licensed Trustee and the Yamatji Trustee Company, as referred to in clause 9.1(c).

Licensed Trustee has the meaning described in the Joint Governance Principles.

Review has the meaning given in clause 9.3(e).

Trust Deed means the trust deed that establishes the Charitable Trust between the settlor and the Joint Trustees, a copy of which is attached at Schedule 3.

Trustee of the Charitable Trust means the Joint Trustees of the Charitable Trust and any replacement trustee appointed under the Trust Deed.

9.1 Yamatji Nation Governance Structure

- (a) The Parties agree that in commitment to the Yamatji Nation's self-governance aspirations, and the Yamatji Nation vision set out in the Joint Governance Principles, the Yamatji Nation must establish and maintain a governance structure (**Yamatji Nation Governance Structure**) to hold and administer the Compensation under this Agreement.
- (b) The Yamatji Nation Governance Structure for the purpose of this Agreement must comprise the following corporate entities, at a minimum:
 - (1) a Regional Entity;
 - (2) an Aboriginal Corporation;
 - (3) an Economic Arm;
 - (4) a Yamatji Trustee Company; and

(5) a Charitable Trust.

(c) The Charitable Trust:

- (1) must include the Joint Trustees for the first 10 years, with review as to whether this continues for up to a further five years, to facilitate capacity building of the Yamatji Trustee Company;
- (2) may have a Yamatji Trustee Company as sole trustee after the period referred to in (1) above, provided conditions specified in the Governance Framework are met;
- (3) must include the following as sub-funds within the Charitable Trust:
 - (i) Yamatji Nation Administration Fund;
 - (ii) Yamatji Nation Economic Development Fund;
 - (iii) Yamatji Nation Future Fund;
 - (iv) Yamatji Nation Land Fund; and
 - (v) Yamatji Nation General Fund.

(d) The Parties acknowledge that:

- (1) the Regional Entity in the Joint Governance Principles and Governance Framework is the same as the Regional Entity in this Agreement and any reference to the Regional Entity in those documents is deemed to be a reference to the Regional Entity for the purposes of this Agreement; and
- (2) the Aboriginal Corporation in the Joint Governance Principles and Governance Framework is the same as the PBC and any reference to the Aboriginal Corporation in those documents is deemed to be a reference to the PBC for the purposes of this Agreement.

9.2 Nomination of Economic Arm and Yamatji Trustee Company

- (a) The first Economic Arm and Yamatji Trustee Company will be nominated by the Regional Entity, subject to the State confirming that those entities meet the requirements set out in clause 9.3.
- (b) Under this Agreement, any subsequent Economic Arm or Yamatji Trustee Company must:
 - (1) be nominated by the Regional Entity;
 - (2) be endorsed by the PBC, on behalf of the Yamatji Nation, in a manner substantially similar to the making of a Native Title Decision under the PBC constituent document; and
 - (3) meet the requirements set out in clause 9.3.

9.3 Joint Governance Principles and Governance Framework

- (a) The Parties have agreed a set of governance principles and a structural framework in Schedule 2, from within which the Yamatji Nation will self-govern their land and benefits comprising the Compensation.
- (b) Subject to clause 9.3(c) the Yamatji Nation Governance Structure must at all times comply with the governance and structural requirements set out in the Joint Governance Principles and Governance Framework in Schedule 2.
- (c) During the State Contribution Period, the process for any amendment or variation to the Yamatji Nation Governance Structure or its constituent documents is as follows:
 - (1) the Regional Entity provides written notice of a proposed amendment or variation to the Implementation Committee for discussion in the first instance;
 - (2) the State formally responds as to whether or not, in the State's reasonable opinion, the proposed amendment or variation is inconsistent with the Joint Governance Principles or Governance Framework;

- (3) within 14 days of the State's response, the Regional Entity and the State will attempt to reach agreement on the matters identified as inconsistent under clause 9.3(c)(2);
 - (4) if the proposed amendment or variation is inconsistent with the Joint Governance Principles or Governance Framework and the Regional Entity wishes to proceed with the amendment or variation, then the Regional Entity can request that the Joint Governance Principles or Governance Framework (as the case may be), be amended under clause 9.3(d)(1) to ensure that the Yamatji Nation Governance Structure continues to comply with the Joint Governance Principles and Governance Framework; and
 - (5) if any matter is not agreed, either the Regional Entity or the State may refer the matter as a Dispute for resolution under clause 27.
- (d) Any amendment or variation to the Joint Governance Principles or Governance Framework may be made:
- (1) by the Regional Entity and the State by written agreement; or
 - (2) after the State Contribution Period, by the Regional Entity with prior consent of the PBC, such consent provided in a manner substantially similar to the making of a Native Title Decision under the PBC constituent document.
- (e) After the tenth year of the State Contribution Period, and during the Formal Handover Process, the Regional Entity and the State (through the Implementation Committee) will review the Joint Governance Principles, the Governance Framework and the constituent documents of the Yamatji Nation Governance Structure (**Review**) having regard to:
- (1) contemporary best practice governance standards; and
 - (2) the current governance and organisational capacity of the entities in the Yamatji Nation Governance Structure.

- (f) The Regional Entity and the State must agree on the terms of reference of the Review, with a view to ensuring that the Review is undertaken in an efficient and cost-effective manner.
- (g) The Regional Entity must procure that the entities in the Yamatji Nation Governance Structure participate in and provide reasonable assistance with the Review, and the reasonable costs of their participation will be funded from the Administration Funding.
- (h) Arising out of the Review:
 - (1) the Regional Entity and the State may by written agreement amend the Joint Governance Principles and the Governance Framework; and
 - (2) the Regional Entity must procure that the entities in the Yamatji Nation Governance Structure give effect, within six months, to such reasonable amendments to their constituent documents that the Regional Entity and the State determine are required for ongoing compliance with the updated Joint Governance Principles and Governance Framework.
- (i) Any amendment or variation to the Joint Governance Principles, Governance Framework, Yamatji Nation Governance Structure or its constituent documents under this clause 9.3 may be made without reference to the other Parties to this Agreement, and without the need to simultaneously amend Schedule 2.

9.4 Allocation of Compensation to Yamatji Nation Governance Structure

- (a) Subject to clause 9.5, the Parties have agreed that Compensation is to be paid or applied to the Yamatji Nation Governance Structure for the benefit of the Yamatji Nation.
- (b) Where clauses 10 to 18 specify that Compensation is payable or made available to or for the benefit of the Yamatji Nation, this must be read subject to the requirements in this Agreement as to how the Compensation must be allocated within the Yamatji Nation Governance Structure.

- (c) The Parties acknowledge that the Trustee of the Charitable Trust is not a Native Title Party or otherwise a Party to this Agreement but, subject to clauses 9.4(d) to 9.4(f), may enforce the promises to provide money and property to the Trustee pursuant to section 11 of the *Property Law Act 1969* (WA).
- (d) This Agreement may be cancelled or modified by the Parties without reference to the Trustee, regardless of whether the Trustee has adopted it either expressly or by conduct.
- (e) The Trustee must not take any action to enforce this Agreement (including to compromise or waive any obligation of the State Parties under this Agreement) otherwise than with the written consent of, and in accordance with any directions from time to time given by, the PBC.
- (f) If the Trustee commences any proceedings in a court of competent jurisdiction in accordance with clause 9.4(e), it must join the PBC as a party to the proceedings.

9.5 Establishment of Charitable Trust

- (a) The State and the Regional Entity must, within six months of the Conclusive Registration Date, ensure that the settlor and the Trustee of the Charitable Trust declare the Charitable Trust (**Trust Effective Date**).
- (b) The Parties acknowledge and agree that the constituent documents of the Yamatji Nation Governance Structure may be amended:
 - (i) between the Execution Date and the date on which the entity is established, by agreement in writing between the State and the Regional Entity, provided that any amendment is consistent with the Joint Governance Principles and Governance Framework; and
 - (ii) after the date on which an entity is established, in accordance with the constituent document for that entity, without reference to the other Parties to this Agreement.

10. MONETARY PAYMENTS

This clause sets out:

- *the cash payments, to the value of \$325 million, to be made by the State to the Trustee of the Charitable Trust, for the benefit of the Yamatji Nation; and*
- *how the payments will be split between the Future Fund, the Economic Development Fund, the Land Fund and the Administration Fund.*

Details of the cash payments are summarised in Schedule 4.

When the State will pay the Yamatji Nation will depend on when the Conclusive Registration stage is reached and the Charitable Trust is set up for the Trustee of the Charitable Trust and the Regional Entity to receive benefits from the State under this Agreement.

10.1 Payments under this Agreement

- (a) On and from the Trust Effective Date in clause 9.5(a), the State agrees to pay the cash payments set out in Schedule 4, in the manner allocated and specified in Schedule 4, adjusted cumulatively according to the provisions in clause 10.2 and in accordance with the timetable and for the respective purposes within 30 Business Days of the date on which an invoice is received by the State from the Trustee of the Charitable Trust (**Due Date**), which invoice may not be sent prior to the respective CPI Adjustment Dates.
- (b) The Regional Entity will report to the Government Partnership Committee annually in relation to the apportionment of cash payments made under this Agreement.

10.2 CPI adjustment

On each CPI Adjustment Date, the State will cumulatively adjust each of the monetary payments payable by the State under clauses 10.1, 14.2, 14.6, 17.2, 17.3(b), 17.3(d), and 17.4 in accordance with the CPI Calculation, but never

so as to reduce in any year the amount of a monetary payment in comparison with the equivalent amount that was paid in the preceding year.

10.3 Method of Payment

The State will pay any amounts payable under this Agreement in clear funds by way of electronic funds transfer to:

- (a) an account nominated by the Trustee of the Charitable Trust in relation to:
 - (1) clause 12 (Business Development Unit);
 - (2) clause 13 (Mining Revenue Stream);
 - (3) clause 14 (Tourism Development);
 - (4) clause 15 (Oakajee Revenue Stream);
 - (5) clause 16 (Housing Assets); and
 - (6) clause 17.2 (Strategic Aboriginal Water Reserves - Groundwater investigations); or
- (b) an account nominated by the Regional Entity in relation to:
 - (1) clause 11 (Corporate Headquarters);
 - (2) clause 17.3 (Strategic Aboriginal Water Reserves - Training Package);
 - (3) clause 17.4 (Aboriginal Water Sites Restoration Project);
 - (4) clause 21.9 (Transition of Rangers); and
 - (5) clause 22.3 (Cultural Advisors and storage software).

10.4 Interest on late payment

- (a) If the State fails to pay any monetary payment referred to in clause 10.1 within 30 Business Days of the date on which an invoice is rendered (**Due Date**), then the State will pay interest thereon in accordance with clause 10.4(b) from the Due Date to the date of payment.
- (b) The interest rate applicable in respect of clause 10.4 is the rate prescribed under section 8(1)(a) of the *Civil Judgments Enforcement Act 2004* at the relevant time.

11. CORPORATE HEADQUARTERS

In this clause, the State (acting through DPC) agrees to buy and transfer to the Regional Entity the freehold property located at 1 Edward Road, Utaakarra (Geraldton) to set up the Corporate Headquarters for the Regional Entity.

If the State is unable to buy that property within six months after this Agreement commences, the Regional Entity may identify and buy another property that is suitable for use as Regional Entity's Corporate Headquarters and the State will pay up to \$900,000 towards the purchase price.

11.1 Definitions

In this clause 11:

Property means Lot 106 on Deposited Plan 77054 and being the whole of the land described in Certificate of Title Volume 2875 Folio 597 (PIN 12084503), located at 1 Edward Road, Utaakarra WA 6530.

Purchase has the meaning set out in clause 11.2(b).

Transfer means a transfer of the Property in a form approved by the Registrar under the TLA from the State to the Regional Entity, which in substance and form is acceptable to Landgate for the purposes of registration under the TLA.

State means the State, acting through DPC.

11.2 Purchase of Property

- (a) The parties acknowledge that the State is not currently the owner of the Property.
- (b) On and from the Trust Effective Date, the State will purchase the Property on reasonable terms acceptable to the State, including that the purchase price, determined taking into account all costs of the purchase (including stamp duty and other adjustments), is no more than \$900,000 (inclusive of GST) (**Purchase**).

11.3 Transfer of Property

- (a) Subject to completing the Purchase, and subject to and in accordance with this clause 11.3, the State will transfer the Property as an estate in fee simple to the Regional Entity for use as the Corporate Headquarters.
- (b) The Regional Entity acknowledges and agrees that:
 - (1) no warranty or representation has been given or made to the Regional Entity or to anyone on their behalf, by the State, or any agent, employee or contractor of the State or any other person on the State's behalf as to the condition or state of repair of the Property or any part of the Property or of the improvements or any part of the improvements on the Property;
 - (2) the Property is transferred as it stands with all existing faults, defects or characteristics whether they are apparent or ascertainable on inspection or not and without any obligation on the State to disclose or particularise any faults, defects or characteristics known to the State;
 - (3) the Regional Entity is deemed to accept the condition of the Property as per the Property Condition Report undertaken in July 2019 by Eastman Poletti Sherwood Architects; and
 - (4) the State will not be liable under any circumstances to make any allowance or compensation to the Regional Entity for the exclusion of warranties or representations made in this clause 11.3 or for any fault, defect or characteristic in the Property.
- (c) The transfer of the Property in accordance with this clause 11.3 will be effected as follows:
 - (1) within 60 Business Days after completing the Purchase, the State will deliver to the Regional Entity a Transfer in relation to the Property for execution;
 - (2) the Regional Entity must execute the Transfer and return it to the State within 40 Business Days of receiving the Transfer

from the State under clause 11.3(c)(1), provided that this timeframe may be extended by mutual agreement of the Regional Entity and the State in writing;

- (3) within 30 Business Days of receiving a Transfer which has been duly executed by the Regional Entity, the State must arrange for the Transfer to be executed, endorsed with duty and lodged for registration under the TLA.
- (d) For the avoidance of doubt, the State will be responsible for payment of any stamp duty in relation to the transfer of the Property in accordance with clause 32.

11.4 Alternate property

- (a) If the State is unable to complete the Purchase on terms reasonably acceptable to the State within six months after the Conclusive Registration Date, the Regional Entity may identify another property available for purchase that is suitable for use as the Corporate Headquarters.
- (b) If the State agrees that the property identified by the Regional Entity is suitable for use as the Corporate Headquarters, and the Regional Entity purchases that property, the State will pay, on behalf of the Regional Entity, up to \$900,000 towards the purchase price.

11.5 Remaining funds

- (a) In this clause 11.5, the **remainder** is the amount that is \$900,000 less:
 - (1) the amount paid on behalf of the Regional Entity for the purchase of an alternate property under clause 11.4(b); or
 - (2) the purchase price of the Property, determined taking into account all costs for the Purchase, including any amounts paid for adjustments for rates, taxes and outgoings, stamp duty, and any other costs of the Purchase,
 as the case may be.

- (b) If the purchase price of the Property or the alternate property is less than \$900,000, the State will pay to the Regional Entity the remainder within 60 Business Days of the registration of the transfer of the Property under clause 11.3 or the completion of the purchase of an alternate property under clause 11.4, as the case may be, subject to the Regional Entity providing to the State an invoice for the amount of the remainder.
- (c) The Regional Entity must use any amount paid to it under clause 11.5(b) for the purpose of upgrading or maintaining the Property or any alternate property (as applicable) for use as the Corporate Headquarters.

11.6 Use of property

On and from the transfer to the Regional Entity of the Property or the purchase of an alternate property by the Yamatji Nation under clause 11.4 the Regional Entity will establish all or any part of the Property or the alternate property (as the case may be) as the Corporate Headquarters.

12. BUSINESS DEVELOPMENT UNIT

In this clause:

- *the State (acting through DPIRD) and the Regional Entity agree to work together to design and establish a Business Development Unit to help Yamatji people or Yamatji companies set up new businesses or improve existing businesses;*
- *the State agrees to fund the Business Development Unit, to the value of \$5 million, through another agreement, called the “BDU Project Agreement”, to be entered into between the Regional Entity, the Yamatji Nation Economic Development Fund and the State;*
- *the State agrees to provide additional funding for the Business Development Unit over a period of 5 years; and*
- *funding under this clause will be delivered to the Trustee of the Charitable Trust, on behalf of the Yamatji Nation.*

12.1 Definitions

In this clause 12:

- (a) **Business Development Unit** means the Business Development Unit established in accordance with clause 12.3 of this Agreement;
- (b) **BDU** means Business Development Unit;
- (c) **BDU Project Agreement** means the project agreement substantially in the form attached at Schedule 5 of this Agreement as may be amended in accordance with this clause 12 and as executed by the parties to the BDU Project Agreement;
- (d) **State** means the State, acting through DPIRD.
- (e) **Yamatji Business** has the meaning set out in the Trust Deed; and
- (f) **Yamatji Entities** means the Regional Entity, Aboriginal Corporation, Economic Arm and Yamatji Trustee Company.

12.2 Co-design of Business Development Unit

The Regional Entity and the State, through the Implementation Committee or the relevant Working Group established under clause 19.2, will work together to co-operatively design a BDU to operate in the Agreement Area with the purpose of providing:

- (a) business incubation support for Yamatji Businesses and Yamatji Entities;
- (b) support to improve an existing business, support businesses to leverage and access finance, and link local Yamatji Businesses to regional procurement and partnership opportunities; and
- (c) where available, links to training opportunities connected to programs currently administered by the Department of Education, the Jobs and Skills Centre within the Department of Training and Workforce Development, the Small Business Development Corporation and the rehabilitation programs of the Department of Justice.

12.3 Design elements

- (a) The Regional Entity and the State may agree the more particular objectives of the BDU.
- (b) The Parties agree that some key design aspects of the BDU include:
 - (1) a business support provider panel is to be established by the BDU comprising providers with the expertise to provide business support services to clients of the BDU;
 - (2) business support providers to be required to prepare a scope of support and associated cost of support for each client of the BDU;
 - (3) each client (who may be an individual or a corporation) of the BDU will have an annual business support ceiling; and
 - (4) a start-up package is designed to assist in providing a flexible source of small capital funds to pay for barriers to start up.
- (c) The Parties agree that the design will include the development of a plan for the establishment of the BDU to be implemented by the Regional Entity to deliver:
 - (1) documented governance and decision making processes for the BDU;
 - (2) administrative support to the BDU;
 - (3) recruitment, induction and mentoring of staff for the BDU;
 - (4) business support procedures, guidelines, human resources and risk management policies;
 - (5) checklists and business support systems for use by front line staff in the initial viability assessment of client ideas; and
 - (6) systems for the assessment of quality of work (and value for money) of business support providers.

12.4 Establishment

- (a) The Regional Entity will establish the BDU in accordance with the design developed cooperatively with the State.
- (b) The initial design and establishment of the BDU must be completed within 24 months of the Trust Effective Date.

12.5 BDU Project Agreement

- (a) On and from the Trust Effective Date and completion of the initial design and establishment of the BDU in accordance with clause 12.3, the State will provide funds of \$5 million for the operation of the BDU to the Trustee of the Charitable Trust in accordance with the BDU Project Agreement.
- (b) Within 30 Business Days after the later of:
 - (1) the Trust Effective Date; and
 - (2) the completion of the initial design and establishment of the BDU in accordance with clause 12.3,
 the State and the Regional Entity will prepare and execute, and the Regional Entity will procure the Trustee of the Charitable Trust to execute, the BDU Project Agreement.
- (c) The Parties acknowledge and agree that it may be necessary over time to amend the terms of the BDU Project Agreement to reflect changing circumstances or the design of the BDU, and accordingly the BDU Project Agreement may be amended by the State and the Regional Entity without reference to the other Parties to this Agreement.

13. MINING REVENUE STREAM

In this clause the State agrees to provide the Trustee of the Charitable Trust, on behalf of the Yamatji Nation, with annual rent from mining tenure in the Agreement Area for 10 years between 1 July 2022 and 30 June 2032.

13.1 Definitions

In this clause:

Annual Payment Calculation means the Annual Rental Amount that will be calculated on 1 July in each Mining Revenue Stream Year (**Calculation Date**) based on:

- (a) those Mining Tenements that are live; and
- (b) the proportion of those Mining Tenements located within the Agreement Area on the Calculation Date.

Annual Rental Amount means an amount payable which is equivalent to 35% of the total Mining Tenement Rent received by DMIRS (less any Refunds) for each Mining Revenue Stream Year, except that for any Mining Tenement that is not wholly within the Agreement Area, the Rent for that Mining Tenement used to calculate the Annual Rental Amount will be pro-rated to reflect the proportion of the Mining Tenement located within the Agreement Area. For example, if 20% of the total area of a particular Mining Tenement is within the Agreement Area for a Mining Revenue Stream Year, then only 20% of the Rent received by DMIRS (less any Refunds) for that Mining Tenement for that particular Mining Revenue Stream Year will be used to calculate the Annual Rental Amount.

Approved Use means the purposes of the BDU as described in clause 12.3 of this Agreement and in the BDU Project Agreement, where up to 10% of the Annual Rental Amount may be used for the administration of the BDU.

Government Agreement has the same meaning as given in section 2 of the *Government Agreements Act 1979* (WA).

Mining Regulations means the Mining Regulations 1981 (WA).

Mining Revenue Stream Year means each of the 10 Financial Years between 1 July 2022 to 30 June 2032, as described in the table in Item 1 of Schedule 6.

Mining Tenement has the same meaning given in clause 1.2.

Mining Tenement Rent means the annual rent of a Mining Tenement that is paid by the holder of the Mining Tenement to DMIRS to meet its rental obligations as set out in the applicable Mining Tenement and in the Mining Act and Mining Regulations (as may be amended by an applicable Government Agreement).

Refunds means an amount of Mining Tenement Rent that is refunded to the holder of a Mining Tenement as may be required by the conditions of the Mining Tenement, the Mining Act or the Mining Regulations.

State means the State, acting through DMIRS.

13.2 Payment

- (a) On and from the Trust Effective Date, within 60 Business Days of the end of each Mining Revenue Stream Year (or such longer period as may be reasonably required by the State), the State will pay the Annual Rental Amount for that Mining Revenue Stream Year via electronic funds transfer:
 - (1) to the account nominated by the Trustee of the Charitable Trust for Mining Revenue Stream Year 1 through to Year 5; and
 - (2) to the account nominated by the Regional Entity for Mining Revenue Stream Year 6 through to Year 10.
- (b) The State will provide a written statement to accompany each payment of the Annual Rental Amount detailing how the Annual Rental Amount has been calculated. DMIRS will comply with any reasonable request from the BDU or Regional Entity (as applicable), made within 45 Business Days after receipt of the original written statement, for further information or copies of supporting documents regarding the calculation of the Annual Rental Amount. The original written statement, and any supplementary information provided by DMIRS upon request, is Confidential Information for the purposes of clause 28 of this Agreement.
- (c) Subject to clause 13.2(d) if the BDU or the Regional Entity (as applicable) wish to query or dispute the Annual Rental Amount paid to it or the basis for the payment under clause 13.2(a), the BDU or the Regional Entity (as applicable) may refer its query or dispute to the Implementation Committee established under clause 19.2 for consideration.

- (d) The BDU and the Regional Entity have no right to challenge or object to:
 - (1) the amount of Mining Tenement Rent payable by a Mining Tenement holder or that is paid to DMIRS;
 - (2) any action that may be undertaken to collect any unpaid Mining Tenement Rent (including taking no action);
 - (3) the calculation of the pro-rata percentage of Mining Tenement Rent from Mining Tenements that are only partially within the Agreement Area;
 - (4) the calculation of any refunds of Mining Tenement Rent or other variations to the Mining Tenement Rent under the Mining Act and Mining Regulations (as may be amended by an applicable Government Agreement); or
 - (5) any decision in respect of the grant, renewal, forfeiture or surrender of any Mining Tenement, or the conditions imposed on any Mining Tenement, except where a right to challenge or object to any such decision or conditions is specifically provided for in, and is carried out under, the Mining Act and Mining Regulations.

13.3 Use of funds

- (a) The BDU may only use the Annual Rental Amount it receives under this clause 13 for the Approved Use and subject to the terms of the BDU Project Agreement as if the Annual Rental Amount constitutes Funds as defined in that BDU Project Agreement.
- (b) The Regional Entity may use the Annual Rental Amount it receives under this clause 13 for any purpose consistent with its constitution and other governance arrangements.

13.4 Reporting

- (a) The BDU must provide the reports required in the BDU Project Agreement in respect of the Annual Rental Amount as if the Annual

Rental Amount constitutes Funds as defined in that BDU Project Agreement.

- (b) The State is not obliged to enquire as to the manner in which the Regional Entity applies the Annual Rental Amount, or as to the members or beneficiaries of the Regional Entity in receipt of the Annual Rental Payment.

14. TOURISM DEVELOPMENT

In this clause the State (acting through the MWDC) agrees to:

- *provide funding to the Trustee of the Charitable Trust, on behalf of the Yamatji Nation, for facilities at Lucky Bay and ongoing management of the Lucky Bay area, to the value of \$3.47 million over 5 years, through another agreement called the “Tourism Project Agreement”, to be entered into between the Regional Entity and MWDC; and*
- *provide funding to the Trustee of the Charitable Trust, on behalf of the Yamatji Nation, for infrastructure upgrades in the carpark and viewing area at Pink Lake and future management of the Pink Lake area, to the value of \$5.45 million over 10 years, in partnership with the MWDC, Shire of Northampton, City of Greater Geraldton, ILSC, and DPLH.*

14.1 Definitions

In this clause: **Allocation, Land Assembly, Management Order, Management Order Deed, and Reserve Allocation** have the same meaning as in the YLE Strategy.

Lucky Bay Land means the land described as the 'Lucky Bay Land' in Item 1 of Schedule 7, and as shown indicatively on the map in Item 2, Part A of Schedule 7.

Lucky Bay Management Plan means the management plan for the Lucky Bay Land developed and approved in accordance with Item 3 of Schedule 7 and section 49 of the LA Act.

Pink Lake Land means the land described as the 'Pink Lake Land' in Item 1 of Schedule 7, and as shown indicatively on the map in Item 2, Part B of Schedule 7.

Pink Lake Management Plan means the management plan for the Pink Lake Land developed and approved in accordance with Item 3 of Schedule 7 and section 49 of the LA Act.

Pink Lake Master Plan means the plan developed by the Pink Lake Working Group in relation to the development of the Pink Lake area.

Pink Lake Working Group is a working group chaired by the MWDC and comprising the Regional Entity, Shire of Northampton, City of Greater Geraldton, ILSC and DPLH to develop the Pink Lake Master Plan.

State means the State acting through the MWDC.

Tourism Project Agreement means the project agreement substantially in the form attached at Schedule 5 of this Agreement as may be amended in accordance with this clause 14 and as executed by the parties to the Tourism Project Agreement.

14.2 Tourism Project Agreement for Lucky Bay Land upgrades and management

- (a) On and from the Trust Effective Date, the MWDC will provide funds totalling \$3.47 million (indexed to CPI) over five years to the Trustee of the Charitable Trust for development of facilities at, and future management of, the Lucky Bay Land in accordance with the Tourism Project Agreement.
- (b) Within 30 Business Days after the Trust Effective Date, the State and the Regional Entity will prepare and execute, and the Regional Entity will procure the Trustee of the Charitable Trust to execute, the Tourism Project Agreement.
- (c) The Parties acknowledge and agree that it may be necessary over time to amend the terms of the Tourism Project Agreement to reflect changing circumstances, and accordingly the Tourism Project

Agreement may be amended by the MWDC and the Regional Entity without reference to the other Parties to this Agreement.

14.3 Care, control and management of Lucky Bay Land

The process for conferring a Management Order on the PBC in respect of the Lucky Bay Land will be in accordance with clause 4 of Item 3 of Schedule 7.

14.4 Approval of the Lucky Bay Management Plan

The process for approving the Lucky Bay Management Plan will be in accordance with clause 5 of Item 3 of Schedule 7.

14.5 Funds for upgrading facilities and future management of Pink Lake Land

On and from the Trust Effective Date and the development of the Pink Lake Management Plan in clause 14.7, the MWDC will pay the Trustee of the Charitable Trust a total of \$5.45 million (indexed to CPI) over 10 years to develop facilities at, and future management of, the Pink Lake Land in accordance with the Pink Lake Master Plan.

14.6 Development of the Pink Lake Master Plan

- (a) The Parties acknowledge that the Pink Lake Working Group, chaired by the representative of the MWDC, will develop and agree a Pink Lake Master Plan.
- (b) The Parties acknowledge that the intention of the Pink Lake Working Group is to agree a Pink Lake Master Plan that will include provision for the following matters:
 - (i) resolving immediate issues including a lack of visitor parking, damage to vegetation caused by a lack of signage, pathways and viewing points, and littering;
 - (ii) detail the works to upgrade the parking lot and viewing area for the lake to a sufficient standard to accommodate large numbers of visitors to the Pink Lake Land; and
 - (iii) detail other works for immediate actions, longer term infrastructure and ongoing management and maintenance;

- (iv) who will be responsible for implementing different aspects of the Pink Lake Master Plan and who will be responsible for the expenditure and acquittal of different components of the funding referred to in clause 14.5;
- (v) the works and actions to be undertaken in accordance with the Pink Lake Master Plan and the components of the funding referred to in clause 14.5 that are to be applied to those works or actions and in what timeframe; and
- (vi) the funding referred to in clause 14.5 to be applied to the more immediate remedial work, including any further pre-construction planning, design, surveys and site studies, and upgrades to be completed within four years of creation of the Pink Lake Master Plan, with the remainder of that funding to be applied to maintenance and management of the Pink Lake Land for the period of 10 years.

14.7 Development of the Pink Lake Management Plan

The Pink Lake Management Plan will be developed in accordance with clause 7 of Item 3 of Schedule 7.

14.8 Care, Control and Management of the Pink Lake Land

The process for conferring a Management Order on the PBC in respect of the Pink Lake Land will be in accordance with clause 6 of Item 3 of Schedule 7.

14.9 Approval of the Pink Lake Management Plan

The process for approving the Pink Lake Management Plan will be in accordance with clause 7 of Item 3 of Schedule 7.

15. COMMERCIAL AND INDUSTRIAL LAND COMMITMENTS

In this clause the State (through DevelopmentWA) agrees to:

- *grant to the Trustee of the Charitable Trust, on behalf of the Yamatji Nation, certain interests in land or an option to take an interest in land in the Agreement Area;*

- *make an annual payment to the Trustee of the Charitable Trust over the life of the Oakajee Project; and*
- *work in partnership with the Regional Entity to provide guidance on opportunities to develop land in the Agreement Area.*

15.1 Lot 601

In this clause 15.1:

Lot 601 means Lot 601 (PIN 11844228) on Deposited Plan 62176 and being the whole of the land described in Certificate of Title Volume 2724 Folio 998 subject to the easement under section 167 of the PD Act for electricity purposes to the Electricity Networks Corporation.

Lot 601 Transfer means the instrument required to transfer Lot 601 to the Trustee of the Charitable Trust in a form acceptable for registration by Landgate, subject to signing by the relevant Parties.

Lot 601 Sale Contract means the document entitled “Contract of Sale” and set out in Item 2 of Schedule 8.

- (a) On and from the Trust Effective Date and subject to and in accordance with the Lot 601 Sale Contract, DevelopmentWA will transfer Lot 601 as an estate in fee simple to the Trustee of the Charitable Trust, as shown in the map in Item 1, Part B of Schedule 8.
- (b) Within 12 months after the Trust Effective Date, DevelopmentWA will deliver to the Trustee of the Charitable Trust a Lot 601 Transfer for execution.
- (c) Within 30 Business Days of the Trustee of the Charitable Trust receiving the Lot 601 Transfer under clause 15.1(b), or within an extended period agreed between the parties, the Trustee of the Charitable Trust must execute and deliver to DevelopmentWA the Lot 601 Transfer which has been duly executed by the Trustee of the Charitable Trust.
- (d) Within 30 Business Days of receiving the Lot 601 Transfer which has been duly executed by the Trustee of the Charitable Trust, or within an

extended period agreed between the parties, DevelopmentWA must arrange for the Lot 601 Transfer to be executed, endorsed with duty and lodged for registration under the TLA.

- (e) Within five Business Days of lodging the Lot 601 Transfer for registration under clause 15.1(d), DevelopmentWA will notify the Trustee of the Charitable Trust of the date on which the Lot 601 Transfer was lodged for registration and the document registration number shown on the Landgate lodging slip.
- (f) The Economic Arm must commence physical development of Lot 601 within five years of the Lot 601 Transfer being registered, unless an extension of time is agreed between the parties due to external factors, such as market conditions, in accordance with the Lot 601 Sale Contract.
- (g) If the Economic Arm does not:
 - (1) commence physical development of Lot 601 within five years of the Lot 601 Transfer being registered, or within any extended timeframe agreed under clause 15.1Error! Reference source not found.(f); or
 - (2) complete the physical development as soon as practicable after the date of commencement,

then DevelopmentWA may elect to re-purchase Lot 601 from the Trustee of the Charitable Trust in accordance with the Lot 601 Sale Contract.

15.2 Bluff Point

In this clause 15.2:

Bluff Point Exercise Notice means the document set out at Item 5 of Schedule 8.

Bluff Point Land means Lot 400 or any subdivided lot derived from Lot 400, as shown in the map in Item 1, Part C of Schedule 8.

Bluff Point Lot Payment means, subject to the Sale of any Bluff Point Land as referred to in this clause 15.2, an amount payable which is equal to 5% of the Bluff Point Purchase Price of the Bluff Point Land which is the subject of the Sale.

Bluff Point Purchase Price means the gross sales price.

Bluff Point Sale Contract means the document entitled “Contract of Sale” and set out in Item 3 of Schedule 8.

Lot 400 means Lot 400 (PIN 12081303) on Deposited Plan 77372 and being the whole of the land described in Certificate of Title Volume 2822 Folio 570 subject to Easement H63364 to Telstra Corporation Ltd for co-axial cable purposes, Memorial J749770 under the *Heritage of Western Australia Act* 1990 (WA) as to portion only and Memorial M359250 under the *Heritage of Western Australia Act* 1990 (WA) as to portion only.

Payment Conditions means the conditions set out in Item 7 of Schedule 8.

Sale includes transfer in fee simple, whether or not for valuable consideration and **Sell** has a corresponding meaning – relevant to determining Lot 400 Payment for 5% option.

- (a) DevelopmentWA grants the Trustee of the Charitable Trust an option to either:
 - (1) accept the transfer of Lot 400 in accordance with this clause and on the terms and conditions of the Bluff Point Sale Contract with the transfer to occur in the 2024-25 Financial Year, via transfer to the Trustee of the Charitable Trust; or
 - (2) enter into a development agreement with DevelopmentWA relating to Lot 400; or
 - (3) receive the Bluff Point Lot Payment.
- (b) The option under clause 15.2(a) is open for a term commencing 24 months following the Trust Effective Date and expiring after 48 months following the Trust Effective Date (**Option Term**).

- (c) The option under clause 15.2(a) is exercisable only during the Option Term by the Trustee of the Charitable Trust giving notice to DevelopmentWA in accordance with the Bluff Point Exercise Notice.
- (d) If upon exercise of the option in clause 15.2(a)(1) the Trustee of the Charitable Trust elects to accept the transfer of Lot 400:
 - (1) DevelopmentWA and the Trustee of the Charitable Trust will enter into the Bluff Point Sale Contract;
 - (2) the Trustee of the Charitable Trust will provide to DevelopmentWA two engrossed copies of the Bluff Point Sale Contract executed by the Trustee of the Charitable Trust as purchaser within 60 Business Days of the date of exercise of the option; and
 - (3) within 20 Business Days of the receipt of the documents referred to in clause 15.2(d)(2), DevelopmentWA will execute each copy of the Sale Contract and return one copy of the Sale Contract to the Trustee of the Charitable Trust.
- (e) The Bluff Point Sale Contract will apply to the transfer of Lot 400.
- (f) If upon exercise of the option in clause 15.2(a)(2) the Trustee of the Charitable Trust elects to enter into a development agreement with DevelopmentWA then the Parties agree to negotiate in good faith with a view to reaching agreement regarding the collaborative development of Lot 400.
- (g) If upon exercise of the option in clause 15.2(a)(3) the Trustee of the Charitable Trust elects to receive the Bluff Point Lot Payment then, if DevelopmentWA Sells any Bluff Point Land, DevelopmentWA will pay to the Trustee of the Charitable Trust (subject to and in accordance with the Payment Conditions) the Lot 400 Payment in respect of the Bluff Point Land which is the subject of the Sale.
- (h) If the Trustee of the Charitable Trust:
 - (1) does not exercise the option in clause 15.2(a) in the Option Term;
 - or

- (2) in exercising the option elects to accept the transfer of Lot 400 and does not execute the Bluff Point Sale Contract within the period of 60 Business Days specified in clause 15.2(d)(2); or
- (3) does not exercise the option to negotiate to enter into a development agreement with DevelopmentWA in the Option Term; or
- (4) exercises the option to negotiate to enter into a development agreement with DevelopmentWA but despite negotiations in good faith an agreement is not reached,

then DevelopmentWA may sell the Bluff Point Land and will make a Lot Payment to the Trustee of the Charitable Trust (in accordance with the Payment Conditions) for the Bluff Point Land under clause 15.2(g).

15.3 Narngulu Industrial Lot

In this clause 15.3:

Lot 10390 means Lot 10390 (PIN 607675) on Deposited Plan 206909 and being the whole of the land described in Certificate of Title Volume 2046 Folio 543, subject to Restrictive Covenant F230714 and Memorial N580406 under the *Contaminated Sites Act 2003 (WA)*, as shown in the map in Item 1, Part D of Schedule 8.

Narngulu Exercise Notice means the document set out at Item 6 of Schedule 8.

Narngulu Land means Lot 10390 or any subdivided lot derived from Lot 10390.

Narngulu Lot Payment means, subject to the Sale of any Narngulu Land as referred to in this clause 15.3, an amount payable which is equal to 5% of the Narngulu Purchase Price of the Land which is the subject of the Sale, but if the Narngulu Purchase Price is less than the value of the Narngulu Land as determined by DevelopmentWA's independent market valuation at the time of Sale by more than 10%, then the amount payable is equal to 5% of the value of the Land determined in the independent market valuation.

Narngulu Purchase Price means the gross sales price.

Narngulu Sale Contract means the document entitled “Contract of Sale” and set out in Item 4 of Schedule 8.

Payment Conditions means the conditions set out in Item 7 of Schedule 8.

Sale includes transfer in fee simple or amalgamate with adjoining land, whether or not for valuable consideration and **Sell** has a corresponding meaning – relevant to determining Lot Payment for 5% option.

- (a) DevelopmentWA grants the Trustee of the Charitable Trust an option to either:
 - (1) accept the transfer of Lot 10390 in accordance with this clause and on the terms and conditions of the Narngulu Sale Contract with the transfer to occur in the same Financial Year as the option is exercised or as soon as practicable; or
 - (2) receive the Narngulu Lot Payment.
- (b) The option under clause 15.3(a) is open for a term commencing on the Trust Effective Date and expiring after 24 months (**Option Term**).
- (c) The option under clause 15.3(a) is exercisable only during the Option Term by the Trustee of the Charitable Trust giving notice to DevelopmentWA in accordance with the Narngulu Exercise Notice.
- (d) If upon exercise of the option the Trustee of the Charitable Trust elects to accept the transfer of Lot 10390:
 - (1) DevelopmentWA and the Trustee of the Charitable Trust will enter into the Narngulu Sale Contract;
 - (2) the Charitable Trust will provide to DevelopmentWA two engrossed copies of the Narngulu Sale Contract executed by the Trustee of the Charitable Trust as purchaser within 20 Business Days of the date of exercise of the option; and
 - (3) within 20 Business Days of the receipt of the documents referred to in clause 15.3(d)(2), DevelopmentWA will execute each copy of the Narngulu Sale Contract and return one copy

of the Narngulu Sale Contract to the Trustee of the Charitable Trust.

- (e) The Transfer Conditions will apply to the transfer of Lot 10390.
- (f) If upon exercise of the option in clause 15.3(a)(1) the Trustee of the Charitable Trust elects to receive the Narngulu Lot Payment then, if DevelopmentWA Sells any Narngulu Land, DevelopmentWA will, subject to and in accordance with the Payment Conditions, pay to the Trustee of the Charitable Trust the Narngulu Lot Payment in respect of the Narngulu Land which is the subject of the Sale.
- (g) If the Trustee of the Charitable Trust:
 - (1) does not exercise the option in clause 15.3(a) in the Option Term; or
 - (2) in exercising the option elects to accept the transfer of Lot 10390 and does not execute the Narngulu Sale Contract within the period of 20 Business Days specified in clause 15.3(d)(2),
 then DevelopmentWA may sell the Narngulu Land and will make a Narngulu Lot Payment to the Trustee of the Charitable Trust (in accordance with the Narngulu Lot Payment Conditions) for the Land under clause 15.3(f).

15.4 Oakajee lots

In this clause 15.4:

Allocation, Land Assembly, Management Order, Management Order Deed and Reserve Allocation have the same meaning as in the YLE Strategy; and

Lots means the land described in Item 8 of Schedule 8, and shown as indicative Lots C, D and E on the map in Item 1, Part E of Schedule 8;

Part Lot 153 means the land described as 'Part Lot 153' in Item 8 of Schedule 8;

- (a) On and from the Trust Effective Date, DevelopmentWA will do all things necessary to ensure that the Lots are able to be transferred in

freehold title to the State and subsequently revested in the Crown in accordance with section 82 of the LA Act.

- (b) On and from the Trust Effective Date, and within 40 Business Days of the Lots being revested to the State, DPLH will prepare and offer to the PBC a draft Management Order and Management Order Deed, including any special conditions, with respect to the Reserve Allocation of the Lots (**Oakajee Conditions**).
- (c) In relation to Part Lot 153, reserved for the purpose described in clause 15.4(j), the Oakajee Conditions will include protocols proposed by DevelopmentWA for the repatriation of any remains found in Part Lot 153.
- (d) Within 40 Business Days of DPLH offering the Oakajee Conditions, pursuant to clause 15.4(b), the PBC must, by providing written notice to DPLH:
 - (1) accept the Oakajee Conditions, in which case clause 15.4(h) applies; or
 - (2) propose amendments to the Oakajee Conditions, in which case clause 15.4(e) applies.
- (e) If the PBC proposes amendments to the Oakajee Conditions, DPLH must, by providing written notice to the PBC within 30 Business Days of receipt of the proposed amendments:
 - (1) accept the proposed amendments, in which case clause 15.4(h) applies; or
 - (2) disagree with the proposed amendments, in which case clause 15.4(f) applies.
- (f) If DPLH disagrees with the PBC's proposed amendments to the Oakajee Conditions, then the PBC must, by providing written notice to DPLH within 30 Business Days of receiving the notice under clause 15.4(e)(2):
 - (1) accept the Oakajee Conditions originally offered pursuant to clause 15.4(b), in which clause 15.4(h) applies; or

- (2) refer the matter to the Land Working Group for potential resolution.
- (g) If the Trustee of the PBC fails to provide written notice to DPLH in accordance with clause 15.4(d) or 15.4(f), then DPLH:
 - (1) will no longer be under an obligation to quarantine the Lots; and
 - (2) is under no obligation to ensure the Lots remain available for Allocation to the PBC.
- (h) Within 40 Business Days of acceptance of the Oakajee Conditions pursuant to clause 15.4(d)(1), 15.4(e)(1) or 15.4(f)(1), DPLH must commence Land Assembly for the Lots.
- (i) Within 40 Business Days of the conclusion of Land Assembly for the Lots, DPLH must prepare and submit to the PBC the following documents as agreed:
 - (1) the Management Order Deeds;
 - (2) the Management Orders; and
 - (3) any ancillary documents.
- (j) The reserve purpose for:
 - (1) Part Lot 153 will be “Yamatji Repatriation of Remains” and
 - (2) The Lots other than Part Lot 153 will be “Yamatji Social, Cultural and/or Economic Benefit” or such other purpose as agreed between the State and the Regional Entity.
- (k) The PBC must execute and return the documents in clause 15.4(i) to DPLH within 40 Business Days of receipt.
- (l) Within 40 Business Days of receiving all relevant executed documents from the PBC in accordance with clause 15.4(k), DPLH will arrange for execution and stamping (if necessary) of the documents, and lodge the documents for registration at Landgate.

- (m) Within five Business Days of lodging the documents pursuant to clause 15.4(l), DPLH will notify the PBC of the date on which the documents were lodged for registration and the document registration number shown on the Landgate lodging slip.
- (n) Where the PBC fails to deliver the duly executed documents to DPLH within the timeframe in clause 15.4(k), DPLH will provide the PBC with a written notice of a further 40 Business Days to return the executed documents to DPLH.
- (o) If the PBC fails to deliver the duly executed documents to DPLH within the additional 40 Business Days in clause 15.4(n), then DPLH:
 - (1) will no longer be under any obligation confer management of the Lots on the PBC; and
 - (2) is under no obligation to ensure the Lots remain available for Allocation to the PBC.
- (p) All timeframes in this clause may be extended by agreement of DPLH and the PBC.

15.5 Oakajee revenue stream

In this clause 15.55:

Account means the bank account details nominated by the Trustee of the Charitable Trust to be provided to DevelopmentWA before the first Annual Lease Payment is due.

Annual Lease Payment means an amount payable which is equal to 5% of the total Rent received by DevelopmentWA each Financial Year.

Industrial Lease means an industrial lease of Oakajee Project Land that is granted by DevelopmentWA (as lessor) to an industrial proponent (as lessee) who has an approved project proposal from DJTSI for industrial purposes.

Oakajee Project means the project that is planned for the strategic industrial estate located approximately 23km north of Geraldton for strategic and downstream processing industries, within the Special Control Area 1 as shown on the map in Item 1, Part F of Schedule 8.

Oakajee Project Land means the land owned by DevelopmentWA in the industrial core of the Oakajee Project that is zoned for heavy industrial use (approximately 1,134 ha), as shown on the map in Item 1, Part F of Schedule 8, as that Oakajee Project Land area may change from time to time through planning and rezoning processes. The Oakajee Coastal Area (including the Oakajee port) and the Buffer and Support Industry Areas in the Oakajee Project as shown on the map in Item 1, Part F of Schedule 8 are not Oakajee Project Land for the purposes of this Agreement.

Payment Conditions means the conditions set out in Item 7 of Schedule 8.

Rent means the amount of rent (exclusive of GST) received by DevelopmentWA from a lessee of an Industrial Lease that is payable while the Industrial Lease remains in effect, and subject to the conditions of, the applicable Industrial Lease. For the avoidance of doubt, rent will not include any component of a payment that relates to outgoings including but not limited to rates, charges, and levies payable to any local or other authority, land tax, GST or other tax, charges for waste disposal, power, telephone or other utilities, environmental monitoring, management fees paid to an external manager or any other charges, fees or expenses of a similar nature.

- (a) Within 30 Business Days from the end of each Financial Year, on and from the Trust Effective Date for the life of the Oakajee Project, DevelopmentWA must pay to the Trustee of the Charitable Trust, via the Account, the Annual Lease Payment received in the Financial Year in accordance with the Payment Conditions.
- (b) The Trustee of the Charitable Trust may use the Annual Rental Amount it receives under this clause 15.5 for any purpose consistent with its Trust Deed and other governance arrangements.
- (c) DevelopmentWA will provide a written statement to accompany payment of the Annual Lease Payment detailing how the Annual Lease Payment has been calculated. DevelopmentWA will comply with any reasonable request from the Trustee of the Charitable Trust made within 45 Business Days after receipt of the original written statement, for further information or copies of supporting documents regarding

the calculation of the Annual Lease Payment. The original written statement, and any supplementary information provided by DevelopmentWA upon request, is Confidential Information for the purposes of clause 28 of this Agreement.

- (d) Subject to clause 15.5(e) if the Trustee of the Charitable Trust wishes to query or dispute the Annual Lease Payment paid to it or the basis for the payment under clause 15.5(a), the Trustee of the Charitable Trust may refer its query or dispute to the Implementation Committee established under clause 19.2 for consideration.
- (e) The Yamatji Nation has no right to challenge or object to:
 - (1) the amount of Rent payable by a lessee of an Industrial Lease or paid to DevelopmentWA;
 - (2) any change to the Rent determined in accordance with the terms of the Industrial Lease (such as market rent reviews or construction rental discounts), as may be amended from time to time by the parties to the Industrial Lease;
 - (3) DevelopmentWA terminating an Industrial Lease or shortening its term for whatever reason; or
 - (4) DevelopmentWA's decision on who it will grant a lease to, or refusing to grant an Industrial Lease, for whatever reason.
- (f) For the avoidance of doubt, the Yamatji Nation acknowledges that DevelopmentWA as owner has the absolute right to determine all matters in respect of Oakajee Project Land, including:
 - (1) whether and to who to lease or sell Oakajee Project Land; and
 - (2) the amount of rent payable and the term of the lease.
- (g) The State is not obliged to enquire as to the manner in which the Trustee of the Charitable Trust applies the Annual Lease Payment.

15.6 Consultation on Development Opportunities

- (a) On request of the Government Partnership Committee, DevelopmentWA agrees to attend the forum and to provide guidance

to the Regional Entity and the Trustee of the Charitable Trust on development opportunities relating to the land parcels and other emerging opportunities in the Agreement Area.

- (b) For the avoidance of doubt, guidance pursuant to clause 15.6(a) will not include any financial or other advice, preparation of any feasibility study, business case or similar document (**Additional Matter**).
- (c) If DevelopmentWA agrees to be engaged and is engaged by the Regional Entity or the Trustee of the Charitable Trust to deliver any Additional Matter or any asset management or expert services to the Regional Entity or the Trustee of the Charitable Trust, such engagement will be the subject of DevelopmentWA's standard "fee for service" arrangement and not pursuant to this Agreement.

15.7 Batavia Coast Marina 2 Steering Committee

In this clause 15.7:

Batavia Coast Marina 2 Project means the redevelopment of land previously owned by the City of Greater Geraldton, MWDC, the Public Transport Authority of WA and DevelopmentWA into a six hectare precinct and includes Lot 601 as defined in clause 15.1.

Batavia Coast Marina 2 Steering Committee means the steering committee overseeing the Batavia Coast Marina 2 Project comprising representatives of the City of Greater Geraldton, MWDC and DevelopmentWA.

On and from the Conclusive Registration Date, DevelopmentWA will ensure that representatives from the Regional Entity are invited to join the Batavia Coast Marina 2 Steering Committee, to facilitate the participation of the Regional Entity in decisions associated with the Batavia Coast Marina 2 Project and ensure any development of the project is complementary with the development of Lot 601.

15.8 Assignment of State's Interests in Oakajee Project Land

- (a) In this clause **assignment** means an assignment, novation, transfer or any other disposal whatsoever.

- (b) Subject to clause 15.8(d), DevelopmentWA may assign all or part of its interests in the Oakajee Project Land, provided that the assignee executes a deed of assignment and assumption by which it agrees to assume the rights and obligations of DevelopmentWA under this Agreement to the extent of the interest assigned.
- (c) The Regional Entity is deemed to have consented to any such assignment under clause (b) and DevelopmentWA will provide the Regional Entity with a copy of the deed of assignment and assumption and the Regional Entity must execute and return the deed of assignment and assumption within 30 Business Days of receipt of it.
- (d) For the avoidance of doubt, if the Oakajee Project Land is assigned under this clause 15.8, then the obligations assigned must include the obligation to pay any ongoing Annual Lease Payments to the Trustee of the Charitable Trust under clause 15.5.

15.9 Amendment to terms of Exercise Notices, Sale Contracts and Payment Conditions

- (a) The Parties acknowledge and agree that:
 - (1) it may be necessary over time to amend the terms of the following documents to reflect changing circumstances:
 - (i) Bluff Point Exercise Notice (Item 5, Schedule 8);
 - (ii) Bluff Point Sale Contract (Item 3, Schedule 8);
 - (iii) Narngulu Exercise Notice (Item 6, Schedule 8)
 - (iv) Narngulu Sale Contract (Item 4, Schedule 8); and
 - (v) Payment Conditions (Item 7, Schedule 8).
 - (2) the documents referred to in clause 15.9(a)(1) may be amended by agreement between DevelopmentWA and the Trustee of the Charitable Trust without reference to any of the other Parties to this Agreement and any such amendments may be made without the need to simultaneously amend the documents in Schedule 8 attached to this Agreement.

- (b) For the avoidance of doubt, the Parties agree that clause 15.9(a) does not apply to the Lot 601 Sale Contract.

16. HOUSING ASSETS AND POTENTIAL LAND DEVELOPMENTS

In this clause, the State (acting through the Housing Authority) agrees to give the Trustee of the Charitable Trust, on behalf of the Yamatji Nation, certain real property assets, up to the value of \$15 million, including:

- *social housing;*
- *Government Regional Officer Housing properties; and*
- *potential land developments of land described as the “Karoo Lots” and “Beachlands Lots”.*

16.1 Definitions

In this clause 16:

Beachlands Lots means all of the parcels of land together described as the Beachlands Lots in Item 2 of Schedule 9 of the Agreement owned by the Housing Authority.

Building Condition Assessment means a property assessment of a nominated Housing Asset referencing the requirements of, and compliance with, the National Construction Code 2019 undertaken by a building surveyor appointed by the Housing Authority and registered under the *Building Services (Registration) Act 2011* (WA).

Category 1 Social Housing Properties means the Category 1 Social Housing Properties owned by the Housing Authority, the general particulars of which are set out in Part 2 of the Property Sale and Transfer Deed, and any 'like to like' substitutes of those properties in accordance with the terms of the Property Sale and Transfer Deed.

Category 2 Social Housing Properties means the Category 2 Social Housing Properties owned by the Housing Authority, the general particulars of which are set out in Part 2 of the Property Sale and Transfer Deed, and any 'like to like' substitutes of those properties in accordance with the terms of the Property Sale and Transfer Deed.

GROH Properties means the properties owned or deemed to be owned by the Housing Authority and leased as government employees' housing under the *Government Employees' Housing Act 1964* (WA), the general particulars of which are set out in Part 2 of the Property Sale and Transfer Deed, and any 'like to like' substitutes of those properties in accordance with the terms of the Property Sale and Transfer Deed.

Housing Act means the *Housing Act 1980* (WA).

Housing Assets means the pool of Category 1 Social Housing Properties, Category 2 Social Housing Properties and GROH Properties.

Karloo Lots means all of the parcels of land together described as the Karloo Lots in Item 2 of Schedule 9 of the Agreement owned by the Housing Authority.

Property Sale and Transfer Deed means the document attached at Item 1 of Schedule 9 to this Agreement.

Property Valuation Amounts means the fixed value attributed to each of the Housing Assets, the Karloo Lots and the Beachlands Lots, as agreed between the Regional Entity and the Housing Authority, as follows:

- (a) for each of the Housing Assets, the respective valuation amount itemised in Part 2 of the Property Transfer and Sale Deed;
- (b) for the Karloo Lots, a total value of \$1.4 million, regardless of whether the Karloo Lots are developed; and
- (c) for the Beachlands Lots, a total value of \$2.2 million, regardless of whether the Karloo Lots are developed.

Proposed Development Arrangements means the potential development arrangements set out in the table in Item 3 of Schedule 9 available to the Housing Authority to select to develop the Beachlands Lots or the Karloo Lots, or both, in accordance with this clause 16.

Treasurer means Treasurer of the State.

16.2 Property dealings

- (a) Subject to and in accordance with the terms of this clause 16 and the Property Sale and Transfer Deed, the Housing Authority will:
 - (1) transfer to the Trustee of the Charitable Trust certain nominated Housing Assets or the proceeds of sale (minus all fees and charges) from certain nominated Housing Assets; and
 - (2) grant to the Trustee of the Charitable Trust a nominated interest in, or in the development of, the Karloo Lots or Beachlands Lots, or both, or transfer the equivalent value from the proceeds of sale (minus all fees and charges) of the Karloo Lots or Beachlands Lots, or both,

up to a maximum fixed value of \$15 million (**Maximum Property Interest**).
- (b) The Maximum Property Interest must be made up of:
 - (1) no more than 45 Category 1 Social Housing Properties;
 - (2) no more than 30 Category 2 Social Housing Properties;
 - (3) no more than 10 GROH Properties; and
 - (4) no more than a 49% interest in any future housing, commercial or other development of the Karloo Lots or Beachlands Lots or both (as determined in accordance with clause 16.6),

(**the Allocation**).

16.3 Property Valuations

- (a) The value of the Housing Assets, Beachlands Lots and Karloo Lots to be used to calculate the Maximum Property Interest will be the Property Valuation Amounts.
- (b) The Regional Entity and the Housing Authority agree and acknowledge:

- (1) the value of each of the properties that comprise the Housing Assets, and the value of the Karloo Lots and the Beachlands Lots, are fixed at the Property Valuation Amounts;
- (2) the Property Valuation Amounts represent a fair and reasonable approximation of the actual value of the Housing Assets, the Karloo Lots and the Beachlands Lots;
- (3) there will be no further valuations of any of the Housing Assets, or the Beachlands Lots or Karloo Lots, undertaken and no variations to the Property Valuation Amounts; and
- (4) no other amounts or valuations will be used to calculate the Maximum Property Interest.

16.4 Nomination process

- (a) As soon as reasonably practicable after, but within 12 months of, the Trust Effective Date, the Regional Entity will give the Housing Authority written notice of:
 - (1) the Housing Assets that it wishes to take the proceeds or sale from, or have transferred to it; and
 - (2) the percentage interest in any potential development of either or both of the Karloo Lots and Beachlands Lots,
 up to but not exceeding the Maximum Property Interest, and subject to the Allocation (**Nomination**).
- (b) Within six months of receiving the Nomination (or such later time as may be reasonably required), the Housing Authority must:
 - (1) arrange for a Building Condition Assessment of each of the Housing Assets nominated by the Regional Entity; and
 - (2) provide a copy of the report of the Building Condition Assessment to the Regional Entity once available.
- (c) Within 3 months of having received the Building Condition Assessment reports for all of the nominated Housing Assets, the Regional Entity must advise the Housing Authority if, based on the

Building Condition Assessment report, it elects to remove any of the Housing Assets from its Nomination and, if so, the Housing Assets it wishes to nominate to replace any Housing Assets removed from the Nomination (**Nominated Replacement**).

- (d) The Housing Authority must comply with clauses 16.4(b)(1) and 16.4(b)(2) in respect of any Nominated Replacement as soon as it is reasonably able to do so.
- (e) Following receipt of any Building Condition Assessment report for any Nominated Replacement, the Regional Entity must give the Housing Authority its final nomination of:
 - (1) the Housing Assets that it wishes to take the proceeds or sale from, or have transferred to the Trustee of the Charitable Trust; and
 - (2) the percentage interest in any potential development of each of the Karloo Lots and Beachlands Lots,
 up to but not exceeding the Maximum Property Interest, and subject to the Allocation (**Final Nomination**).
- (f) If the Regional Entity is unable to make a Nomination under clause (a), a Nominated Replacement under clause (c), or a Final Nomination under clause (e) for whatever reason:
 - (1) the Parties will refer the matter to the Implementation Committee, or the relevant Working Group established under clause 19.2, for consideration; and
 - (2) the Housing Authority agrees that it will negotiate in good faith with the Regional Entity in order for the Regional Entity to make a Nomination, Nominated Replacement or Final Nomination.
- (g) If no such Final Nomination is made within two years of the Trust Effective Date, the Housing Authority will make the Final Nomination, taking into account the Nomination and any Nominated Replacements, the reasons why the Regional Entity is unable to make a Final

Nomination as advised during good faith negotiations and any other factors it considers relevant.

- (h) Once a Final Nomination is made in accordance with this clause 16.4, the Housing Authority will:
 - (1) undertake the transfer or sale of the Housing Assets in the Final Nomination (or any 'like to like' substitutes of those nominated Housing Assets) subject to and in accordance with the Property Sale and Transfer Deed; and
 - (2) grant the nominated interest in, or in any potential development of, the Karloo Lots or Beachlands Lots, or both, or transfer the equivalent value from the proceeds of sale (minus all fees and charges) of the Karloo Lots or Beachlands Lots, or both, in accordance with clause 16.6 below.

16.5 Execution of Property Sale and Transfer Deed

- (a) The transfer or sale of the Housing Assets in accordance with this clause 16.5 will be effected as follows:
 - (1) within six months after the Final Nomination, the Housing Authority must prepare and submit to the Trustee of the Charitable Trust and the Regional Entity, the Property Sale and Transfer Deed for execution;
 - (2) the Trustee of the Charitable Trust and the Regional Entity must execute the Property Sale and Transfer Deed and return it to the Housing Authority within 40 Business Days of receiving it from the Housing Authority, provided that this timeframe may be extended by mutual agreement of the Trustee of the Charitable Trust, the Regional Entity and the Housing Authority in writing;
 - (3) the Housing Authority must execute the Property Sale and Transfer Deed, have it stamped (if applicable), and provide a copy of the fully executed (and stamped if necessary) Property Sale and Transfer Deed to the Trustee of the Charitable Trust

and the Regional Entity within a reasonable time of receiving it.

- (b) The Parties acknowledge and agree that:
 - (1) it may be necessary over time to amend the terms of the Property Sale and Transfer Deed to reflect changing circumstances; and
 - (2) the Property Sale and Transfer Deed may be amended by agreement between the Housing Authority, the Trustee of the Charitable Trust and the Regional Entity without reference to any of the other Parties to this Agreement and any such amendments may be made without the need to simultaneously amend the Property Sale and Transfer Deed attached to this Agreement.

16.6 Karloo Lots and Beachlands Lots potential development

- (a) This clause 16.6 only applies if the Final Nomination includes a percentage interest in any future housing, commercial or other development of the Karloo Lots or Beachlands Lots (or both).
- (b) While the decisions on whether to sell or develop either or both of the Karloo Lots or Beachlands Lots, when to sell or develop, and what any development will comprise and how it will be developed, is at the absolute discretion of the Housing Authority, the Housing Authority will regularly consult with the Regional Entity about the status of any potential development, through the Implementation Committee, established under clause 19.2.
- (c) If and when it makes a decision to develop the Karloo Lots or Beachlands Lots, the Housing Authority will notify the Regional Entity in writing of its decision and consult with the Regional Entity before deciding on the Proposed Development Arrangement.
- (d) The Housing Authority will negotiate binding agreements that give effect to the Proposed Development Arrangement on terms reasonably

acceptable to the Regional Entity and any third party involved in the proposed development.

- (e) The Housing Authority may proceed with any proposed development of the Karloo Lots or Beachlands Lots notified to the Regional Entity in accordance with clause 16.6(c) despite the Regional Entity not agreeing to the terms of the binding agreement or agreements that give effect to the Proposed Development Arrangement, in which case the Housing Authority will give effect to the relevant nomination in any such way as it sees fit.
- (f) If, within 9 years of the Trust Effective Date, the Housing Authority has not made a decision to develop the Karloo Lots or Beachlands Lots, or both, the Housing Authority will notify the Regional Entity in writing and either, at its discretion in consultation with the Regional Entity:
 - (1) transfer the nominated percentage as set out in the Final Nomination in the Karloo Lots or Beachlands Lots, or both, as a share in the relevant Lots as tenants-in-common; or
 - (2) transfer the nominated percentage of the proceeds of sale minus all fees and charges from the Karloo Lots or Beachlands Lots, to the Regional Entity within six months of providing the notice under this clause 16.6(f) or such longer period as may be reasonably required.
- (g) The breakdown of the shares in the Karloo Lots, or Beachlands Lots, or both, to be transferred in clause 16.6(f)(1), will be negotiated in good faith between the Regional Entity and Housing Authority and, where no such breakdown can be agreed, will be determined by the Housing Authority.
- (h) Notwithstanding any other provision in this clause 16, the Housing Authority may at its absolute discretion at any time dispose of all or any part of its interest in the Karloo Lots or Beachlands Lots, or both, without developing the Karloo Lots or Beachlands Lots, and transfer the nominated percentage of the proceeds of sale minus all fees and charges to the Regional Entity.

- (i) Any sale by the Housing Authority of any of its interests in the Beachlands Lots or the Karloo Lots will be on the terms that the Housing Authority in its absolute discretion sees fit, including when to sell, how long to market, the price and apportionment of risk and liability.

16.7 Completion of property dealings

- (a) The Housing Authority agrees to complete the relevant transactions in accordance with this clause 16 and as set out in the Final Nomination, within 10 years of the Trust Effective Date.
- (b) The Regional Entity acknowledges that the Trustee of the Charitable Trust is not entitled to be paid for any remaining value up to the Maximum Property Interest that has not been transferred, within 10 years of the Trust Effective Date.

16.8 Entitlement to deal with Housing Properties

- (a) Notwithstanding the terms of this clause 16, the Housing Authority retains the right to deal with Housing Properties, the Karloo Lots and the Beachlands Lots including to sell, lease or mortgage in its absolute discretion.
- (b) The Regional Entity acknowledges that the transfer of any GROH Properties in the Final Nomination is subject to the particular options of the Housing Authority to lease back any GROH Properties and be subject to a first right of refusal to purchase any GROH Properties in favour of the Housing Authority, as detailed in clauses 16 of the Property Sale and Transfer Deed.
- (c) The Regional Entity has no right to challenge or object to:
 - (1) the Property Valuation Amounts, the Maximum Property Interest or the Allocation;
 - (2) the terms of sale or transfer of the Housing Assets;
 - (3) any 'like to like' substitutes of any Housing Assets, whether included in the Final Nomination or not, as determined in accordance with the Property Sale and Transfer Deed;

- (4) any decision by the Housing Authority in respect of the development of the Karloo Lots or the Beachlands Lots, or both, including the decision not to develop, or to sell; and
- (5) the condition of any Housing Assets transferred to it and any deterioration of a Housing Asset that may have occurred between the Building Condition Assessment and settlement or that was not identified in the Building Condition Assessment report.

16.9 Ministerial consent

The Regional Entity acknowledges that:

- (a) any proposed transfer or sale of any Housing Assets, the Beachlands Lots or the Karloo Lots, is subject to, and will not proceed without, Ministerial consent in accordance with section 26 of the Housing Act;
- (b) any Proposed Development Arrangement where the Housing Authority would enter into a joint venture arrangement is subject to, and will not proceed without, Ministerial approval and on terms and conditions approved by the Treasurer in accordance with clause 12A of the Housing Act; and
- (c) any Ministerial consent and approval, and any Treasurer approval, may be given subject to conditions, restrictions, exceptions and reservations as the Minister or Treasurer thinks fit, or may be withheld in the Minister's or Treasurer's absolute discretion.

16.10 Related entities

- (a) The Regional Entity may request that its subsidiary or other related entity receives instead of it any benefit or entitlement in the Final Nomination under this clause 16, the Property Sale and Transfer Deed or any Proposed Development Arrangements.
- (b) The Housing Authority must consider and agree to the request unless it has reasonable grounds for refusing to do so.

17. STRATEGIC ABORIGINAL WATER RESERVES, TRAINING PACKAGE AND SITE RESTORATION

In this clause, the State (acting through the DPC and DWER) has agreed to:

- *reserve water for the exclusive use and benefit of members of Yamatji Nation, as a Strategic Aboriginal Water Reserve, through groundwater licences;*
- *provide \$20 million to the Trustee of the Charitable Trust, over 10 years, to carry out groundwater investigations to develop and manage the Strategic Aboriginal Water Reserve;*
- *provide funds to the Regional Entity, over 10 years, to engage with TAFE to develop a training package and establish a water monitoring business for Yamatji Nation members;*
- *fund a full time contract position of Aboriginal Liaison Officer for up to 5 years, to assist the Regional Entity to implement the terms of this clause 17; and*
- *provide funds to the Regional Entity, over 5 years, to fund a joint government/traditional owner program to identify, restore and protect cultural water sites.*

17.1 Strategic Aboriginal Water Reserves

- (a) In this clause, the State is the State acting through DPC and, where specified, DWER.
- (b) The State:
 - (1) recognises the spiritual relationship of the Yamatji Nation to water and the importance of access to water resources, including for economic development purposes;
 - (2) agrees, subject to clauses 17.1(b)(3) and 17.1(c), that DWER will manage the allocation of water in the Agreement Area to ensure that, from and including the Financial Year in which Conclusive Registration occurs, a quantity totalling 25

gigalitres per Financial Year, from the water resources identified in Table 1 of Item 1 of Schedule 10 (**Strategic Aboriginal Water Reserves**), is reserved for the use and benefit of members of the Yamatji Nation, including for use, trade, on-trade or lease to third parties;

(3) agrees that members of the Yamatji Nation may access the Strategic Aboriginal Water Reserves through water licences granted in accordance with:

- (i) the requirements of Schedule 1 to the RIWI Act; and
- (ii) any plans or policies for the management and allocation of water resources made by DWER (**Water Allocation Plans**) and applying in respect of the Agreement Area and the water resources identified in Item 1 of Schedule 10.

(c) The Parties agree that in order to manage the State's water resources into the future DWER may make science-based changes to:

- (1) allocation limits;
- (2) water reserves; and
- (3) licensed water entitlements,

provided the State advises the Regional Entity of such changes prior to the changes taking effect.

(d) The State further agrees that DWER will consult with the Regional Entity in respect of the development after the Execution Date, of any Water Allocation Plans intended to apply to the Agreement Area and the water resources identified in Item 1 of Schedule 10.

(e) For the avoidance of doubt, the water resources in Table 2 in Item 2 of Schedule 10 do not form part of the Strategic Aboriginal Water Reserves.

17.2 Groundwater investigations

(a) In this clause:

- (1) **Groundwater Investigations Project Agreement** means the project agreement substantially in the form attached at Schedule 5 of this Agreement as may be amended in accordance with this clause 17.2 and as executed by the parties to the Groundwater Investigations Project Agreement.
- (2) **State** means the State acting through DPC.
- (b) On and from the Trust Effective Date, the State will provide funds totalling \$20 million (indexed to CPI) over 10 years to the Trustee of the Charitable Trust in accordance with Schedule 4 and this clause 17 for the purpose of groundwater investigations in the Agreement Area to access the reserve through a water licence.
- (c) The Regional Entity will, or will procure the Trustee of the Charitable Trust to:
 - (1) provide the State with an invoice for payment of each instalment of the funds, at times and in amounts consistent with Schedule 4;
 - (2) use the funds only for the purpose referred to in clause 17.2(b); and
 - (3) provide the State with:
 - (i) annual progress reports, within 40 Business Days after the end of each financial year during which an instalment has been paid (other than the last instalment), detailing the expenditure of the funds and a summary of the groundwater investigations conducted during the financial year just ended;
 - (ii) a final report, within 90 days after the end of the financial year during which the last instalment is paid, detailing the expenditure of all of the funds and giving a summary of the fulfilment (or otherwise) of the particular objectives of the groundwater investigations for which the funds were provided; and

- (iii) other reports as reasonably requested by the State from time to time.
- (d) The State will pay each instalment of the funds within 20 Business Days of each invoice in accordance with clause 17.2(c)(1), by way of electronic funds transfer to the nominated bank account of the Trustee of the Charitable Trust.
- (e) The Regional Entity and the State acknowledge and agree that they:
 - (1) intend to incorporate the terms in this clause 17.2, and any additional terms which may be agreed, in a Groundwater Investigations Project Agreement to be entered into by 30 June 2020; and
 - (2) may need to review and amend that Groundwater Investigations Project Agreement over time to reflect changing circumstances.

17.3 Training package

- (a) In this clause:
 - (1) the State is the State acting through DPC and, where specified, DWER; and
 - (2) **Training Project Agreement** means the project agreement substantially in the form attached at Schedule 5 of this Agreement, for the purposes of:
 - (i) engaging TAFE to deliver training; and
 - (ii) to members of Yamatji Nation to develop accredited monitoring skills and purchase equipment,

so that members of the Yamatji Nation accredited through the training program may provide water monitoring services to DWER, other Government agencies and the private sector, as may be amended in accordance with this clause 17.3.
- (b) On and from the Trust Effective Date, the State will provide funds totalling \$454,027 (indexed to CPI) over 10 years to the Regional Entity in accordance with the Training Project Agreement.

- (c) By the later of:
 - (1) 30 Business Days after the Trust Effective Date; and
 - (2) 30 June 2020,

the State and the Regional Entity will prepare and execute the Training Project Agreement.
- (d) The Parties acknowledge and agree that it may be necessary over time to amend the terms of the Training Project Agreement to reflect changing circumstances, and accordingly the Training Project Agreement may be amended by the State and the Regional Entity without reference to the other Parties to this Agreement.
- (e) On and from the Conclusive Registration Date DWER may, subject to government procurement requirements, policies and performance, engage members of the Yamatji Nation accredited through the training program to provide water monitoring services with a combined value of up to \$900,000 (indexed to CPI) over 10 years.
- (f) The State agrees to fund the position of an Aboriginal liaison officer on contract engaged by DWER of 1.0 FTE from 1 July 2020 for up to 5 years to assist members of the Yamatji Nation to:
 - (1) economically develop water from the Strategic Aboriginal Water Reserves;
 - (2) manage contracts and consultation;
 - (3) navigate the environmental or water licensing processes; and
 - (4) co-ordinate the delivery of the Aboriginal Water Sites Restoration Project.

17.4 Aboriginal Water Sites Restoration Project

- (a) In this clause:
 - (1) the State is the State acting through DPC; and
 - (2) **Restoration Project Agreement** means the project agreement substantially in the form attached at Schedule 5 of this

Agreement, for the purposes of funding a joint State and Yamatji Nation program to identify, restore and protect water cultural sites, with the project, program and outcomes to be co-developed by the State and the Regional Entity through the Implementation Committee or the relevant Working Group established under clause 19.2, as may be amended in accordance with this clause 17.4 and as executed by the parties to the Groundwater Investigations Project Agreement referred to in clause 17.2.

- (b) Subject to the Conclusive Registration Date, the State will provide up to \$311,840 (indexed to CPI) over five years to the Regional Entity in accordance with the Restoration Project Agreement.
- (c) By the later of:
 - (1) 30 Business Days after the Conclusive Registration Date; and
 - (2) 30 June 2020,
 the State and the Regional Entity will prepare and execute the Restoration Project Agreement.
- (d) The Parties acknowledge and agree that it may be necessary over time to amend the terms of the Restoration Project Agreement to reflect changing circumstances, and accordingly the Restoration Project Agreement may be amended by the State and the Regional Entity without reference to the other Parties to this Agreement.

18. YAMATJI LAND ESTATE

In this clause, the Parties agree to work together to set up the “Yamatji Land Estate” by following the “Yamatji Land Estate Strategy” set out in Schedule 11.

The State (through DPLH) agrees to transfer to the Trustee of the Charitable Trust and the PBC, on behalf of the Yamatji Nation, certain parcels of land, offered by the State and considered by the TONT for the benefit of the Yamatji Nation.

Access to parcels of land subject to existing mining and petroleum operations will continue.

18.1 Establishment of the Yamatji Land Estate

- (a) In this clause, the State is the State acting through DPLH, except where otherwise specified.
- (b) The State acknowledges that the establishment of the Yamatji Land Estate is a fundamental part of this Agreement and is an important part in the achievement of sustainable economic, social and cultural outcomes for the Yamatji Nation.
- (c) The Parties agree to establish the Yamatji Land Estate by implementing the YLE Strategy in accordance with clause 18.2 and Schedule 11.

18.2 Yamatji Land Estate Strategy

- (a) The Parties agree that the YLE Strategy contains the Parties' arrangement in respect of the establishment and implementation of the Yamatji Land Estate.
- (b) The Parties further agree that the YLE Strategy in Schedule 11 to this Agreement may be amended by agreement between the State and the Regional Entity without reference to the other Parties.
- (c) For the avoidance of doubt:
 - (1) the implementation of the YLE Strategy, including the Allocation of land, including the AAPA and ALT Land, to the Yamatji Land Estate, is subject to all relevant State laws and policies including the Principal Acts; and
 - (2) the proposed use and development of land in the Yamatji Land Estate is subject to all relevant Commonwealth and State laws and policies.

18.3 Mining and Petroleum tenements

In this clause 18.3:

Affected Tenements means all mining leases, general purpose leases, miscellaneous licences, petroleum production licences, petroleum pipelines pending or granted as at 30 July 2019 that are currently on unallocated Crown Land and are proposed to be included into an LA Act Part 4 Reserve described in Item 1 of Schedule 12 to this Agreement.

Mining Conversion Application means an application for a grant of a mining lease under 74 of the Mining Act over an area of a Potential Conversion Tenement.

Potential Conversion Tenement means:

- (a) those exploration licences with a known resource as set out in Item 2 of Schedule 12 to this Agreement; or
- (b) those petroleum exploration permits with a petroleum discovery notification, on land proposed for LA Act Part 4 Reserves, as identified in Item 2 of Schedule 12 to this Agreement.

Reserve Allocation means the creation of reserves and the making of management orders in accordance with Part 4 of the LA Act and their conferral on the PBC with respect to that land, through the implementation of the YLE Strategy.

- (a) The Parties agree that the Minister for Mines and Petroleum will provide consent under section 24(5A) of the Mining Act or section 15A of the PGER Act (as applicable) for the relevant Affected Tenement:
 - (1) as soon as possible following the creation of a reserve under Part 4 of the LA Act; or
 - (2) simultaneously with the creation of a reserve under Part 4 of the LA Act.
- (b) The Parties agree that nothing in this Agreement affects the rights of the holders from time to time of the Affected Tenements to:
 - (1) access the Affected Tenements; or
 - (2) carry on mining pursuant to the Mining Act; or

- (3) explore for petroleum or geothermal energy resources pursuant to the PGER Act; or
 - (4) carry on operations for the recovery of petroleum and geothermal energy pursuant to the PGER Act; or
 - (5) continue operations and activities of a pipeline pursuant to the PP Act; or
 - (6) continue to access existing roads and tracks necessary to carry on mining or petroleum operations or necessary for the construction and/or operation of a petroleum pipeline,
- on the area of the Affected Tenements.

(c) In relation to any Affected Tenement:

- (1) where the PBC is requested by the Minister for Mines and Petroleum to provide a recommendation under section 24(5B) of the Mining Act with respect to an Affected Tenement, the PBC must make a written recommendation to the Minister for Mines and Petroleum that it agrees to the giving of consent under section 24(5A) of the Mining Act with respect to that Affected Tenement, within 20 Business Days of receiving the request; and
- (2) if the PBC fails to make the written recommendation within the required timeframe in clause 18.3(c)(1), the PBC is deemed to have made a recommendation for the purposes of section 24(5B) of the Mining Act that it does not object to the giving of the consent under section 24(5A) of the Mining Act.

(d) The Parties agree that:

- (1) Where a Mining Conversion Application has been made prior to 30 July 2019, a Reserve Allocation over the area of land the subject of the Mining Conversion Application will not occur, until such time as the Minister for Mines and Petroleum has determined whether or not to grant the Mining Conversion Application under section 71 of the Mining Act.

- (2) With respect to the Potential Conversion Tenements listed in Item 2 of Schedule 12, a Reserve Allocation will not occur for three years from 23 September 2019. If a mining lease, petroleum production licence or petroleum retention lease application is made within this three year period, a Reserve Allocation will not occur until the Minister for Mines and Petroleum has determined whether to grant the mining lease, petroleum production licence or petroleum retention lease.

18.4 Retention of Statutory Rights and Powers

- (a) The Allocation of land to the Yamatji Land Estate does not fetter the later exercise of any statutory rights, powers and duties including the:
 - (1) right to take land under Part 9 of the LA Act; or
 - (2) revocation of management orders.
- (b) In the event that:
 - (1) any part or whole of land in the Yamatji Land Estate is taken under Part 9 of the LA Act; or
 - (2) the Minister for Lands considers that revocation of a management order is in the public interest under section 50(2) of the LA Act; or

in order that the land may be used for a public work or a public purpose, the State must consult with the Regional Entity and seek to reach agreement on a monetary payment to compensate the Regional Entity for the loss of that benefit under this Agreement.
- (c) In the event that no agreement can be reached, the issue will be referred to the Government Partnership Committee established under clause 19.1.
- (d) For the avoidance of doubt, Part 10 of the LA Act applies to any part or whole of land in the Yamatji Land Estate which is taken under Part 9 of the LA Act.

18.5 Mining Rehabilitation Advisory Panel

Subject to the establishment of the Government Partnership Committee in clause 19, the State acting through the Government Partnership Committee will advise the Regional Entity of any published notices calling for expressions of interest in appointment as a member of the Mining Rehabilitation Advisory Panel (as established under the *Mining Rehabilitation Fund Act 2012* (WA)).

19. GOVERNMENT PARTNERSHIP COMMITTEE, IMPLEMENTATION COMMITTEE AND WORKING GROUPS

In this clause, the Parties agree to set up:

- *a “Government Partnership Committee” to make sure the Parties are communicating regularly and to make sure the Agreement is working;*
- *an “Implementation Committee” to make sure the Parties do what they say they will do under the Agreement; and*
- *Working Groups to deliver specific components of the Agreement.*

The parties have agreed on a “Terms of Reference” which explains how these groups will work. This document is set out in Schedule 13.

The Parties also recognise the importance of naming places within the Agreement Area and agree to work together through the Government Partnership Committee before giving a place a name.

19.1 Government Partnership Committee

The Parties agree to establish a Government Partnership Committee for the purpose of:

- (a) promoting the objectives of the Regional Entity;
- (b) fostering open communication between the State and the Regional Entity on matters relevant to meeting the objectives of the Regional Entity;
- (c) providing a forum through meetings, and subsidiary Implementation Committees and Working Groups as established in clause 19.2, for

both the Regional Entity and the State to share information and resolve issues (if any) arising out of meeting the objectives of the Regional Entity and any issues or opportunities the Regional Entity want to raise about the implementation of the Settlement,

in accordance with the Government Partnership Committee Terms of Reference in Schedule 13, including in respect of the purpose, membership and governance of the committee.

19.2 Implementation Committee and Working Groups

- (a) The Parties agree to establish an Implementation Committee for the purpose of ensuring the implementation of this Agreement, in accordance with Annexure A of Schedule 13 including in respect of the purpose, membership and governance of the committee.
- (b) The Implementation Committee will establish Working Groups, in accordance with Annexure B of Schedule 13, or as otherwise agreed between the State and the Regional Entity, to oversee the delivery of specific commitments under this Agreement.

19.3 Naming of places within Agreement Area

The State agrees:

- (a) that the naming of places is an important means of recognising the status, relationship and connection of the Yamatji Nation to their traditional land and waters;
- (b) to consult with the Regional Entity where reasonably possible, through the Government Partnership Committee, prior to deciding any new names of places within the Agreement Area, including by inviting the Regional Entity to propose, in writing to the State, any names for such places; and
- (c) the Government Partnership Committee is an ideal forum to facilitate engagement between the Regional Entity, the Geographic Names Committee and local government authorities to progress proposed changes following the Settlement.

20. YAMATJI CONSERVATION ESTATE

In the clause the Parties agree to set up a “Yamatji Conservation Estate” which means that the State (acting through DBCA) will manage certain land together with the Regional Entity. This is called “joint management”.

The State will also provide funding for the joint management and the creation of ranger positions.

20.1 Definitions

In this clause:

Adjacent Barnong National Park means the land identified as 'Adjacent Barnong National Park' in Item 1 of Schedule 14 and shown on Map 3 in Item 2 of Schedule 14.

Barnong Conservation Park means the land identified as 'Barnong Conservation Park' in Item 1 of Schedule 14 and shown on Map 3 in Item 2 of Schedule 14.

Barnong National Park means the land identified as 'Barnong National Park' in Item 1 of Schedule 14 and shown on Map 3 in Item 2 of Schedule 14.

Beekeepers Reserve means that portion of Reserve 24496, reserved under the LA Act for the purpose of 'Protection of Flora' within the Agreement Area, which is comprised of all of the lots as identified as 'Beekeepers Reserve' in Item 1 of Schedule 14.

Conservation Estate State Parties means the Minister for Lands, the Minister for Environment, the Conservation and Parks Commission and the DBCA CEO.

Existing Conservation Areas comprise:

- (a) **Beekeepers Reserve Area** means Beekeepers Reserve and any additions to Beekeepers Reserve identified as 'Beekeepers Reserve Area' in Item 1 of Schedule 14;

- (b) **Utcha Well Reserve Area** means Utcha Well Nature Reserve and any additions to Utcha Well Nature Reserve identified as 'Utcha Well Reserve Area' in Item 1 of Schedule 14; and
- (c) **Wandana Reserve Area** means Wandana Nature Reserve and any additions to Wandana Nature Reserve as identified as 'Wandana Reserve Area' in Item 1 of Schedule 14.

Existing Jointly Managed Areas means those areas identified as 'Existing Jointly Managed Areas' in Item 1 of Schedule 14 and shown on Map 1 in Item 2 of Schedule 14.

Karara Conservation Park means the land identified as 'Karara Conservation Park' in Item 1 of Schedule 14 and shown on Maps 6A, 6B and 6C in Item 2 of Schedule 14.

Mining Leases M59/596 and M59/650 means a portion of mining lease M59/596 and the whole of mining lease M59/650 granted under the Mining Act and shown on Map 6B at Item 2 of Schedule 14 and, in respect of those mining leases, any mining or other tenement applied for or granted in renewal, extension, modification, substitution or variation of that tenement and any tenement which may hereafter be in force or issued in lieu of or in relation to any of the same land the subject of those mining leases.

Mungada Ridge National Park means the land identified as 'Mungada Ridge National Park' in Item 1 of Schedule 14 and shown on Map 6 in Item 2 of Schedule 14.

New Conservation Park Areas comprise the land identified as 'New Conservation Park Areas' in Item 1 of Schedule 14 and shown on Map 1 in Item 2 of Schedule 14.

New National Park Areas comprise the land identified as 'New National Parks' in Item 1 of Schedule 14 and shown on Map 1 in Item 2 of Schedule 14.

Pre-Reserve Actions means the land assembly activities required to give effect to the New Conservation Park Areas, the New National Park Areas and the Existing Conservation Areas, which includes some or all of:

- (a) the continuation of existing Encumbrances and interests;

- (b) the creation of any new Encumbrances or interests;
- (c) amending responsible agencies;
- (d) revocation of existing Management Orders; and
- (e) surveys for the creation of deposited or interest only plans.

Utcha Well Nature Reserve means Reserve 640, reserved under the LA Act for the purpose of ‘Conservation of Flora and Fauna’, which is comprised of all of the lots identified as 'Utcha Well Nature Reserve' in Item 1 of Schedule 14 and shown on Map Enlargement 1A in Item 2 of Schedule 14.

Wandana Nature Reserve means Reserve 36388, reserved under the LA Act for the purpose of ‘Conservation of Flora and Fauna’, which is comprised of all of the lots identified as 'Wandana Nature Reserve' in Item 1 of Schedule 14.

Water Corporation means the Water Corporation of Western Australia established under the *Water Corporation Act 1995* (WA).

Water Miscellaneous Licences means the miscellaneous licences granted to Karara Mining Limited under section 91 of the Mining Act for the purpose of exploration for groundwater.

Wicherina Conservation Park means all of the lots identified as 'Wicherina Conservation Park' in Item 1 of Schedule 14.

Wicherina Contamination Zone means a portion of the Wicherina Reserve indicatively identified on Map 4AB of Item 2 at Schedule 14.

Wicherina Reserve means all those land and waters being Lots 7019 and 9726 as shown on Deposited Plan 232302 (Reserve 17711) reserved under the LA Act for the purpose of ‘Reservoir Geraldton Water Supply’.

20.2 Yamatji Conservation Estate

The Yamatji Conservation Estate is comprised of the New Conservation Park Areas, the New National Park Areas, the Existing Conservation Areas, and the Existing Jointly Managed Areas.

20.3 New Conservation Park Areas

- (a) In respect of the New Conservation Park Areas, the Conservation Estate Parties agree that, on and from the Conclusive Registration Date, they will use best endeavours to:
 - (1) effect the reservation of the unclassified Conservation Park Areas pursuant to section 41 of the LA Act for the purpose of “Conservation Park”, which may be subject to Pre-Reserve Actions; and
 - (2) jointly vest the New Conservation Park Areas in the Conservation and Parks Commission and the PBC, as provided for in section 8AA(2) of the CALM Act.
- (b) The PBC consents to the joint vesting of the New Conservation Park Areas in clause 20.3(a)(2) in accordance with section 8AA(3) of the CALM Act.

Wicherina Conservation Park

- (c) In respect of the proposed Wicherina Conservation Park, the Conservation Estate Parties acknowledge and agree that:
 - (1) Wicherina Reserve is currently under the care, control and management of the Water Corporation and includes the indicative location of the Wicherina Contamination Zone;
 - (2) the boundaries of the Wicherina Conservation Park will exclude the Wicherina Contamination Zone, which will remain under the care, control and management of the Water Corporation;
 - (3) the creation of the Wicherina Conservation Park is subject to the Conservation Estate Parties:
 - (i) further defining the boundaries of the Wicherina Contamination Zone and amending the Wicherina Reserve, pursuant to section 51 of the LA Act, to be only that portion covered by the Wicherina Contamination Zone;

- (ii) granting the easements in favour of the Water Corporation;
 - (iii) completing the capital works project for the relocation of the existing pump station; and
 - (iv) obtaining all relevant statutory approvals to the capital works project including but not limited to heritage, planning and environmental approvals;
- (4) subject to the completion of the conditions in clause 20.3(c)(3), clause 20.3(a) applies.

Karara miscellaneous licences

- (d) In respect of the Water Miscellaneous Licences, the Conservation Estate Parties acknowledge and agree that:
- (1) a portion of the New Conservation Park Areas is subject to the Water Miscellaneous Licences;
 - (2) the holder of the Water Miscellaneous Licences intends to refine the boundaries of the Water Miscellaneous Licence and apply for a new miscellaneous licence under section 91 of the Mining Act for water related infrastructure (**Refined Water Miscellaneous Licence**);
 - (3) in the event that the Refined Water Miscellaneous Licence is unable to reasonably coexist with the Karara Conservation Park, the boundaries of the New Conservation Park Areas may be required to be amended under section 51 of the LA Act to exclude the Refined Water Miscellaneous Licence; and
 - (4) if required, the Parties will use their best endeavours to give effect to the amendment of the boundaries of the New Conservation Park Areas to exclude the Refined Water Miscellaneous Licence.

20.4 New National Parks

- (a) In respect of the New National Park Areas, the Conservation Estate Parties agree that, on and from the Conclusive Registration Date, they will use best endeavours to:
 - (1) effect the reservation of the New National Park Areas pursuant to section 41 of the LA Act for the purpose of “National Park”, which may be subject to Pre-Reserve Actions;
 - (2) classify the New National Park Areas as Class A under section 42 of the LA Act; and
 - (3) jointly vest the New National Park Areas in the Conservation and Parks Commission and the PBC, as provided for in section 8AA(2) of the CALM Act.
- (b) The PBC consents to the joint vesting of the New National Park Areas in clause 20.4(a)(3) in accordance with section 8AA(3) of the CALM Act.

Karara miscellaneous licences

- (c) The Conservation Estate Parties acknowledge and agree that, in respect of the Water Miscellaneous Licence:
 - (1) a portion of the New National Park Areas is subject to the Water Miscellaneous Licence;
 - (2) the holder of the Water Miscellaneous Licence intends to refine the boundaries of the Water Miscellaneous Licence and apply for a Refined Water Miscellaneous Licence;
 - (3) in the event that the Refined Water Miscellaneous Licence is unable to reasonably coexist with the New National Park Areas, the boundaries of the New National Park Areas may be required to be amended under section 51 of the LA Act to exclude the Refined Water Miscellaneous Licence; and
 - (4) if required, the Parties will use their best endeavours to give effect to the amendment of the boundaries of the New National

Park Areas to exclude the Refined Water Miscellaneous Licence.

Mungada Ridge National Park Area

- (d) In respect of the proposed Mungada Ridge National Park, the Conservation Estate Parties acknowledge and agree that:
- (1) the proposed Mungada Ridge National Park is the subject of Mining Leases M59/596 and M59/650;
 - (2) the State intends to seek the agreement of the holders of Mining Leases M59/596 and M59/650 to relinquish Mining Leases M59/596 and M59/650 prior to the creation of the Mungada Ridge National Park in accordance with clause 20.4(a);
 - (3) the creation of the Mungada Ridge National Park is subject to the holders of those mining leases relinquishing Mining Leases M59/596 and M59/650, through agreement or otherwise; and
 - (4) subject to completion of the conditions in clause 20.4(d), clause 20.4(a) applies.

20.5 Existing Conservation Areas

Beekeepers Reserve Area

- (a) In respect of the Beekeepers Reserve Area, the Conservation Estate State Parties agree that, on and from the Conclusive Registration Date, they will use best endeavours to:
- (1) amend the boundaries of the Beekeepers Nature Reserve 24496 to be the entirety of the Beekeepers Reserve Area, or as otherwise agreed by the Conservation Estate Parties; and
 - (2) jointly vest the Beekeepers Reserve Area in the Conservation and Parks Commission and the PBC, as provided for in section 8AA(2) of the CALM Act, which will be subject to Pre-Reserve Actions.

- (b) The PBC consents to the joint vesting of the Beekeepers Reserve Area in clause 20.5(a)(2) in accordance with section 8AA(3) of the CALM Act.

Utcha Well Reserve Area

- (c) In respect of the Utcha Well Reserve Area, the Conservation Estate State Parties agree that, on and from the Conclusive Registration Date, they will use best endeavours to:
 - (1) amend the boundaries of the Utcha Nature Reserve 640 to be the entirety of the Utcha Well Reserve Area, or as otherwise agreed by the Conservation Estate Parties;
 - (2) jointly vest the Utcha Well Reserve Area in the Conservation and Parks Commission and the PBC, as provided for in section 8AA(2) of the CALM Act, which will be subject to Pre-Reserve Actions.
- (d) The PBC consents to the joint vesting of the Utcha Nature Reserve Area in clause 20.5(c)(2) in accordance with section 8AA(3) of the CALM Act.

Wandana Reserve Area

- (e) In respect of the Wandana Reserve Area, the Conservation Estate State Parties agree that, on and from the Conclusive Registration Date, they will use best endeavours to:
 - (1) amend the boundaries of the Wandana Nature Reserve 36388 to be the entirety of the Wandana Reserve Area, or as otherwise agreed by the Conservation Estate Parties; and
 - (2) jointly vest the Wandana Reserve Area in the Conservation and Parks Commission and the PBC, as provided for in section 8AA(2) of the CALM Act.
- (f) The PBC consents to the joint vesting of the Wandana Nature Reserve Area in in clause 20.5(e)(2) in accordance with section 8AA(3) of the CALM Act, which will be subject to Pre-Reserve Actions.

20.6 Amendment to New Conservation Park Areas and New National Park Areas

In respect of the Barnong Conservation Park, the Barnong National Park and the Adjacent Barnong National Park, the Conservation Estate Parties acknowledge and agree that:

- (a) a portion of the State Infrastructure Corridor Reserve 48372, being Lot 300 (PIN 11478380) on Deposited Plan 39180 on Certificate of Crown Land Title Volume 3135 Folio 757, is adjacent to the Barnong Conservation Park, the Barnong National Park and the Adjacent Barnong National Park;
- (b) the alignment of Reserve 48372 may need to be amended to accommodate the creation of a reserve under the LA Act for the purpose of “Yamatji, Social, Cultural and/or Economic Benefit” and the conferral of a Management Order on the PBC;
- (c) the Conservation Estate Parties will review and reach agreement on the proposed realignment of Reserve 48372; and
- (d) the realignment of Reserve 48372 may impact on the boundaries of the Barnong Conservation Park, the Barnong National Park and the Adjacent Barnong National Park and the Parties consent to that amendment.

20.7 Future inclusion of land in the Yamatji Conservation Estate

- (a) The Parties acknowledge that there may be land in the Agreement Area outside of the Yamatji Conservation Estate, which may form a part of the Yamatji Conservation Estate in the future.
- (b) Subject to clause (c) and (d), the State agrees that if, after the Execution Date, any land outside the Yamatji Conservation Estate, but within the Agreement Area, is reserved under section 41 of the LA Act for the purposes of a Conservation Park, National Park or Nature Reserve:
 - (1) the Minister for Environment will use best endeavours to vest such land in the Conservation and Parks Commission jointly

with the PBC as provided for in section 8AA(2) of the CALM Act; and

- (2) when so vested, such land will be deemed to be part of the Yamatji Conservation Estate for the purposes of this Agreement.
- (c) Clause 20.7(b) does not apply in circumstances where joint management of the Yamatji Conservation Estate has ended or been suspended under clause 21.5.
- (d) If, for any reason, the land is not jointly vested in the Conservation and Parks Commission and the PBC under clause 20.7(b), the land will be vested in the Conservation and Parks Commission and jointly managed by the DBCA CEO and the Regional Entity, and such land will be deemed to be part of the Yamatji Conservation Estate for the purposes of this Agreement.

20.8 Parliamentary process

The Parties acknowledge that some of the acts referred to in this clause 20 may be subject to the outcome of processes that include enactment of an Act of Parliament or for a proposal to be placed before both Houses of Parliament of Western Australia and not be disallowed in either House.

20.9 Naming of Yamatji Conservation Estate

The Conservation and Parks Commission and the DBCA CEO agree that, on and from the Conclusive Registration Date:

- (a) the Regional Entity will be invited to propose in writing to the DBCA CEO, a name for the Yamatji Conservation Estate, including specific names for parts of the Yamatji Conservation Estate; and
- (b) provided that such proposed name is appropriate and acceptable to the DBCA CEO, taking into account any applicable laws or policies of the State (which acceptance must not be unreasonably refused), the Conservation and Parks Commission, DBCA CEO and Minister for Lands will do all things necessary and within their power to ensure that

the Yamatji Conservation Estate is named in accordance with the proposal by the Regional Entity.

21. JOINT MANAGEMENT AGREEMENT

21.1 Management plan for Yamatji Conservation Estate

- (a) On and from the Conclusive Registration Date, the Conservation and Parks Commission and the PBC, as the case may be, through the agency of the DBCA CEO, and upon advice of the Interim Joint Management Body, will prepare a management plan, in accordance with Part V, Division 1 of the CALM Act, that:
 - (1) requires the DBCA CEO to manage the Yamatji Conservation Estate jointly with the Regional Entity; and
 - (2) in accordance with section 56A(3) of the CALM Act, has attached to it an agreement for the joint management of the land the subject of the new management plan in the terms of the agreement in Schedule 15.
- (b) The Joint Management Agreement referred to in subclause 21.1(a)(2) will be signed as soon as practicable after the management plan referred to in subclause 21.1(a) is approved under Part V Division 1 of the CALM Act.
- (c) Following the execution of the Joint Management Agreement, the Joint Management Body established under the Joint Management Agreement will manage the Yamatji Conservation Estate in accordance with the management plan prepared and approved.

21.2 Existing Management Plans

The Parties agree that subject to the requirements of Part V Division 1 of the CALM Act if, as at the Conclusive Registration Date, a management plan prepared in accordance with Part V, Division 1 of the CALM Act applies over any portion of the Yamatji Conservation Estate:

- (a) that management plan is to be revoked or amended (as may be applicable) so that it will cease to apply over that portion of the Yamatji Conservation Estate; and

- (b) the management plan referred to in clause 21.1(a) will then apply over the whole of the Yamatji Conservation Estate including the portion formerly the subject of the management plan referred to in clause 21.2(a).

21.3 Consultation with Interim Joint Management Body in preparing plans

The Parties agree that when preparing the management plan referred to in clause 21.1(a), the Conservation and Parks Commission and the PBC will consider any matters identified by the Interim Joint Management Body within the plan including and not limited to matters relating to:

- (a) the avoidance of and restriction of access by the public to sites, places and areas of high cultural sensitivity;
- (b) identification of existing roads and/or tracks which need to be closed and/or re-routed to avoid impacting sites, places and areas of high cultural sensitivity; and
- (c) strategies to facilitate culturally appropriate visitation and usage by tourists and commercial operators.

21.4 Single Joint Management Body for Yamatji Conservation Estate

- (a) The Parties acknowledge and agree that:
 - (1) it is the intention of the parties that a single management plan will apply in respect of the whole of the Yamatji Conservation Estate; and
 - (2) notwithstanding clause 21.4(a)(1), if there is more than one management plan applying in respect of the Yamatji Conservation Estate at any time which results in more than one Joint Management Agreement, the Yamatji Nation representation on the Joint Management Body will be the same for all land comprising the Yamatji Conservation Estate.
- (b) Subject to clause 21.5, the Conservation and Parks Commission will continue to ensure that the management plan referred to in clause 21.1(a) and any management plans substituting that management plan require the DBCA CEO to manage the Yamatji Conservation Estate

jointly with the Regional Entity and will continue to do so for 99 years after the Conclusive Registration Date.

21.5 Ending or Suspending Joint Management

- (a) The management plan referred to in clause 21.1(a), and any management plan substituting it, may be amended or made so as not to require joint management only where the DBCA CEO and the Regional Entity agree that joint management of the relevant land is no longer practicable.
- (b) The management plan referred to in clause 21.1(a), and any management plan substituting it, will not be revoked without ensuring that a new plan requiring joint management is substituted for it, except where the DBCA CEO and the Regional Entity agree that joint management of the land comprising the relevant reserve is no longer practicable.
- (c) If the DBCA CEO and the Regional Entity cannot agree that joint management is no longer practicable, the matter becomes a Dispute for the purposes of clause 27 and joint management of the relevant land will continue pending resolution of that Dispute.
- (d) Without limiting what is "no longer practicable", where under a joint management agreement attached to a management plan referred to in clause 21.1(a), and any management plan substituting that management plan:
 - (1) there have been two or more Events of Default (as defined in the relevant joint management agreement) within any 12-month period; or
 - (2) there have been two or more Party Disputes (as defined in the relevant joint management agreement) within any 12-month period; or
 - (3) there have been three or more Party Disputes (as defined in the relevant joint management agreement) that have been referred

to mediation or to the Minister (for the purposes of the relevant joint management agreement) within any 12-month period,

the DBCA CEO and the Regional Entity will consider whether joint management is "no longer practicable" for the purposes of subclauses (a) and (b).

- (e) If Joint Management is suspended, the DBCA CEO and the Regional Entity agree to meet on at least an annual basis to consider recommencement of joint management.
- (f) If under subclause (a) or (b), or in resolution of a Dispute for the purposes of subclause (b), the management plan referred to in clause 21.1(a), or any management plan substituting the management plan, is amended or made so as to no longer require joint management and subsequently joint management becomes again practicable:
 - (1) the management plan for the relevant land will be amended or a new management plan prepared, requiring joint management with the Regional Entity (**Amended or New Management Plan**);
 - (2) in accordance with section 56A(3) of the CALM Act, the Amended or New Management Plan will have attached to it an agreement for the joint management of the relevant reserve; and
 - (3) this Agreement continues to apply to the Amended or New Management Plan.

21.6 Interim Joint Management Body

- (a) Until a management plan referred to in clause 21.1 is approved in accordance with Part V, Division 1 of the CALM Act for land forming the Yamatji Conservation Estate and the Joint Management Agreement is executed, the DBCA CEO will manage that land with advice from the Regional Entity through the Interim Joint Management Body appointed under clause 21.6(b).
- (b) The Interim Joint Management Body will be appointed using the same process as set out under clause 3 of the Joint Management Agreement,

to act as an interim advisory body for the purpose of providing advice and making recommendations to the DBCA CEO as required, in accordance with Joint Management Agreement.

21.7 Expenditure for the Creation and Management of the Yamatji Conservation Estate

The State agrees to expend \$22,040,000 over 10 years on and from the Conclusive Registration Date for the creation and management of the Yamatji Conservation Estate, including but not limited to:

- (a) joint management of the Yamatji Conservation Estate;
- (b) joint vesting of the New Conservation Park Areas and those Existing Conservation Areas set out in clauses 20.3, 20.4 and 20.5;
- (c) development and implementation of the management plan referred to in clause 21.1(a);
- (d) funding for a Yamatji Ranger program which includes:
 - (1) 13 FTE (or equivalent) ranger and ranger supervisor positions, of which at least 10 positions will be designated positions under section 50(d) of the *Equal Opportunity Act 1984* (Cth);
 - (2) 1 FTE joint management coordinator; and
 - (3) 1 FTE project officer;
- (e) implementation costs for joint management and joint vesting arrangements including the engagement of a management planner, workplace trainer and assessor, and tenure implementation; and
- (f) meeting reasonable costs associated with meetings of the Cultural Committees, Joint Management Body and Interim Joint Management Body.

21.8 Additional Ranger Position

In addition to the expenditure set out in clause 21.7 above, the State agrees to expend \$200,000 over 5 years for the purposes of funding an additional Yamatji Ranger to undertake activities including the rehabilitation of abandoned mine sites located within the Agreement Area and to facilitate the

inclusion of rehabilitation work as part of the management plan referred to in clause 21.1(a).

21.9 Transition of Yamatji Rangers

- (a) The Parties agree that the Yamatji Rangers referred to in clause 21.7(d) and 21.8 will be employed by DBCA for the first 5 years or for a period agreed with the Regional Entity, with a transition to employment by the Regional Entity thereafter.
- (b) For the avoidance of doubt, any funding allocated to the:
 - (1) Yamatji Rangers, the subject of the Yamatji Ranger program, in clause 21.7(d); and
 - (2) additional Yamatji Ranger in clause 21.8,
 which has not yet been expended by the State will be paid to the Regional Entity once these Yamatji Rangers are employed by the Regional Entity.

22. PROTECTION OF ABORIGINAL HERITAGE

This Agreement provides for the recognition, protection and preservation of Aboriginal Heritage and culture in the Agreement Area through:

- *the collaborative management of Yamatji heritage and cultural materials and records;*
- *delivery of the Aboriginal Water Sites Restoration Project that identifies, restores and protects water based cultural sites; and*
- *the transfer of \$100,000 to the Regional Entity to fund a cultural heritage advisor engaged by the Regional Entity starting from 1 July 2021, to advise on the management and curation of Yamatji heritage and cultural materials in accordance with the Working Groups set up.*

22.1 Operation of clause

- (a) Clauses 22.2 and 22.3 operate from the Trust Effective Date.

- (b) Clauses 22.4, 22.5 and 22.6 operate on and from Conclusive Registration Date.

22.2 Aboriginal Heritage objectives and outcomes

The parties acknowledge that the protection of Aboriginal Heritage under this Agreement includes (but is not limited to) the establishment of three working groups for the collaborative management and shared responsibilities in relation to:

- (a) the management of State archives; and
- (b) the management and curation of Yamatji heritage and cultural materials.
- (c) funding a range of initiatives for the management of Aboriginal Heritage;
- (d) funding for a cultural heritage advisor and for the acquisition of cultural record management software;
- (e) delivery of a project that identifies, restores and protects water based cultural sites; and
- (f) the implementation of Aboriginal Heritage Agreements for government and private proponents.

22.3 Cultural Advisors and storage software

- (a) On and from the Trust Effective Date, the State must:
 - (1) Within 30 Business Days of receipt of an invoice from Regional Entity in the 2021/22 Financial Year, provide a total of \$100,000 to the Regional Entity to fund a cultural heritage advisor, or two cultural heritage advisors of different genders, to be engaged by the Regional Entity starting from 1 July 2021, to advise on the management and curation of Yamatji heritage and cultural materials, including:
 - (i) identification of appropriate software or supported databases to hold heritage and cultural materials records;

- (ii) advice on curation of heritage and cultural materials, storage options and preservation of heritage and cultural materials, as per the Terms of Reference of the relevant Working Groups established under Annexure B of the Government Partnership Terms of Reference in Schedule 13; and
 - (iii) development of access protocols for heritage and cultural materials; and
- (2) providing \$100,000 to the Regional Entity to fund the acquisition of software for storage of Yamatji heritage and cultural records.
- (b) The amounts referred to in clauses 22.3(a)(1) and 22.3(a)(2) are cash payments set out in Schedule 4.
- (c) For the avoidance of doubt, the commitments in clauses 22.3(a)(1)(ii), set out in Annexure B of the Government Partnership Committee in Schedule 13, include commitments of the:
 - (1) State Records Office and the Yamatji Southern Regional Corporation Working Group; and
 - (2) WA Museum and the Yamatji Southern Regional Corporation Working Group,

to identify options to cooperatively manage the relevant Yamatji heritage and cultural materials within the Agreement Area and, where appropriate, identify opportunities where repatriation of the relevant Yamatji heritage and cultural materials may be considered.

22.4 Yamatji Government Standard Heritage Agreement

- (a) The Parties agree that on and from the Conclusive Registration Date, if the State intends to undertake any Activity within the Agreement Area, the State must enter into Aboriginal Heritage Agreements with the Regional Entity in the form of the YGSHA.
- (b) The Parties acknowledge their intention that Government Proponents intending to undertake Activities in the Agreement Area, also enter into

Aboriginal Heritage Agreements in the form of a YGSHA with the Regional Entity.

22.5 Aboriginal Heritage Agreement with Proponents

In respect of the grant to a Proponent of a Mining Tenement, a PGER Title or a PP Act Title, the Minister for Mines and Petroleum in granting such Tenure, agrees to impose the following condition on the Tenure (subject to any necessary modifications of terminology as required for the relevant Tenure):

*"As the [Yamatji Nation Indigenous Land Use Agreement] (**Yamatji Nation ILUA**) applies to this [type of tenement, e.g. exploration licence], the [tenement holder, e.g. licensee] must before exercising any of the rights, powers or duties pursuant to this [type of tenement] over that portion of the area of land the subject of the Yamatji Nation ILUA:*

- i. *execute and enter into, in respect of this [type of tenement], one of the following types of agreements and maintain such agreement for the term of this [type of tenement]:*
 1. *an Aboriginal Heritage Agreement, other than a YPSHA (as defined in the Yamatji Nation ILUA) with the Yamatji Southern Regional Corporation (**Regional Entity**); or*
 2. *a YPSHA with the Regional Entity;*

and
- ii. *where:*
 1. *the [tenement holder] and the Regional Entity have been unable to reach agreement on the terms and conditions of an Aboriginal Heritage Agreement under paragraph (i); and*
 2. *the [tenement holder] executes a YPSHA (subject only to any necessary modifications in terminology required by the tenure); and*

3. *the [tenement holder] provides a copy of the YPSHA to the Regional Entity for execution;*

if the Regional Entity does not execute the YPSHA and provide a copy of the executed YPSHA to the [tenement holder] within 40 Business Days of receipt of the YPSHA, the requirements of paragraph (i) do not apply and the [tenement holder] may proceed to exercise any of the rights, powers or duties pursuant to this [type of tenement] over that portion of the area of land the subject of the Yamatji Nation ILUA after provision of the statutory declaration referred to in (iii) below; and

iii. *provide to the Minister for Mines and Petroleum a statutory declaration from the [tenement holder] (or if the [tenement holder] is a corporation, from a director of that corporation on its behalf) in the form contained in Schedule X to the Yamatji Nation ILUA, as evidence that the [tenement holder] has complied with the requirements of paragraph (i) of this condition, or that paragraph (ii) of this condition applies."*

22.6 Yamatji Nation's obligations and agreement to be bound

- (a) The Yamatji Nation authorises the Regional Entity to execute any YGSHAs, YPSHAs or Aboriginal Heritage Agreements in respect of the Agreement Area.
- (b) Where a Government Proponent or Proponent has executed a YGSHA, YPSHA or other Aboriginal Heritage Agreement in respect of the Agreement Area, the Regional Entity must use best endeavours to execute and provide to the Government Proponent or Proponent, a copy of the executed YGSHA, YPSHA or other Aboriginal Heritage Agreement within 40 Business Days of receipt of such agreement executed by the Government Proponent or Proponent (as may be applicable).

22.7 No limitation

To avoid doubt, nothing in this clause 22 is intended to limit the ability of Yamatji Nation and a Proponent from entering in to additional or separate agreements, save that those agreements will not affect the operation of this Agreement.

22.8 Review

The Parties acknowledge and agree that it may be necessary over time to amend the terms of the YGSHA or YPSHA to reflect changing circumstances, and accordingly the YGSHA and YPSHA may each be amended by the State and the Regional Entity without reference to the other Parties to this Agreement and any such amendments may be made without the need to simultaneously amend Schedules 16 and 17.

23. ACTS BY STATE – NO FETTER UPON DISCRETION

Each Party acknowledges and agrees that nothing in this Agreement can fetter or control the exercise by any person (including a Minister of the State) of a statutory power or discretion otherwise than in accordance with the Statute.

24. DETERMINATION OF NATIVE TITLE

24.1 The PBC to replace Native Title Claim Groups

- (a) The Parties acknowledge and agree that following the Determination of Native Title:
 - (1) all the rights and obligations of the Native Title Claim Groups under this Agreement are assigned and novated to the PBC as the registered native title body corporate;
 - (2) the PBC agrees to be bound by the terms of this Agreement in place of the Native Title Claim Groups and to act on behalf of the Yamatji Nation in relation to their rights and obligations in the same manner as the Native Title Claim Groups act at the date of this Agreement; and
 - (3) if it is necessary to give effect to this clause and the terms of this Agreement, execute such agreements, deeds and other

documents and do (or refrain from doing) any other acts or things as may be reasonably necessary.

- (b) Following the Determination of Native Title:
 - (1) references in this Agreement to the Native Title Claim Groups will (unless context otherwise requires) be taken to be references to the PBC as the registered native title body corporate;
 - (2) notices may be signed by any director or secretary of the PBC as the registered native title body corporate.

24.2 Indemnity and release

- (a) If there is a Determination of Native Title and the native title holders are, or include, persons other than those comprising the Native Title Claim Group, then the Native Title Claim Groups severally indemnify the State in respect of:
 - (1) any determinations of Compensation payable by the State:
 - (i) made by a court of competent jurisdiction; or
 - (ii) otherwise agreed with the consent of the Native Title Claim Groups; and
 - (2) any legal costs or expenses,

arising from any claim for Compensation by the native title holders in respect of those acts described in clause 7 (**Indemnified Amount**).
- (b) In consideration of this Agreement, the Native Title Claim Groups release and discharge the State in respect of any loss, damage, charge or expense suffered or incurred by the Native Title Claim Groups arising from any claim for Compensation by the native title holders in respect of any of those acts described in clause 7.
- (c) The rights of the State in respect of the Indemnified Amount is limited to taking the action specified in clause 24.2(d).
- (d) The State may recover the Indemnified Amount from the person or persons to whom a monetary payment under clause 10.1(a) of this

agreement was paid (**Indemnity Payment**), including any trustee in relation to that Indemnity Payment, as a debt owing by that payee or trustee to the State. Where the Indemnified Amount exceeds the Indemnity Payment, the rights of the State is limited to recovering the Indemnity Payment.

24.3 Effect of termination

Termination of this Agreement does not affect the operation of this clause 24.

25. REVIEW, VARIATION AND REPLACEMENT

25.1 General principle

The Parties:

- (a) recognise the importance of engaging in regular dialogue regarding the various matters arising under this Agreement to promote its effective implementation and, where appropriate, its variation, to meet their shared and individual objectives in a spirit of partnership and building long-term relationships; and
- (b) agree that if any concerns arise about the implementation of this Agreement, they must first refer such concerns to the Government Partnership Committee.

25.2 Review of Agreement

- (a) A formal review of the Agreement will be conducted for one or more of the following purposes:
 - (1) considering any material changes to the law, or variations to the Determination, which directly affects this Agreement; and
 - (2) if in advance of the conclusion of the 99 years of joint management described in clause 21.4(b) no additional or alternate arrangements have been implemented.
- (b) The State or the Regional Entity may request a formal review of this Agreement through the Government Partnership Committee, to be completed within six months of the request being made, for the purpose of considering any other changes sought by the Parties.

- (c) Subject to subclause (d), only one request under subclause (b) may be made by each Party in each successive 12 calendar month period during the continuance of this Agreement, the first such period commencing on the Conclusive Registration Date.
- (d) During any period of 12 calendar months referred to in subclause (c) the State and the Regional Entity may agree that either or both of them may make more than one request under subclause (b) during that period.

25.3 Review Committee

- (a) Within 30 Business Days of the circumstances in clause 25.2(a) arising or a request being made under clause 25.2(b), the Parties will establish a review committee (**Review Committee**) comprising representatives of the Parties to the Agreement as follows:
 - (1) two representatives in total nominated by the State; and
 - (2) two representatives nominated by the Regional Entity.
- (b) The Review Committee will be taken to be established on the date on which the last nominated representative accepted their nomination.
- (c) The Review Committee will maintain minutes of its meetings.
- (d) The quorum for a meeting of the Committee will be three persons, including at least one representative in total from the State and one representative from the Regional Entity.
- (e) Within three months of completing a review, the Review Committee will provide its findings to the Parties for their consideration.
- (f) The findings referred to in subclause (e) are confidential, must be kept confidential and will not be disclosed except as permitted by clause 28.2.

25.4 Obligations of Parties in respect of Review Committee

The Parties will use their best endeavours to ensure that the representatives comprising the Review Committee perform their functions under this clause 25.

25.5 Replacement or Variation

If the Parties replace this Agreement or amend or vary this Agreement in a way that requires registration (**Replacement Agreement**), the Parties must:

- (a) comply with clause 4 of this Agreement in relation to the Replacement Agreement;
- (b) terminate this Agreement after registration of the Replacement Agreement; and
- (c) advise the Native Title Registrar in writing in accordance with section 199C(1)(c)(ii) of the Native Title Act.

26. DEFAULT AND ENFORCEMENT

26.1 Events of Default

- (a) In this clause 26, a reference to a 'Party' means a party to the Event of Default.
- (b) A Party causes an Event of Default for the purposes of this clause 26:
 - (1) where a Party commits a breach of this Agreement that is incapable of being remedied; or
 - (2) where the Party breaches any of the following material terms of this Agreement, being:
 - (i) clauses 4.1 to 4.7 (registration of this Agreement);
 - (ii) clauses 6.1, 6.2 and 6.3 (warranties);
 - (iii) clause 27.1 (no arbitration or court proceedings); and
 - (iv) clause 28 (confidentiality); or
 - (3) where a Party commits 3 breaches of its obligations under this Agreement over any 12 month period, provided that the Party not in breach, has given the Defaulting Party, notice of any such breaches and whether or not the Defaulting Party has rectified such breaches.

26.2 Default under clause 26.1(b)

- (a) If a Party (the **Defaulting Party**) causes an Event of Default under clause 26.1(b), the other Party (the **Non-defaulting Party**) may serve a notice (**Default Notice**) on the Defaulting Party specifying the Event of Default.
- (b) On receiving the Default Notice, the Defaulting Party must:
 - (1) where the Event of Default is capable of being remedied:
 - (2) remedy the Event of Default within twenty (20) Business Days;
or
 - (3) if the Event of Default could not reasonably be remedied within 20 Business Days, the Defaulting Party must commence taking steps, in good faith, to remedy the Event of Default within the period of 20 Business Days provided that the Event of Default must be remedied by no later than three months from the date of the Default Notice; or
 - (4) where the Event of Default is not capable of being remedied, and within a period of 20 Business Days, commencing on the date of the Default Notice, take all steps, to the satisfaction of the Non-defaulting Party (acting reasonably), to ensure that further breaches of this Agreement do not occur.

26.3 Suspension of Obligations

Each of the Non-defaulting Parties may, by notice in writing to the Defaulting Party, suspend the performance of its obligations and the Defaulting Party's rights under this Agreement until clause 26.2 is complied with, or the Event of Default no longer exists, as applicable.

26.4 Duty to Mitigate

A party must take all reasonable steps open to it to mitigate the effects of an Event of Default, including by referring the matter to the Government Partnership Committee.

26.5 Remedies exercised under this clause do not prejudice any other rights a Party may have

Any remedy exercised under this clause is without prejudice to any other rights a Party may have under this Agreement or otherwise at law (including the right to seek interlocutory relief and specific performance).

27. DISPUTE RESOLUTION

27.1 No arbitration or court proceedings

If a dispute arises under this Agreement including a dispute in respect of this clause 27.1 (**Dispute**), a Party must comply with clauses 27.2 to 27.4 before commencing arbitration or court proceedings (except proceedings for urgent interlocutory relief).

27.2 Notification

A Party claiming a Dispute has arisen must give the other Parties to the Dispute notice setting out details of the Dispute.

27.3 Parties to resolve Dispute

During the 20 Business Days after a notice is given under clause 27.2 (or longer period if the Parties to the Dispute agree in writing), each Party to the Dispute must use its reasonable efforts to resolve the Dispute, including by referring the Dispute to the Government Partnership Committee. If the Parties cannot resolve the Dispute within that period, any Party to the Dispute may request that the Dispute be referred to a mediator and, if a Party so requests, the Dispute must be referred to mediation in accordance with clause 27.4.

27.4 Mediation

- (a) If the Parties to the Dispute cannot agree on a mediator within 10 Business Days after a request under clause 27.3, the Chairman of Resolution Institute will appoint a mediator at the request of either Party.
- (b) The role of the mediator is to assist in negotiating a resolution of the Dispute. A mediator may not make a binding decision on a Party to the Dispute except if the Party agrees in advance in writing.

- (c) Any information or documents disclosed by a Party under this clause 27:
 - (1) must be kept confidential; and
 - (2) may only be used to attempt to resolve the Dispute.
- (d) The State will pay the reasonable costs of a mediator appointed under this clause.
- (e) Except as provided by 27.4(d), each Party to a Dispute will pay its own costs of complying with this clause 27.4.
- (f) The Parties will engage in the mediation process in good faith and with the aim of reaching a resolution of the Dispute. If the Parties fail to achieve a resolution of the Dispute by mediation within 20 Business Days of the appointment of a mediator under this clause, or such further time as is agreed by the Parties, any Party may take such action as it considers appropriate, including (subject to clause 27.5) commencing legal proceedings.

27.5 Arbitration

- (a) If the Parties to a Dispute have complied with clauses 27.2 to 27.4 then, if all those Parties agree, they may refer the Dispute to arbitration under the *Commercial Arbitration Act 2012* (WA).
- (b) The arbitration will be held in a place agreed by the Parties.
- (c) The Parties will appoint a person agreed between them to be the arbitrator of the Dispute.
- (d) If the Parties fail to agree on a person to be the arbitrator under subclause (c), then the Parties will request the Chairman of the Resolution Institute to appoint an arbitrator who has experience in the area of the Dispute and, if required given the nature of the Dispute, experience in Indigenous cultural matters.
- (e) Any Party to a Dispute may appeal to the Supreme Court of Western Australia on any question of law arising out of an interim or final award in the arbitration.

- (f) For the avoidance of doubt, this arbitration clause will apply to the terms of the BDU Project Agreement, the Tourism Project Agreement, the Groundwater Investigations Project Agreement, the Training Project Agreement and the Restoration Project Agreement described in clauses 12, 14 and 17 of this Agreement.

27.6 Breach of this clause

If a Party to a Dispute breaches clauses 27.2 to 27.4, the other Parties to the Dispute do not have to comply with those clauses in relation to the Dispute before starting court proceedings.

27.7 Obligations continue

Subject to clause 27.8, if a Dispute is referred for mediation or arbitration under any part of this clause 27 or court proceedings are started in respect of it, the Parties must, during the period of such mediation, arbitration or litigation and pending the making of a decision, determination or judgment as the case may be, continue to perform their respective obligations under this Agreement so far as circumstances will allow and such performance will be without prejudice to the final decision, determination or judgment made in respect of the matter in dispute.

27.8 Extension of time

Without prejudice to the power of a mediator, arbitrator or court to grant any extension of any period or variation of any date referred to in this Agreement, in order to preserve the rights of a Party to a Dispute, the Parties or Parties to the Dispute, as applicable, will consult with each other to agree such extension or variation so required.

27.9 Dispute under Joint Management Agreement

A dispute under a joint management agreement attached to a management plan(s) referred to in clause 21.1 and any management plans substituting the management plan(s), does not constitute a Dispute for this clause 27.

28. CONFIDENTIALITY

28.1 Generally

- (a) Subject to subclause (b), all information disclosed by one Party (**Disclosing Party**) to another Party (**Receiving Party**) during negotiations leading up to executing this Agreement and during the term of this Agreement, that is identified by the Disclosing Party as confidential, is confidential and must be kept confidential and will not be disclosed except as permitted by this clause (**Confidential Information**).
- (b) The following information is not Confidential Information:
 - (1) this Agreement;
 - (2) information that the Receiving Party, prior to disclosure, already knew or created (whether alone or jointly with any third person) independently of the Disclosing Party; or
 - (3) information that is public knowledge (otherwise than as a result of a breach of confidentiality by the Receiving Party or any of its permitted disclosees).

28.2 Permitted disclosure

A Receiving Party may, in turn, disclose Confidential Information:

- (a) if it has the prior written consent of the Disclosing Party;
- (b) to the extent required by any law or applicable securities regulation or rule;
- (c) subject to clause 28.3, in connection with any dispute or litigation concerning the Agreement or its subject matter;
- (d) to the Receiving Party's members, officers, employees, agents, auditors, advisers, financiers and consultants and related bodies corporate; and
- (e) to any judicial, legislative or executive arm of the Government of Western Australia.

28.3 Disclosure requirements

Before making any disclosure to a person under clauses, 28.2(c) and 28.2(e) the Receiving Party must:

- (a) in each case, inform the entity or person to whom the Confidential Information is being disclosed of the Receiving Party's obligations under this Agreement;
- (b) before doing so notify the Disclosing Party and give that Disclosing Party a reasonable opportunity to take any steps that it considers necessary to protect the confidentiality of that information; and
- (c) in the case of a disclosure to a person or entity under clause 28.2(e) or, ensure that the person or entity executes a deed, in such form acceptable to the Disclosing Party (acting reasonably), imposing on the person or entity an undertaking of confidentiality having substantially similar effect to this clause 28.

28.4 Party may seek injunction

The Parties acknowledge that:

- (a) they are aware that any breach of this clause 28 may result in the Parties suffering loss or damage, for which monetary damages may not be an adequate remedy; and
- (b) in the event of a suspected or actual breach of this clause 28 or any obligation of confidentiality under this Agreement, any adversely affected Party is entitled to seek and obtain injunctive relief or an order for specific performance of the terms of this clause 28.

28.5 No waiver or transfer of intellectual property rights

Disclosure of information, including Confidential Information, in connection with this Agreement does not waive or transfer any intellectual property rights in that information held by a Disclosing Party.

29. ASSIGNMENT AND ENCUMBRANCES

29.1 No assignment

- (a) The State may not assign or otherwise dispose of any rights, title, obligations or interest under or in respect of this Agreement except as may otherwise be permitted by this Agreement.
- (b) Subject to clause 24.1(a), the Native Title Parties may not assign or otherwise dispose of their rights, titles, obligations or interests under or in respect of this Agreement.

29.2 No encumbrance

No Party may grant an encumbrance, mortgage or charge in respect of the whole or any part of its interests in or under this Agreement.

30. NOTICES

- (a) Each notice or other communication required to be given by a Party (**Sender**) to another Party (**Receiver**) under this Agreement:
 - (1) will be in writing;
 - (2) will be delivered to the Receiver by being sent by prepaid post to, or delivered by hand to, or by email to, the address of the Receiver specified in this Agreement or the address last notified by the Receiver to the sender; and
- (b) is deemed to have been duly given, served or made:
 - (1) in the case of delivery in person, when delivered to the Receiver;
 - (2) in the case of delivery by post to the address referred to in subclause (b), seven Business Days after the date of posting; and
 - (3) in the case of delivery by email, when the sender received an automated message confirming delivery or four hours after the time it was sent; and

- (c) the Parties' addresses for communications are those set out below, or as varied from time to time by any Notice given by a Receiver to the Sender:

(1) **The State of Western Australia c/- DPC:**

Address: Dumas House, 2 Havelock St, West Perth WA 6005

Email: yamatjinationagreement@dpc.wa.gov.au

(2) **Yamatji Southern Regional Corporation (ACN 638 346 684):**

Address: 102 The Parade, NORWOOD SA 5067
PO Box 2691, KENT TOWN SA 5067

Email: Yamatjicentral@outlook.com

(3) **Bundi Yamatji Aboriginal Corporation (ICN 9213):**

Address:

102 The Parade, NORWOOD SA 5067
PO Box 2691, KENT TOWN SA 5067

Email: Paul@mlcscorporate.com.au

31. GOODS AND SERVICES TAX

31.1 Interpretation

Any reference in this clause 31 to a term defined or used in the GST Act is, unless the contrary intention appears, a reference to that term as defined or used in the GST Act.

31.2 Amounts payable exclusive of GST

Unless otherwise expressly provided to the contrary, all amounts fixed or determined under or referred to in this Agreement are exclusive of GST.

31.3 GST payable

- (a) If GST is or becomes payable by a Party in relation to any supply that it makes under, in connection with or resulting from this Agreement (**Supplier**), the Parties agree that, in addition to any consideration provided by a Party (**Recipient**) for a supply from the Supplier, the

Recipient must also pay the Supplier, at the same time as providing the consideration, the amount of any GST for which the Supplier is liable in relation to that supply (**additional amount**).

- (b) The obligation to pay the additional amount only arises once the Supplier has issued a tax invoice (or an adjustment note) to the Recipient in respect of the additional amount.
- (c) If a Recipient is required under this Agreement to reimburse or pay to a Supplier an amount calculated by reference to a cost, expense or an amount paid or incurred by that Supplier, the amount of the reimbursement or payment will be reduced by the amount of any input tax credits to which the Supplier is entitled in respect of any acquisition relating to that cost, expense or other amount.

32. COSTS AND DUTIES

- (a) The State will bear any duties, fees or taxes associated with this Agreement and its registration.
- (b) Except where otherwise agreed, each Party will bear their own costs including legal costs associated with the registration of this Agreement on the Register of Indigenous Land Use Agreements.

33. FORCE MAJEURE OR YAMATJI CULTURAL BUSINESS

- (a) If any Party becomes wholly or partly unable because of Force Majeure or Yamatji Cultural Business to perform any of its obligations under the Agreement, then the Agreement will nevertheless continue and remain in force and effect but that Party will not be in default for as long as it continues to be prevented or delayed by such Force Majeure or Yamatji Cultural Business, and the time within which such a Party is required to perform any work or satisfy any obligation will be extended by a period equivalent to that during which such prevention or delay continues, provided that:
 - (1) the cause of the Force Majeure or Yamatji Cultural Business as far as possible will be remedied as soon as is reasonably practicable by the affected Party;

- (2) the Yamatji Cultural Business is addressed by the Regional Entity as soon as is reasonably practicable; and
 - (3) no Party will be required to settle any strike, lockout, or other industrial disturbance on terms that it does not regard as satisfactory.
- (b) The Party affected by any event of Force Majeure or Yamatji Cultural Business will immediately give notice in writing to the other Parties of the occurrence of such event and the likely period of delay. The notice must:
 - (1) specify the obligations it cannot perform;
 - (2) fully describe the event of Force Majeure or Yamatji Cultural Business;
 - (3) estimate the time during which the Force Majeure or Yamatji Cultural Business will continue; and
 - (4) specify the measures proposed to be adopted to remedy or abate the Force Majeure or the reasonable steps that will be taken to address the Yamatji Cultural Business.
- (c) The Party affected by the Force Majeure or Yamatji Cultural Business will give immediate notice of the cessation of the delay.
- (d) The Party that is prevented from carrying out its obligations under this Agreement as a result of an event of Force Majeure or Yamatji Cultural Business must take all action reasonably practicable to mitigate any loss suffered by the other Party as a result of its failure to carry out its obligations under this Agreement.
- (e) If the Force Majeure or Yamatji Cultural Business cannot be overcome within 3 months, either Party may, by notice to the other Party, suspend the performance of its obligations and the affected Party's rights under this Agreement until the Force Majeure or Yamatji Cultural Business has ceased.

34. DEEMED CONSULTATION AND CONSENT

Except where otherwise specified, a requirement under this Agreement that the State must:

- (a) consult or negotiate with or request anything from the Yamatji Nation in respect of a matter, will be deemed to have been met where the board of directors of the Regional Entity has been consulted or negotiated with or presented with a request (as the case may be) by or on behalf of the State in respect of the relevant matter; and
- (b) obtain the consent or agreement of the Yamatji Nation in respect of a matter, will be deemed to have been met where the Regional Entity provides notice, in writing, to the State that, in accordance with the constitution of the Regional Entity the Regional Entity has consented or agreed to the relevant matter.

35. GENERAL

35.1 Entire agreement

The Agreement constitutes the entire agreement between all of the Parties as to its subject matter and, in relation to that subject matter, supersedes any prior understanding or agreement between any of the Parties and any prior condition, warranty, indemnity or representation imposed, given or made by a Party.

35.2 Governing law and jurisdiction

- (a) The Agreement is governed by the law applicable in the State of Western Australia.
- (b) Each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Western Australia.

35.3 Severance

- (a) If any provision of the Agreement is or becomes void, voidable by any Party, unenforceable or illegal according to the law in force in the State of Western Australia, it will be read down so as to be valid and enforceable or if it cannot be so read down, the provision (or where

possible the offending words), will be severed from the Agreement to the extent necessary unless it would materially change the intended effect and objectives of the Agreement.

- (b) If any part of this Agreement is severed in accordance with clause 35.3(a), the Parties will attempt to renegotiate, in good faith, that part and seek to achieve a result as near as reasonably practicable as is consistent with the intention of the severed component.

35.4 Counterparts

- (a) This Agreement may be executed in a number of counterparts and by the Parties on separate counterparts. Each counterpart of this Agreement will constitute an original of this Agreement and all counterparts together will constitute the one instrument.
- (b) Whether or not this Agreement is to be executed in counterparts, the Parties must execute sufficient numbers for each of them to retain one original of this Agreement.

35.5 Election and waiver

A right or power under the Agreement will only be deemed to be waived by notice in writing, signed by the Party waiving the right or power, and:

- (a) no other conduct of a Party (including a failure to exercise, a delay in exercising or a partial exercise of a right or power or any forbearance or indulgence granted by one Party to another Party in respect of a right or power) operates as a waiver of the right or power or otherwise prevents the exercise of that right or power; and
- (b) a waiver of a right or power on one or more occasions by a Party does not operate as a waiver of that right or power if it arises again in the future or prejudices that Party's other rights or powers or future rights or powers in respect of the right or power waived; and
- (c) the exercise of a right or power does not prevent any further exercise of that right or power or of any other right or power.

35.6 No merger

The rights and obligations of the Parties will not merge on the completion of any transaction contemplated by this Agreement. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing a transaction.




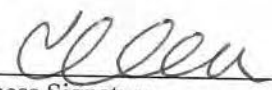

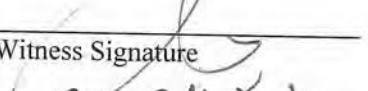

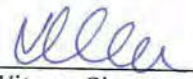
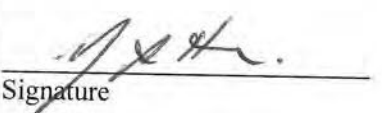
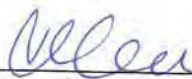
35.7 Further assurances and time

- (a) Each Party must, at that Party's expense unless otherwise agreed in this Agreement, promptly do all things necessary or desirable to give full effect to the Agreement and the matters contemplated by it.
- (b) Time is of the essence in relation to the rights and obligations set out in this Agreement.


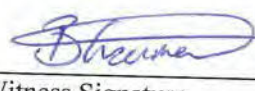

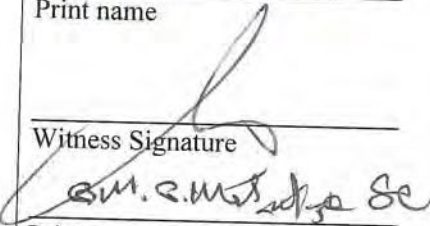
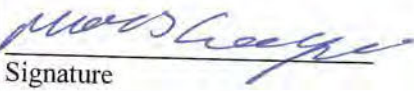
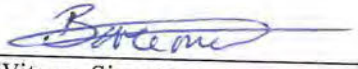
EXECUTION



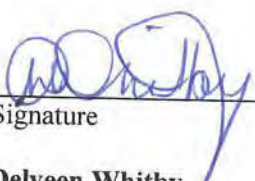




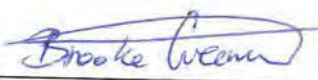


Executed by the Parties as an agreement.

Signed by **Frederick Taylor, Garry Hodder, Leedham Papertalk, Lorraine Whitby and Yvette Harris** in their capacity as the applicant under section 61 of the Native Title Act for and on behalf of themselves and all the members of the **Yamatji Nation Claim Group** in the presence of:



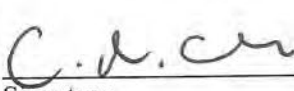
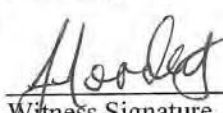
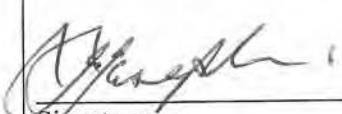
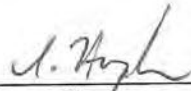
 Signature Garry Hodder Frederick Taylor	 Witness Signature Gulanna Mrocerid Print name
 Signature Garry Hodder Frederick Taylor	 Witness Signature Gulanna Mrocerid Print name
 Signature Leedham Papertalk	 Witness Signature G M G M Papertalk Print name
 Signature Lorraine Whitby	 Witness Signature Gulanna Mrocerid Print name
 Signature Yvette Harris	 Witness Signature Gulanna Mrocerid Print name

Signed by Mervyn Councillor, Roberta McKinnon, Stephen Kelly, Leedham Papertalk Snr, Morris Comeagain, Trevor Martin, Rodney Little, Delveen Whitby, Frederick Taylor Snr, Eric Oakley, Maxine Bonney and Glenda Jackamarra in their capacity as the applicant under section 61 of the Native Title Act for and on behalf of themselves and all the members of the Southern Yamatji Claim Group in the presence of:



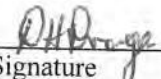
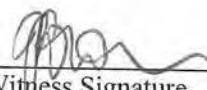
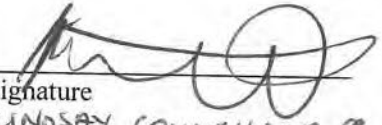
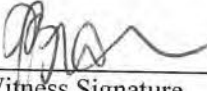
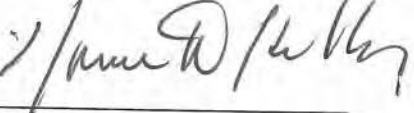

Signature Mervyn Councillor	Witness Signature Print name
Signature Roberta McKinnon	Witness Signature Print name
Signature  Stephen Kelly	Witness Signature  BROOKE CREEMERS Print name
Signature  Leedham Papertalk Snr	Witness Signature  Print name
Signature  Morris Comeagain	Witness Signature  BROOKE CREEMERS Print name

 Signature Trevor Martin	 Witness Signature <u>BETHAN SMILLIE</u> Print name
 Signature Rodney Little	 Witness Signature Print name
 Signature Delveen Whitby	 Witness Signature <u>BROOKE CREAMERS</u> Print name
 Signature Frederick Taylor Snr	 Witness Signature <u>BROOKE CREAMERS</u> Print name
 Signature Eric Oakley	 Witness Signature <u>BROOKE CREAMERS</u> Print name
 Signature Maxine Bonney	 Witness Signature Print name
 Signature Glenda Jackamarra	 Witness Signature <u>BROOKE CREAMERS</u> Print name

Signed by **Leedham Papertalk, Malcolm Papertalk, Charles Collard, Charles Green, Jamie Joseph, Glenda Jackamarra, Karen Jones and Raymond Merritt** in their capacity as the applicant under section 61 of the Native Title Act for and on behalf of themselves and all the members of the **Mullewa Wadjari Claim Group** in the presence of:

 Signature Leedham Papertalk	 Witness Signature G.M.G. McIntyre & Print name
Signature Malcolm Papertalk	Witness Signature Print name
Signature Charles Collard	Witness Signature Print name
 Signature Charles Green Collard H.	 Witness Signature JULIA HORSLEY Print name
 Signature Jamie Joseph	 Witness Signature CHAN HUYNH Print name

Signed by **Sandy Davies, David Drage Snr, Irene Kelly and Lindsay Councillor** in their capacity as the applicant under section 61 of the Native Title Act for and on behalf of themselves and all the members of the **Hutt River Claim Group**, in the presence of:


 Signature Sandy Davies	 Witness Signature <u>BETHAN SMILLIE</u> Print name
 Signature David Drage Snr	 Witness Signature <u>JEREMY BROWN</u> Print name
 Signature LINDSAY COUNCILLOR Irene Kelly	 Witness Signature <u>JEREMY BROWN</u> Print name
 Signature IRENE KELLY Lindsay Councillor	 Witness Signature <u>JEREMY BROWN</u> Print name

Signed by **Gregory Denis Martin, Kathleen Eva Pinkerton, Shirley Anne McPherson, Justin Robert Martin and Edward James Mullaley** in their capacity as the applicant under section 61 of the Native Title Act for and on behalf of themselves and all the members of the **Widi Mob Claim Group** in the presence of:

<p>Signature</p> <p>Gregory Denis Martin</p> <p></p>	<p>Witness Signature</p> <p>Print name</p> <p></p>
<p>Signature</p> <p>Kathleen Eva Pinkerton</p>	<p>Witness Signature</p> <p>MICHAEL PAGSANTIAN</p> <p>Print name</p>
<p>Signature</p> <p></p> <p>Shirley Anne McPherson</p>	<p>Witness Signature</p> <p>MICHAEL PAGSANTIAN</p> <p>Print name</p>
<p>Signature</p> <p>Justin Robert Martin</p> <p></p>	<p>Witness Signature</p> <p>Print name</p> <p></p>
<p>Signature</p> <p>Edward James Mullaley</p>	<p>Witness Signature</p> <p>MICHAEL PAGSANTIAN</p> <p>Print name</p>

Signed by BUNDI YAMATJI)
 ABORIGINAL CORPORATION)
 (ICN 9213) as an agreement under s 99-)
 5 of the Corporations (Aboriginal and
 Torres Strait Islander) Act 2006 (Cth):

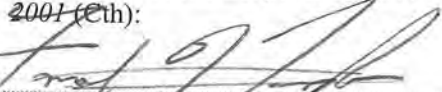

 Signature of Director

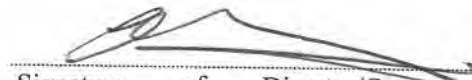

 Signature of Director/Corporation
~~Secretary~~
 (Delete title which does not apply)


SHIRLEY McPHERSON
 Print name in full

~~CAROL MARTIN~~ FRED TAYLOR
 Print name in full


Signed by YAMATJI SOUTHERN)
 REGIONAL CORPORATION LTD)
 (ACN 638 346 684) as an agreement)
 under s 127 of the Corporations Act
 2001 (Cth):


 Signature of Director


 Signature of Director/Company
~~Secretary~~
 (Delete title which does not apply)


 Print name in full
 ROSS COUNILLOR

CAROL MARTIN
 Print name in full

Amendments made
 on 24 February 2020.
 Witnessed by
 Debra Fletcher


Smillie, Bethan

From: Paul Case <Paul@mlcscorporate.com.au>
Sent: Wednesday, 12 February 2020 7:55 AM
To: Fletcher, Debbie
Subject: Re: ILUA

Debbie

Can we talk about this when we catch up this morning as if it is an issue we need to resolve it quickly. At the request of YMAC both corporations held board meetings specifically to authorise who would sign the ILUA. Is there any risk the ILUA is not signed correctly?

Regards,
Paul Case
Director

MLCS Corporate Pty Ltd
102 The Parade, Norwood SA 5067
PO Box 2691, Kent Town SA 5071
Ph: (08) 8363 7755
Fx: (08) 8363 3939

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On 12 Feb 2020, at 7:40 am, Fletcher, Debbie <Debbie.Fletcher@dpc.wa.gov.au> wrote:

Hi Paul

Shirley and Carol signed for BYAC
Fred and Carol signed for Yamatji Southern Region Corporation

Debbie

Debbie Fletcher | Director State Agreements | Aboriginal Policy and Coordination Unit
telephone | 08 6552 5352 | mobile 0427587763

From: Paul Case <Paul@mlcscorporate.com.au>
Sent: Wednesday, 12 February 2020 7:20 AM
To: Fletcher, Debbie <Debbie.Fletcher@dpc.wa.gov.au>
Subject: Fwd: ILUA

Debbie

Further re the email below can you confirm the correct people signed the ILUA ,YMAC wanted specific signatories so I assumed they would make sure those people signed ,Ross informed me this morning he didn't sign anything

Regards,
Paul Case
Director

MLCS Corporate Pty Ltd
102 The Parade, Norwood SA 5067
PO Box 2691, Kent Town SA 5071
Ph: (08) 8363 7755
Fx: (08) 8363 3939

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Begin forwarded message:

From: Paul Case <Paul@mlcscorporate.com.au>
Date: 30 January 2020 at 9:16:00 am AWST
To: Gulmina Mioceovich <gmioceovich@ymac.org.au>
Cc: Cameron Trees <ctrees@ymac.org.au>, Rebecca Brooks <Rebecca@mlcscorporate.com.au>
Subject: ILUA

Hi Gully,

Confirming the Director signatories for the ILUA:

Yamatji Southern Regional Corporation Ltd
Carol Martin
Ross Councillor

Bundi Yamatji Aboriginal Corporation
Shirley McPherson
Fred Taylor

Regards,
Paul J. Case
Director

<image001.png>

102 The Parade, Norwood SA 5067
PO Box 2691, Kent Town SA 5071
Ph: (08) 8363 7755

Fx: (08) 8363 3939
Mb: 0412 030 368

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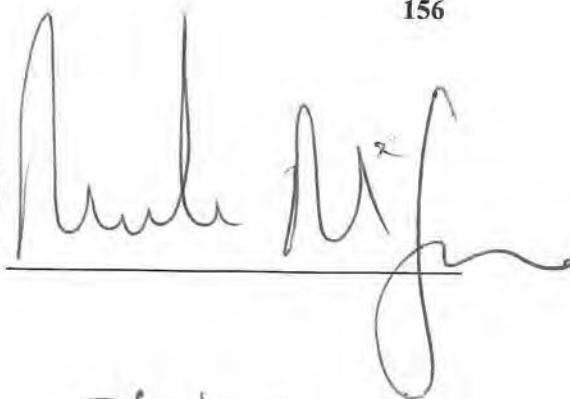
The Department of the Premier and Cabinet Legal Notice.

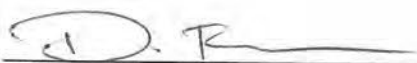
The contents of this email or its attachments are intended only for the use of the addressee(s). It may contain information that is private and confidential and may be privileged or otherwise protected from disclosure in the public interest. If you are not the intended recipient of this email any use, interference with, disclosure, distribution or copying of this material is unauthorised and prohibited. If you receive this in error, please notify the sender by return e-mail, delete the email and attachments from your system and destroy any copies you have taken of the email and attachments. Before taking any action based upon advice and/or information contained in this email you should carefully consider the advice and information and consider obtaining relevant independent advice.

While every care is taken, it is recommended that you scan any attachments for viruses.

Please consider the environment before printing out this email.

SIGNED for and on behalf of **THE
STATE OF WESTERN AUSTRALIA**
by the PREMIER, the Hon. Mark
McGowan MLA, in the presence of:

) 
)
)
)



Witness' signature

3/2/20

Date

Debra Fletcher

Witness (print full name)

Dumas House, 2 Havelock St West Perth 6005

Address of witness

Public Servant

Occupation of witness

SIGNED by the **MINISTER FOR
ABORIGINAL AFFAIRS**, the Hon.
Benjamin (Ben) Sana Wyatt MLA, in the
presence of:

) [Signature]
)
)
)

[Signature]
Witness' signature

Date 07/02/2020

Debra Fletcher
Witness (print full name)

Dumas House, 2 Hawesback St
Address of witness West Perth

Public Servant
Occupation of witness



SIGNED by the **MINISTER FOR
ENVIRONMENT**, the Hon. Stephen
Noel Dawson MLC, in the presence of:

) [Signature]
)
)
)

[Signature]
Witness' signature

Date 3/2/20

Debra Fletcher
Witness (print full name)

Dumas House, 2 Hawesback St West Perth 6005
Address of witness

Public Servant
Occupation of witness

The common seal of the **MINISTER FOR LANDS** was hereunto affixed by the Hon. Benjamin (Ben) Sana Wyatt MLA

Hon. Benjamin (Ben) Sana Wyatt MLA

In the presence of:

Witness signature

Date _____


Witness (print full name)


Dumas House, 2 Mavelock St
Address of witness West Perth

Occupation of witness:



SIGNED by the **MINISTER FOR
CULTURE AND THE ARTS**, the Hon.
David Alan Templeman MLA, in the
presence of:

)  159
)
)
)


Witness' signature

Date 3/2/20


Debra Fletcher
Witness (print full name)

Dumas House, 2 Hawesbck St West Perth 6005
Address of witness

Public Servant
Occupation of witness

SIGNED by the **MINISTER FOR
MINES AND PETROLEUM**, the Hon.
William (Bill) Joseph Johnston MLA, in
the presence of:

) 
)
)


Witness' signature

Date 3/2/20

Debra Fletcher
Witness (print full name)

Dumas House, 2 Hawesbck St West Perth 6005
Address of witness

Public Servant
Occupation of witness

SIGNED by the MINISTER FOR
REGIONAL DEVELOPMENT, the
Hon. Alannah Joan Geraldine MacTiernan
MLC, in the presence of:

)
) Alannah MacTiernan
)


Witness' signature

4 Feb 2020
Date

Kyra Kirkup
Witness (print full name)


Address of witness

State Public Servant
Occupation of witness

SIGNED by the **MINISTER FOR
TOURISM**, the Hon. Paul Papalia CSC
MLA, in the presence of:



)
)
)

[Signature]
Witness' signature

3/2/20
Date

Debra Fletcher
Witness (print full name)

Dumas House, 2 Hawesback St West Perth 6005
Address of witness

Public Servant
Occupation of witness

SIGNED by the **MINISTER FOR
WATER**, David (Dave) Joseph Kelly, in
the presence of:

)
)
)

[Signature]
Witness' signature

3/2/20
Date

DEBRA FLETCHER
Witness (print full name)

Dumas House, 2 Hawesback St, West Perth 6005
Address of witness

Public Servant
Occupation of witness

The common seal of the
CONSERVATION AND PARKS
COMMISSION was hereunto affixed in
 accordance with section 26AB of the
Conservation and Land Management Act
 1984 in the presence of:



Witness signature

Member (signature)

SIMON TECK-SOON CHOW

Witness (print full name)

Christopher Doupel

Member (print full name)

Address of witness

Date 7 February 2020

PUBLIC SERVANT

Occupation of witness

Witness signature

SIMON TECK-SOON CHOW

Authorised Member (signature)

Witness (print full name)

Authorised Member (print full name)

Address of witness

Date

PUBLIC SERVANT

Occupation of witness

The common seal of the
**CONSERVATION AND LAND
 MANAGEMENT EXECUTIVE BODY**
 was hereunto affixed by the Chief
 Executive Officer of the Department of
 Biodiversity, Conservation and
 Attractions



Mark Webb
 Mark Webb, Director General

In the presence of:

Simon Teck-Soon Choo
 Witness' signature

SIMON TECK-SOON CHOO
 Witness (print full name)


7 February 2020
 Date

[Redacted Address]
 Address of witness

PUBLIC SERVANT
 Occupation of witness

The common seal of the **HOUSING
AUTHORITY** was hereunto affixed by
the Chief Executive Officer of the Housing
Authority



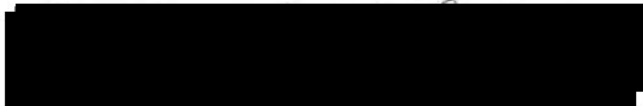

Michelle Andrews, Director General

In the presence of:


Witness' signature

57 Feb / 2020
Date

Jacqueline Littlejohn
Witness (print full name)



Public Servant
Occupation of witness

The common seal of **THE
ABORIGINAL AFFAIRS PLANNING
AUTHORITY** was hereunto affixed by
the Hon. Benjamin (Ben) Sana Wyatt
MLA the Minister for Aboriginal Affairs
in his capacity as the Aboriginal Affairs
Planning Authority



Hon. Benjamin (Ben) Sana Wyatt MLA

In the presence of:

D.R.
Witness' signature

01/02/2020

Debra Fletcher
Witness (print full name)

Dumas House, 2 Macleod St West Perth
Address of witness

Public Servant
Occupation of witness

The common seal of the **ABORIGINAL
LANDS TRUST** (ABN 72 425 378 841)
was hereunto affixed with the authority of
a resolution of the Aboriginal Lands Trust,
in the presence of:



[Signature]
Chairperson (signature)

Date

4/2/2020

GLEN ALAN KELLY
Chairperson (print full name)

Paliskis
Secretary (signature)

RENATA ELENA PALISKIS
Secretary (print full name)

The common seal of the MID WEST
DEVELOPMENT COMMISSION was
hereunto affixed in the presence of:



[Signature]
Chair
Mid West Development Commission

R. Dawn
Witness (signature)

07.02.2020
Date:

REBECCA DAVIDSON
Witness (print full name)

[Redacted]
Address of witness

PUBLIC SERVANT
Occupation of witness

[Signature]
Chief Executive Officer
Mid West Development Commission

R. Dawn
Witness' signature

07.02.2020
Date:

REBECCA DAVIDSON
Witness (print full name)

[Redacted]
Address of witness

PUBLIC SERVANT
Occupation of witness

The common seal of the **WESTERN AUSTRALIAN MUSEUM** was hereunto affixed in the presence of:

)
)
)



Alan Robson

Emeritus Professor Alan Robson CitWA
Chair of Trustees
Western Australian Museum

[Signature]

Witness (signature)

5 Feb 2020
Date:

BETHAN SMILLIE

Witness (print full name)

Dumas House, 2 Havelock Street, West Perth 6005
Address of witness

Public Servant

Occupation of witness

[Signature]

Alec Coles OBE
Chief Executive Officer
Western Australian Museum

[Signature]

Witness' signature

5 Feb 2020
Date:

BETHAN SMILLIE

Witness (print full name)

Dumas House, 2 Havelock Street, West Perth, 6005
Address of witness

Public Servant

Occupation of witness

The common seal of the **WESTERN
AUSTRALIAN LAND AUTHORITY**
was hereunto affixed with the authority of
its Board in the presence of:

J. Mahay
Chief Executive Officer

S. Nahajski
Witness (signature)

STUART NAHAJSKI
Witness (print full name)

[REDACTED]
Address of witness

General Manager
Occupation of witness

Geoffrey
Board Member

S. Nahajski
Witness' signature

STUART NAHAJSKI
Witness (print full name)

[REDACTED]
Address of witness

General Manager
Occupation of witness



7 FEBRUARY 2020
Date:

7 FEBRUARY 2020
Date: