LEASE STANDARD TERMS AND CONDITIONS

Notice

This document does not contain all of the terms of the *agreement*. The rest of the *agreement* terms are set out in the *schedule* signed by *you*. By signing the *schedule you* offer to enter into an *agreement*. An *agreement* comes into effect when *we* accept *your* offer to enter into this *agreement*. The *schedule* sets out how *we* accept *your* offer. *You* should read these *standard terms and conditions* and the *schedule* carefully. *You* should keep these documents for *your* reference.

A number of important terms used in this document are defined in clause 37. These terms are printed *like this*. Some other key words are also explained. You should refer to clause 37 in reviewing these terms and conditions.

1 **HIRING OF GOODS**

1.1 These *standard terms and conditions* and the *schedule* set out the terms upon which *we* hire the *goods* to *you*.

1.2 An *agreement* incorporates:
(1) these standard terms and conditions; and
(2) a *schedule.*

2 **TERM OF THIS AGREEMENT**

2.1 This *agreement* is for the whole of the *term*.

2.2 This *agreement* commences on the *commencement date*.

3 **RENT AND OTHER PAYMENTS**

3.1 *You* must pay the entire *rent* by the *rental instalments* specified in the *schedule* on each *rent payment date*.

3.2 *Rental instalments* must, unless *we* otherwise agree in writing, be paid by direct debit or other electronic means.

3.3 *You* must also pay all *fees* payable in connection with this *agreement*.

4 **DELIVERY OF GOODS**

4.1 *You* are responsible (unless otherwise agreed) for:
(1) obtaining delivery of the *goods*; and
(2) paying all delivery and installation charges.

4.2 *You* must immediately notify *us* of any delay in or non-delivery of the *goods*.

4.3 Any delay in or non-delivery of the *goods* or any damage to the *goods* during delivery or installation does not affect *your* obligations under this *agreement* including *your* obligation to pay *rent*. *You* acknowledge that *we* have not given any warranty as to the anticipated date of delivery of the *goods* or that the *goods* will be delivered and that we have no liability for non-delivery of the *goods*.

5 **LOCATION AND USE OF GOODS**

5.1 The *goods* must be kept in *your* possession and control at all times.

5.2 Subject to clause 5.3 the *goods* must be kept at the *premises* or such other place as *we* may approve.

5.3 Where the *goods* are mobile they may be used by *you* within Australia.

5.4 The *goods* must not be taken outside of Australia.

5.5 *You* must not affix the *goods* to any property without *our* prior written consent. Any fixing must be temporary and only to the extent necessary for the proper use of the *goods*. Before affixing the *goods* to the property *you* must do everything requested by *us* (including obtaining waivers by other persons who have any interest in the property to which the *goods* are affixed) to ensure that no other person acquires or retains any interest in the *goods* and that *we* may obtain access to the *goods*.

5.6 *You* must immediately notify *us* in writing of any *goods* that become located outside Australia.

5.7 *You* must notify *us* if *you* wish to change the place at which the *goods* are located or, in the case of mobile *goods*, ordinarily garaged.

5.8 *You* must whenever requested by *us*:
(1) notify *us* of the location of the *goods*;
(2) produce the *goods* to *us* or allow *us* (and use your best endeavours to ensure others allow *us*) to enter the place where the *goods* are kept to:
- inspect the *goods*;
- confirm the terms of this *agreement* are being complied with; or

- exercise any rights under this *agreement*.

5.9 *You* must only use the *goods* in accordance with:
(1) all applicable laws;
(2) the supplier's and the manufacturer's specifications, instructions and recommendations;
(3) any requirements of the insurers of the *goods*; and
(4) *your* business operations and the purpose for which *you* told *us* that *you* intended to use the *goods*.

5.10 *You* must:
(1) keep the *goods* registered or licensed whenever it is necessary to do so to use or operate the *goods*; and
(2) where applicable, use only qualified personnel to operate and use the *goods*.

5.11 *You* assume all risks and liabilities arising from the use and possession of the *goods*.

5.12 *You agree* that:
(1) *you* will comply with all *OHS laws* in relation to the *goods*;
(2) the *goods* are and will during the term of this *agreement* be and remain under *your* control and are not and, unless *we* exercise *our* rights and powers under this *agreement* or the law, will not be under *our* control;
(3) *you* will indemnify and keep *us* indemnified against any liability *we* may incur or any claim that may be made against *us* in respect of any breach or alleged breach of any *OHS law*; and
(4) the obligations under this clause are in addition to *your* other obligations under this *agreement*.

6 **OWNERSHIP OF THE GOODS**

6.1 The *goods* remain *our* property. *You* are a bailee and have no title or interest in the *goods*.

6.2 *You* must not create any *security interest* over the *goods* or allow any other person to acquire an interest in the *goods*.

6.3 *You* must not do anything which could prejudice or jeopardise *our* rights in respect of the *goods*.

6.4 *You* must not conceal the *goods*, alter them or any identifying number or mark (including any serial number) on them.

6.5 *You* must not grant a lease or licence of any *goods*.

6.6 *You* must not waive any rights or release any person from any obligation in connection with the *goods*.

6.7 *You* must not cause or permit any other personal property in which another person has a *security interest* or other interest or right to become an accession to the *goods* or commingled with any *goods*, or affix any of the *goods* to land or buildings.

6.8 *You* must not sell, transfer or otherwise dispose of *your* rights in respect of the *goods* or attempt to do so without *our* prior written consent.

6.9 Any replacement or repair or addition to the *goods* forms part of the *goods* and becomes *our* property.

6.10 If *you* want *us* to acquire software in conjunction with the *goods* then *you* must:
(1) inform *us* of this when asking *us* to hire the *goods* to *you*; and
(2) set out the price of the software separately.

6.11 If *we* agree to *your* request to acquire software in conjunction with the *goods* then:
(1) *we* will acquire the software as *your* agent or in such capacity or on such terms as *we* otherwise determine in *our* sole discretion;
(2) *rental instalments* will be calculated as if the cost of the software forms part of the cost of the *goods*;
(3) the definition of *goods* is deemed to include the software or the interest in the software which *we* acquire;
(4) *you* will be responsible for obtaining any necessary approvals to entitle *you* to use the software; and
(5) *you* will be responsible for ensuring compliance with all licences or the conditions of use relating to the software.

7 **SECURITY INTEREST IN GOODS**

7.1 *You* acknowledge that *our* interest in the *goods* provided for by the transaction contemplated by this *agreement*:
(1) secures the payment of all moneys and the performance of all obligations owing or assumed by *you* under this *agreement*; and
(2) is a *security interest*.

7.2 *Our security interest* in the *goods* is effective and attaches to the *goods*:
(1) when you sign this *agreement*; or
(2) immediately after *you* acquire any right or interest in the *goods*, if *you* have not acquired the *goods* when *you* sign this *agreement*.

7.3 *We* may, at *your* expense, take all steps as *we* consider advisable to register, amend or remove the registration of, protect, perfect or record *our security interest* in the *goods*, or to better secure *our* position in respect of this *agreement* under the *PPS law*.

7.4 If *we* ask, *you* must deposit with *us* any documents of title (including chattel papers) relating to the *goods* or other documents which evidence your rights in the *goods*.

7.5 Without affecting the priority of *our security interest* under this *agreement*, *you* must take any action necessary to register, perfect, preserve and maintain any s*ecurity interest* in the *goods* which *you* hold, or have the benefit of, under and in accordance with the *PPS law*.

7.6 *You* must procure the removal of any registration in relation to any *security interest* that affects the priority of our interest in the *goods*.

7.7 *You* must immediately notify *us* if *you* become aware of any person taking steps to register, or registering, a financing statement in relation to the *goods*.

8 **REPAIR AND MAINTENANCE OF GOODS**

8.1 *You* must at all times keep the *goods* properly serviced, in proper working order and condition and in good and substantial repair.

8.2 *You* must maintain and service the *goods* in accordance with the supplier's and the manufacturer's specifications and any requirements of any insurers.

8.3 *You* must not without *our* consent make any replacement, alteration or addition of any nature to the *goods* which may lead to a reduction in the value of the *goods*.

8.4 *You* must provide *us* with a written statement disclosing all defects in the *goods* whenever requested and whether or not this *agreement* has expired or *terminated*.

8.5 All repairs to and maintenance of the *goods* must be carried out by suitably qualified personnel at *your* expense.

9 **LOSS OR DAMAGE TO THE GOODS**

9.1 *You* bear the entire risk of *loss* of the *goods* or damage to the *goods*.

9.2 *You* must notify *us* immediately when the *goods* are substantially lost, damaged, impounded, immobilised or forfeited or seized.

9.3 If the *goods* are totally lost or damaged, impounded, immobilised or forfeited or seized, then *we* may at *our* option *terminate* this *agreement*. If that occurs, then:

(1) *you* must pay an amount equal to the *termination amount* and any other amounts payable on *termination* of this *agreement*; and

(2) *we* will give *you* credit, if and when received, for any insurance or other moneys received by us in relation to the loss, damage or seizure.

9.4 If any part of the *goods* is lost, damaged, impounded, immobilised or forfeited or seized, then *we* may at *our* option *terminate* this *agreement* in relation to that part of the *goods*. If that occurs then:

(1) *you* must pay *us* the *termination amount* in regard to that part or parts; and

(2) *we* will give *you* credit if and when *we* receive any insurance or other moneys in relation to that loss, damage or seizure.

We may determine the *termination amount* in regard to that part by reference to the portion of the value, utility or other relevant measure of the *goods* which are lost, damaged or seized. *We* will inform *you* in writing of the basis of this calculation.

9.5 If the *goods* are damaged but *we* do not *terminate* this *agreement*, then:

(1) *you* must ensure that the *goods* are restored at *your* expense to good working order and condition;

(2) replacement goods form part of the *goods* under this *agreement*;

(3) any proceeds of insurance must be applied towards repair or replacement of the *goods*; and

(4) until applied under clause 9.5(3) *we* may hold any proceeds of insurance.

9.6 Where this *agreement* terminates in respect of only part of the *goods*, the *agreement* will continue in respect of the remainder of the *goods* at a revised *rent* and a revised *residual value* as calculated by *us* and advised to *you* having regard to the proportion of the value, utility or other relevant measure of the *goods* which has not been so damaged, destroyed or seized.

10 **INSURANCE**

10.1 *You* must effect and maintain at all times during the *term* or any holding over:

(1) insurance of the *goods* for their full replacement value; and

(2) such other insurance that *we* may require.

10.2 Insurances must:

(1) be on terms approved by *us*;

(2) be with an insurer approved by *us*;

(3) note *our* interest as owners of the *goods*; and
(4) be for such risks as *we* may specify.

10.3 *You* must pay all insurance premiums and other charges in relation to the insurance.

10.4 When requested by *us*, *you* must provide satisfactory evidence to *us* that:
(1) the insurances referred to in this clause have been effected;
(2) all premiums in respect of such insurance are paid up and current; and
(3) such other information in relation to the insurance as *we* may require.

10.5 *You* must not:
(1) vary any insurances without *our* consent;
(2) do or permit to occur anything which may prejudice any insurance or any claim under that insurance; or
(3) enforce, conduct, settle or compromise any claim under any insurance without *our* consent.

10.6 *You* must immediately notify *us* of any event which may lead to a claim under any insurances. *You* must comply with all *our* directions in respect of any such claim.

10.7 *We* are entitled to receive all moneys payable to *you* or to *us* under any insurance in respect of damage to or loss of the *goods*.

11 **REPRESENTATIONS AND WARRANTIES**
11.1 *You* represent and warrant to *us* that:
(1) *you* have full power and authority and have done all things necessary to permit *you* to enter into this *agreement*;
(2) the signing or performing of *your* obligations under this *agreement* will not cause *you* to be in breach of any other arrangements that *you* may have and do not require any consent or approval from any other person;
(3) all documentation provided by *you* to *us*, including any copy or facsimile of invoices issued to *us* by the supplier or seller of the *goods* are true and correct copies;
(4) no *breach of an essential term* or event which with the giving of *notice* or lapse of time or both would be a *breach of an essential term* has occurred or having occurred subsists;
(5) all information (including, where a VIN number in respect of the *goods* is provided, the VIN number) provided by *you* to *us* is true and correct and all of the financial information provided by *you* to *us* provides a true and fair view of *your* financial position and of any *guarantor* and no material adverse change has occurred since the time of preparation of that financial information; and
(6) the *goods* are commercial property and are not and do not form part of the inventory of *your* business.

11.2 *You* warrant to *us* that the representations in this clause are true and correct at the *commencement date* and will remain so during the *term*.

12 **EXCLUSION OF CONSUMER GUARANTEES**
12.1 *You* acknowledge that:
(1) *we* agreed to acquire the *goods* for the sole purpose of supplying the *goods* to *you* under this *agreement*;
(2) all negotiations in relation to the supply of the *goods* have been conducted between *you* (or persons acting on your behalf) and the supplier; and
(3) *your* obligations under this *agreement* continue notwithstanding any break down or defect in the *goods*.

12.2 Subject to clause 12.3;
(1) all *consumer guarantees* in relation to the *goods* and this *agreement*;
(2) any liability for loss or damage caused directly or indirectly by the *goods*; or
(3) any liability for any statement regarding *your* rights under or in respect of this *agreement* including in relation to any law relating to taxation are excluded.
You must obtain *your* own independent legal, financial and taxation advice in relation to this *agreement*.

12.3 Nothing in clause 12.2 limits any liability *we* may have to *you* under the *Australian Consumer Law* or under the provisions of any other legislation where we are not permitted to exclude *our* liability.

12.4 Where this *agreement* relates to the hiring of *goods* (other than goods of a kind ordinarily acquired for personal, domestic or household use or consumption), then, to the extent if any that *we* may have any liability to *you* in respect of any *consumer guarantee, that liability* is limited at our option to:
(1) the replacement of the *goods* or supply equivalent goods;
(2) the cost of repair of the *goods*; or
(3) the payment of the cost of replacing the *goods* or acquiring other equivalent goods.
(4) The provisions of this clause 12.4do not apply if *you* establish that it is not fair and reasonable for *us* to rely on this clause.

13 **RETURN OF GOODS**
13.1 *You* must at *your* own cost return the *goods* on the *termination* or *expiration* of this *agreement* to the

place specified by *us*.

13.2 The *goods* when returned must be in good working order and repair (fair wear and tear excepted) and in accordance with the terms of this *agreement*.

13.3 *You* must sign any documents and do anything *we* require to properly return the *goods* to *us* including:
(1) returning all operating manuals and documents;
(2) transferring to *us* all licences, approvals, consents, authorisations and certificates of registration relating to the *goods*; and
(3) a statement specifying any defects in the *goods* in accordance with clause 8.4.

14 **TERMINATION AND REPOSSESSION**

14.1 If a *breach of an essential term*[1] occurs *we* may without prejudice to *our* other rights:

[1] Note this is a defined term – see clause 37.1(4) for the meaning of this term.

(1) treat this *agreement* as repudiated;
(2) accept such repudiation; and
(3) subject to clause 14.4, by *notice* terminate this *agreement* and *your* right to possession of the *goods*.
This right may be exercised notwithstanding any delay or previous waiver by *us*.

14.2 If a *breach of an essential term* occurs *we* are relieved from any further liability to perform any of *our* obligations under this *agreement*.

14.3 If *we* terminate this *agreement* under this clause, then:
(1) *we* are entitled to immediately repossess the *goods*; and
(2) *we* and *our* agents are authorised to and may enter upon any land or premises (including private property) where the *goods* are or where *we* suspect the *goods* are for the purpose of such repossession.

14.4 If *we* determine that circumstances are such that giving *notice* of *termination* is impractical or would adversely affect *our* rights (including *our* right to possess the *goods*) *we* may terminate this *agreement* and *your* right to possession of the *goods* without the need for any notice.

14.5 Nothing in this clause affects *our* obligation to give any *notice* that *we* are required at law to give.

15 **RESIDUAL VALUE**

15.1 If upon *termination* or *expiration* of this *agreement you* return the *goods* to *us* then *you* must pay to *us* on demand the amount of money by which the *residual value* exceeds the *value of the goods*. If the *value of the goods* exceeds the *residual value you* have no claim or interest in such surplus.

15.2 If upon *expiration* or *termination* of this *agreement you* fail to return the *goods* to *us* then *you* must pay to *us* on demand by way of liquidated damages the *residual value* of the *goods* and perform of all obligations owing or assumed by *you* under this *agreement*. If *we* subsequently obtain possession of the *goods* then *we* will apply the sum representing the *value of the goods* in reduction or satisfaction of *your* indebtedness under this *agreement* (or in repayment of any payment made by *you* under this *agreement*) but *you* have no interest or claim in any surplus.

15.3 If this *agreement* is terminated prior to the expiry of the *term* then the *residual value* for the purpose of this clause is the *present value* at the date of *termination* of the amount specified in the *schedule* as the *residual value*.

15.4 Any payment by *you* under this clause is in addition to other amounts payable under this *agreement* and is to indemnify *us* against loss *we* may suffer.

16 **TERMINATION PRIOR TO EXPIRY OF THE TERM**

16.1 If this *agreement* is terminated by *us you* must in addition to other amounts payable under this *agreement* pay on demand as liquidated damage the *termination amount*.

16.2 Amounts payable under clause 16.1 are in addition to any amounts payable under clause 15.

16.3 Payments under clause 16.1 are to indemnify *us* for losses sustained in respect of *rental instalments* not then accrued due.

17 **OVERDUE COSTS**

17.1 *You* must pay *us* on demand any reasonable *costs* incurred by *us* arising out of any default by *you* under this *agreement* or arising out of *our* enforcing *our* rights under this *agreement* including *our* rights upon *expiration* or *termination* of this *agreement*.

18 **REMEDY OF BREACHES BY YOU**

18.1 If *you* breach any of *your* obligations under this *agreement we* may at *our* discretion (but without having any obligation to do so) take such steps as *we* consider necessary to remedy such breach.

18.2 *You* acknowledge that *we* may do anything *you* should have done under this *agreement* which *you* have not done or which *we* consider *you* have not done properly.

18.3 Any *costs* incurred by *us* in exercising *our* rights under clause 18.1 or 18.2 must be reimbursed by you to us and such amounts shall incur interest from the date of paymentby *us* until the date of repayment by *you*. Such money is payable on demand.

19 **DUTIES AND TAXES**

19.1 *You* must pay all duties, taxes and fees which in any way relate to this *agreement*, any supply made under this *agreement* or any transaction contemplated by this *agreement*.

19.2 Unless *GST* is expressly included a payment under this *agreement* for any supply made under or in connection with this *agreement* does not include *GST*. To the extent that any supply made under or in connection with this *agreement* is a taxable supply, the *GST* excluded consideration otherwise payable or provided for that supply is increased by an amount equal to that consideration multiplied by the rate at which *GST* is imposed in respect of such supply and subject to receipt of any tax invoice if required, is payable at the same time.

19.3 If payment to a party under this *agreement* is a payment by way of reimbursement or indemnity and is calculated by reference to the *GST* inclusive amount of such loss, cost or expense incurred by that party, then payment is to be reduced by the amount of any input tax credit to which that party is entitled in respect of that loss, cost or expense before any adjustment is made for *GST* pursuant to clause 19.2.

19.4 Payments under this clause must be made at the time that the act or supply giving rise to such liability occurs.

20 **TAX INDEMNITY**

20.1 *You* acknowledge that the *rent* and other moneys payable in connection with this *agreement* have been calculated on the basis:

(1) that *we* will be entitled to claim a deduction for depreciation in respect of the *goods* under any laws relating to income tax; and
(2) of the rates of duty and tax applicable at the date of this *agreement*.

20.2 If *our* liability for income tax is increased or is payable earlier because deductions at the depreciation rates which *we* have relied upon for calculation of the *rent* are not for any reason allowed in full at the times when they would normally have been allowed (or the *residual value* is not approved by the relevant authorities) or if the rate of any duty or tax in connection with this *agreement* (other than income tax on *our* net taxable income) is increased then *you* must pay to *us* on demand an amount which will result in the after tax yield to *us* being the same as it would have been but for such increase or acceleration in liability.

20.3 Indemnities in this clause continue in full force and effect notwithstanding any *termination* or *expiration* of this *agreement*.

21 **APPLICATION OF MONEYS**

21.1 To the extent permitted by law and subject to any order of application of payments prescribed by the *PPS Act*, *we* will apply all moneys received by *us* in respect of this *agreement* in the following order:

(1) first, in payment of *our costs*;
(2) secondly, in payment of any other expenses in relation to the *goods* that *we* are empowered under this *agreement* to appropriate and think fit to pay; and
(3) thirdly, towards payment of the amounts due to *us* under this *agreement*.

22 **POWER OF ATTORNEY**

In consideration of *us* entering into this *agreement you* irrevocably appoint *us* and each *authorised officer* severally as *your* attorney for the purpose of doing all things which *you* are obliged to do or which *we* are empowered or authorised to do under this *agreement*.

23 **TRUSTEE**

23.1 The provisions of this clause apply if *you* or any *guarantor* enter into this *agreement* (including the guarantee contained in this *agreement*) as the trustee of a trust.

23.2 Each *trustee* enters into this *agreement* in its personal capacity and its capacity as trustee of the *trust*.

23.3 Each *trustee* warrants to *us* that:

(1) it is the sole trustee of the *trust*;
(2) no action has been taken to remove or replace it as *trustee*;
(3) the *trustee* has full power under the trust deed to enter into this *agreement* and to perform its obligations under this *agreement*;
(4) all necessary actions have been taken to authorise the entering into and performance of this *agreement*;
(5) This *agreement* is entered into as part of the due and proper administration of the *trust* and is for the benefit of the beneficiaries;

(6) The *trustee* has the right to be fully indemnified out of the trust fund and no action has been taken to restrict the limit of that right.;
(7) The *trust* has not terminated nor has any event for the vesting of the *trust* assets occurred; and
(8) *Our* rights under this *agreement* rank in priority with the claims of the beneficiaries under the *trust*.

23.4 Except with *our* prior written consent:
(1) the *trust* deed must not be varied;
(2) the *trustee* must not retire as *trustee* of the *trust* or appoint any new or additional trustee; and
(3) the *trustee* must perform *its* obligations under the *trust* and not be in default.

23.5 Except as provided for in clause 23.6 the *trustee* must not distribute, transfer or set aside any part of the income or the capital of the *trust*.

23.6 Until the first to occur of:
(1) Written *notice* from *us*; or
(2) the occurrence of a *breach of an essential term*,
the *trustee* may distribute the income but not the capital of the *trust* in accordance with the trust deed.

24 **FARM GOODS**
24.1 If the provision of any legislation relating to farmers, farm business or operations or farming equipment or machinery (**applicable legislation**) applies to this *agreement* and:
(1) *we* are required to give any *notice* in addition to that provided for in this *agreement* or provide *notice* for a longer period than provided for in this *agreement*;
(2) the maximum amount *we* may recover from *you* is subject to any limitation or retention; or
(3) any of *our* rights against *you* is subject to any restriction or limitation;
then
(4) *we* must give *you* the *notice* which complies with the applicable legislation;
(5) the maximum amount *we* can recover from *you* is the lesser of the amount specified in the applicable legislation and the amount provided for in this *agreement*; and
(6) *we* must exercise *our* rights under this *agreement* subject to *your* rights under the applicable legislation.

24.2 *You* must disclose to *us* (if *you* have not already done so) if:
(1) *you* are or become a farmer within the meaning of the applicable legislation;
(2) the *goods* are or are intended to be used in connection with a farming business or operation within the meaning of the applicable legislation; or
(3) the *goods* are or become farm equipment or farm machinery within the meaning of the applicable legislation.

25 **COMMISSION**
25.1 *You* acknowledge that where *you* have been introduced to *us* by a *broker*:
(1) the *broker* has not acted as *our* agent to negotiate and enter into this *agreement*;
(2) the *broker* is not authorised to make any representations or warranties to *you* on *our* behalf regarding this *agreement* or impose any obligations on *us*;
(3) *we* may pay commissions or fees or remuneration to that *broker*; and
(4) in calculating the *rental instalments* payable by *you* under this *agreement*, payments to the *broker* may be taken into consideration.

26 **GENERAL**
26.1 Acceptance of any payment by *us* after *we* have become aware of any default under this *agreement* or any *breach of an essential term* is without prejudice to the exercise by *us* of *our* powers under this *agreement*. Acceptance does not operate as an election by *us* either to exercise or not exercise any of *our* rights or powers under this *agreement*.

26.2 *You* and any *guarantor* must promptly give *us* information or documents *we* ask for about:
(1) *your* or all of the *guarantors*' financial positions; and
(2) the *goods*.

26.3 *We* may at any time assign, charge or otherwise deal with the *goods* or *our* rights under this *agreement* including the *guarantee*. *You* must not assign or charge the *goods* or *your* rights under this *agreement* without *our* prior written consent.

26.4 If any provision of this *agreement* is or at any time becomes void or unenforceable the remaining provisions will remain in full force and effect. Any void or unenforceable provision will be replaced or if not replaced then read down to a lawful and enforceable provision which so far as possible achieves the same economic benefit or burden for *us* and *you* as the unlawful or unenforceable provision was intended to achieve. All *your* obligations under this *agreement* survive the *expiration* or *termination* of the *agreement* to the extent required for their full observance and performance.

26.5 To the extent permitted by the *PPS law*, our rights, powers and remedies under this *agreement* prevail to the extent they are inconsistent with the provisions of the *PPS law*.

26.6 If any law requires *you* or any *guarantor* to make any deduction or withholding from any payment in respect of this *agreement* or the *guarantee* then:

(1) *you* or any *guarantor* must pay to *us* such additional payments as are necessary to ensure that after the withholding or deduction *we* receive the sum equal to the sum *we* would have recovered if no deduction or withholding had been made; and

(2) *you* and any *guarantor* indemnify *us* against any failure by *you* or any *guarantor* to make such deduction or withholding.

26.7 Time is of the essence in respect of *your* obligations under this *agreement*.

26.8 No failure or delay on *our* part to exercise any rights or powers under this *agreement* will operate as a waiver of that right or power. *We* may only waive *our* rights under this *agreement* in writing signed by an *authorised officer*.

26.9 This *agreement* cannot be varied except in writing with the consent of *you* and *us*. Any variation by *us* must be signed by an *authorised officer*.

26.10 *You* must at *your* expense do any further act and execute any further documents which *we* may reasonably request to protect *our* title to the *goods* and *our* rights and remedies under this *agreement*.

26.11 *You* and each *guarantor* authorise *us* to:

(1) fill in any blanks in this *agreement* and any document signed in connection with this *agreement*; and

(2) make any amendments to any of the documents in clause 26.11(1) to accurately reflect or give effect to the terms of this *agreement* which have been agreed with *us*.

26.12 *You* and any *guarantor* must give *us* at least 7 days prior written notice if *you* or any *guarantor* change name or address.

27 **PROPER LAW**

27.1 This *agreement* is governed by the laws of the *state* and the laws of the Commonwealth of Australia.

27.2 *You* irrevocably submit to the non-exclusive jurisdiction of the courts of the Commonwealth of Australia and the *state*.

28 **SECURITY**

(1) Where it is agreed that *your* obligations under this *agreement* are to be secured by any *security* then moneys secured by that *security* include all moneys owing under this *agreement* or in consequence of the *termination* of this *agreement*.

(2) Where it is agreed that the obligations of any *guarantor* in relation to this *agreement* are to be secured by any *security* then moneys secured by that *security* include all moneys owing under the *guarantee*.

29 **SET-OFF AND COMBINATION OF ACCOUNTS**

29.1 *We* may at any time at *our* discretion apply and set-off any amounts owing by *us* to *you* or to any *guarantor* for any reason against any amounts owing or which may become owing by *you* to *us* on any account including but not limited to this *agreement*.

29.2 *We* will promptly inform *you* if *we* exercise *our* rights of set-off contained in this clause or if *we* combine any accounts.

29.3 Any payment by *you* must be made free of any abatement, reduction or set off or any deduction or withholding.

30 **EVIDENCE**

A certificate signed by an *authorised officer* is prima facie evidence of the matters set out in that certificate, unless it is proved to be incorrect.

31 **GUARANTEE AND INDEMNITY**

31.1 In consideration of *us* at the request of the *guarantor* entering into this *agreement*, the *guarantor* guarantees to *us*:

(1) the due and punctual performance by *you* of *your* obligations under this *agreement* or any holding over pursuant to this *agreement*; and

(2) payment of all moneys owing under this *agreement* or consequent upon the *expiration* or *termination* of this *agreement*.

31.2 As a separate obligation the *guarantor* indemnifies *us* against any loss or damage which *we* suffer or sustain as a result of the non-payment of any money or the non-performance of any of *your* obligations under this *agreement*, any holding over pursuant to this *agreement* or consequent upon *termination* or *expiration* of this *agreement*.

31.3 The obligations of the *guarantor* under this guarantee are principal obligations imposed on the *guarantor*. *We* have the right to make a claim or demand upon the *guarantor* pursuant to this *guarantee* without having first taken any proceedings against *you* or any other person.

31.4 The *guarantor*'s obligations under this *guarantee* are not impaired or discharged by:

(1) any variation (with or without the consent of the *guarantor*) of this *agreement*;
(2) any breach, wilful or otherwise of any of *your* obligations under this *agreement* whether or not with the consent or knowledge of *you* or any *guarantor* or *us*;
(3) the granting of any time, credit, indulgence or concession to *you* or to any *guarantor*;
(4) the fact that the whole or any part of the moneys payable by *you* under this *agreement* may not be or may cease to be recoverable from *you* or from any other *guarantor*;
(5) the fact that *you* or any other *guarantor* may be discharged from all or any of *your* obligations to pay any moneys under this *agreement* for any reason other than that the same have been in full;
(6) *you* or any *guarantor*, being an individual, dies, suffers from any mental incapacity or becomes *insolvent under administration*;
(7) *You* or any *guarantor* being a company become an *externally administered body corporate*;
(8) the avoidance for any reason of any payment by *you* or on *your* behalf or by any *guarantor*;
(9) the fact that *you* or any person who was intended to execute this *agreement* as *guarantor* or otherwise to become a co-surety for *your* obligations under this *agreement* has not done so;
(10) the failure to register or perfect *our security interest* in the *goods* or arising under this *agreement*;
(11) the transfer or assignment of the benefit of this *agreement* including this *guarantee* to any person or corporation; or
(12) any other matter or thing which but for this provision could or might operate to abrogate or reduce *your* liability as *guarantor*.

31.5 *Our* rights under this *guarantee* are in addition to and do not merge with or affect any *securities* now or subsequently held by *us* from *you* or from the *guarantor* from any other person.

31.6 *We* are not obliged to marshal in favour of the *guarantor* any *security* held by *us* or any other funds or assets that *we* may be entitled to receive or to have a claim upon.

31.7 Any *security* now or subsequently held by any *guarantor* from *you* for *your* obligations to indemnify that *guarantor* against liability under this guarantee must be held by the *guarantor* in *our* favour and at the cost of the *guarantor* as security for the *guarantor*'s liability to *us*. The *guarantor* must upon request deposit that security with *us* or assign it by way of security to *us*.
31.8 The *guarantor* must not compete with *us* for any dividend or distribution in any winding up, scheme of arrangement or management or administration of *you* or claim any set-off or make any counter-claim against *you*.

31.9 All moneys received by *us* which are capable of being applied by *us* towards payment of any moneys then due or which may become due under this *agreement* must be regarded as payments in gross. The *guarantor* has no right to claim the benefit of any moneys so received until *we* have received the whole of the moneys due or which may become payable to *us* under this *agreement*.

32 **NOTICES**
32.1 A *notice* required to be given to *you* or any *guarantor* ("relevant person") under this *agreement* may be given by *us* in any of the following ways:
(1) in person;
(2) by delivery; or
(3) electronically.

32.2 A *notice* may be given in person:
(1) by handing a written notice to the relevant person; or
(2) by orally advising the relevant person in person or over the telephone of the substance of the notice.

32.3 A *notice* may be given by delivery, by delivering it or posting it addressed to the relevant person at his or her *postal address*.

32.4 A *notice* may be given electronically by sending it by facsimile, email or SMS to the relevant person at their *electronic address*.

32.5 A *notice* may be given to a relevant person that is a company by giving that *notice* in any manner permitted by this clause 32 to any person shown on the records at the Australian Securities and Investment Commission as a director of that company

32.6 Subject to any laws that may provide otherwise, a *notice* will be taken to have been given:
(1) If the *notice* is given in person, at the time it is given;
(2) If the *notice* given by delivery (other than by posting), upon delivery;
(3) if the *notice* is given by delivery by posting, 2 business days after posting;
(4) if the *notice* is given electronically, on the day it is sent.
However, a *notice* given electronically will not be taken to have been given if *we* receive notification from the recipient's electronic service provider that transmission or delivery was not successful.

32.7 Where "you" consist of more than one person, *we* may give *you notice* by giving that *notice* in any manner permitted by this clause to any one of *you*.

32.8 Where there is more than one *guarantor we* may give *notice* to all *guarantors* by giving *notice* in any manner permitted by this clause to any one of the *guarantors*.

32.9 A *notice* may be given on behalf of *us* by an *authorised officer*

32.10 Subject to any law that provides otherwise, a *notice* from *you* or any *guarantor* to *us* must be in writing and sent to *us* at *our* address in the *state* shown in the *schedule*. *We* are not deemed to receive a *notice* under this *agreement* until *we* actually receive the *notice* in legible form.

33 **VARIATION OF STANDARD TERMS AND CONDITIONS**

We may change these *standard terms and conditions* at any time. If any law regulates that change, *we* may only make changes to the extent permitted by, and subject to, the requirements of that law. Any other change takes effect from the earlier of the date *you* receive written notice of the change or the date *we* publish details of the change by advertisement in a national newspaper.

Circumstances where *we* may make changes to these *standard terms and conditions* include but are not limited to those where there are:

- changes in the cost of providing credit to *you*;
- changes in legal or other regulatory requirements affecting *us*;
- changes in any system or product development or enhancement.

If *you* consider that *you* will be adversely affected by changes to these *standard terms and conditions* notified to you under this clause 33, *you* may pay us the amount required to pay out this *agreement* (including any *termination amount*) on the day *you* wish to end the *agreement*.

34 **FURTHER ASSURANCES**

34.1 *You* must at *your* own cost and immediately upon request from *us*:'

(1) do anything (including providing information, obtaining consents or waivers, or executing new documents, amendments to this *agreement* or consents) which *we* consider necessary or desirable to:

(a) provide more effective or better security to *us* over the *goods* or any part of the *goods* or proceeds of the *goods* in any relevant jurisdiction and in a manner not inconsistent with this *agreement* with any additional terms reasonably required by *us* having regard to the nature of that part of the *goods* or proceeds of the *goods* and the type of additional *security interest* being created;

(b) enable *us* to register this *agreement* or *our* interest in the *goods* (including enabling *us* to prepare and register a financing statement or financing change statement), with the agreed priority (and if required, to renew the registration);

(c) ensure that, any *security interest* created under, or provided for, by this *agreement*:

(i) attaches to the *goods*; and

(ii) is enforceable, perfected and otherwise effective;

(d) stamp, protect, perfect, record or better secure *our* positions under this *agreement* in any relevant jurisdiction;

(e) if *you* are in default, enable *us* to evidence that *we* are in control and possession of the *goods* for the purposes of the *PPS Act*;

(f) overcome any defect or adverse effect arising from the *PPS law*;

(g) enable *us* to exercise *our* rights or powers in respect of the *goods*, proceeds of the *goods* or any *security interest* in the *goods* or those proceeds or perform any of *our* obligations under the *PPS law*; and *you* must ensure that any person interested in the *goods* does likewise;

(2) take or defend such legal proceedings as *we* may consider advisable for the protection or recovery of the *goods*.

35 **CONFIDENTIALITY**

35.1 Subject to clause 35.2, a party to this *agreement* may not disclose:

(1) any information of a kind referred to in section 275(1) of the *PPS Act*; or

(2) the existence or content of this *agreement*.

35.2 A party to this *agreement* may disclose information or documents referred to in clause 35.1 as follows:

(1) in the case of *us*, in assigning or enforcing or seeking to assign or enforce this *agreement* or in a proceeding arising out of or in connection with this *agreement* or to the extent that disclosure is regarded by *us* as necessary to protect *our* interests;

(2) if required under a binding order of a *government agency* or any procedure for discovery in any proceedings;

(3) if required under any law or any administrative guideline, directive, request or policy whether or not having the force of law (except to the extent the requirement can be excluded or limited by contract or by a confidentiality obligation) and, if not having the force of law, the observance of which is in accordance with the practice of responsible bankers or financial institutions similarly situated;

(4) as required or permitted by this *agreement*;

(5) the party's advisers and consultants;

(6) in the case of *us*, to a ratings agency or to a potential assignee, transferee or sub-participant or to any person with whom *we* may enter into a transaction, including a securitisation; or

(7) with the prior consent of the other party, which must not be unreasonably withheld.

35.3 Clause 35.2(3) does not require *us* to disclose any information of the kind referred to in section 275(1) of the *PPS Act*.

35.4 Subject to clause 35.2, *you* and each *guarantor* agree that *you* and each *guarantor* will not authorise the disclosure of any information as contemplated by section 275(7)(c) of the PPS Act.

35.5 This confidentiality clause survives the termination of this agreement.

36 **CONTRACTING OUT OF CERTAIN PROVISIONS OF THE PPS ACT**

36.1 *You* have no rights under, or by reference to, sections 125, 142 and 143 of the *PPS Act* and waives *your* rights to:

(1) receive any notice under sections 95, 121(4), 130 and 135 of the *PPS Act;*

(2) receive a statement of account under section 132(4) of the *PPS Act*;

(3) receive details of the amounts paid to other secured parties in a statement of account provided by the Chargee under section 132(1) of the *PPS Act*; and

(4) receive any other notice or copies of any documents under the *PPS Act* (including a copy of, or notice of, any verification statement confirming registration of a financing statement or a financing change statement relating to any *security interest* created under, or provided for by, this *agreement*) unless the notice is required by the *PPS Act* and cannot be excluded.

37 **DEFINITIONS**

37.1 In this *agreement* unless the contrary intention otherwise appears:

(1) *agreement* means this contract incorporating these *standard terms and conditions* and the *schedule*. It is includes the *guarantee* contained in this contract.

(2) *Australian Consumer Law* means the Australian Consumer Law under the Competition and Consumer Act 2010 (Cwth)

(3) *authorised officer* means any:

(a) director or secretary of *us*;

(b) any employee of *us* whose title includes the term manager; or;

(c) any other person from time to time authorised by *us* as an authorised officer;

(4) breach of an essential term means the occurrence of any of the following:

(a) *you* fail to pay any *rental instalment* or other monies due under this *agreement* where such failure continues for 14 days after *notice* from *us*;

(b) *you* by *your* conduct or in writing inform *us* that *you* are not or do not intend to be bound by this *agreement*;

(c) *you* fail to comply with *your* obligations under clauses 5.1, 5.4, 6.2, 6.4, 9.2, 10.1 or 34;

(d) if *you* or any *guarantor* fails to comply with any other provision of this *agreement* and such failure continues for a period of 14 days after *notice* from *us* stipulating such failure;

(e) *we* reasonably believe that the *goods* will be removed or concealed by *you* contrary to the provisions of this *agreement*;

(f) *you* make any false, inaccurate or misleading statement in relation to the entering into of this *agreement* or any *security* and *we* acting reasonably are of the opinion that *we* would not have entered into this *agreement* if *you* had not made that false, inaccurate or misleading statement;

(g) *you* cease or threaten to cease to carry on *your* business or without *our* prior written consent transfer or dispose of all or a substantial part of *your* assets whether voluntary or due to compulsory acquisition;

(h) *you* or any *guarantor* being a company become an *externally administered body corporate* or any steps are taken to make *you* or *guarantor* an *externally administered body corporate*;

(i) *you* or any *guarantor* being a natural person become *insolvent under administration* or a bankruptcy notice is filed or any other step is taken to make *you* or any *guarantor insolvent under administration*;

(j) *we* have evidence that there is a material adverse change in your financial condition or the financial condition of any *guarantor*;

(k) *you* or any *guarantor* are a company and *we* have evidence that the effective control of *you* is altered to any material extent from that subsisting at the date of this *agreement*;

(l) the *goods* are abandoned or condemned or seized or appropriated by any lawful authority;

(m) *you* or any *guarantor* are in default under, in breach of an essential term of, or repudiate any other agreement *you* have with *us* for the hiring of *goods* or the provision of any loan, advance, credit or financial accommodation;

(n) default occurs under any *security* given by *you* by *us*;

(o) there is any material breach of any other agreement *you* or any *guarantor* have with *us* and such breach is not rectified after *notice* from *us*; and

(p) *you* do or omit to do anything or permit anything to be done or omitted which may prejudice *our security interest* or the priority of *our security interest* in the *goods*.

(5) *broker* means any broker, dealer or other person who may act, as *your* agent or otherwise, to negotiate and arrange this *agreement*;

(6) *business day* means a week day (except a national public holiday or a public holiday in the *state*) when *we* are open for business in the *state*;

(7) *commencement date* means the date determined as set out in the *schedule*;

(8) *consumer guarantee* means any consumer guarantee under the *Australian Consumer Law* or any other warranty or representation whether express or implied and includes any direct or consequential liability in respect of any of the foregoing;

(9) *Corporations Act* means the *Corporations Act 2001* (Cth);

(10) *costs* includes charges and expenses and costs including all costs of:

(a) perfecting, protecting or preserving *our security interest* under this *agreement* and *our* intended priority;

(b) compliance with *our* obligations under the *PPS law*;

(c) legal advisers on a full indemnity basis;

(d) repossession, repair, storage and inspection of the *goods*;

(e) obtaining a valuation of the *goods*;

(f) disposal of the *goods*;

(g) obtaining any other advice in relation to the repossession, storage, repair or disposal of the *goods*; and

(h) taken any other actions to enforce any rights under this *agreement* or the *PPS law*.

(11) *electronic address* means:

(a) any facsimile number;

(b) any mobile phone number or other telephone that can receive short message service (**SMS**) messages; and

(c) any email address

as specified in the *schedule* or otherwise notified to *us* in any other document provided to *us* in connection with this *agreement*, or such amended *electronic address* as may be notified to *us* from time to time in writing.

(12) *expiration* in relation to this *agreement* means the expiry of the *term*;

(13) *externally administered body corporate* has the meaning given to it in the *Corporations Act*.

(14) *fees* means any fees imposed from time to time by *us* in relation to agreements of a type similar to this *agreement* and without limiting that provision it includes fees relating to the entering into, administration, collection, enforcement or termination of this *agreement*;

(15) *goods* means all or any part of the goods described in the *schedule* and includes any accessories attached to those goods and all manuals, log books, maintenance records and licenses held in conjunction with the goods and any alterations, additions or modifications of the goods or any goods acquired in the substitution for the goods;

(16) *government agency* means any government or governmental, semi governmental or judicial entity or authority in any state, country or other jurisdiction, including any self-regulatory organisation established under a statute or stock exchange;

(17) *GST* and *GST Law* has the same meaning they are given in "A New Tax System (Goods and Services Tax) Act 1999 (Cth) except that GST Law also includes any applicable rulings issued by the Commissioner of Taxation;

(18) *guarantee* means any guarantee or indemnity given by a *guarantor*;

(19) *guarantor* means each person who has guaranteed *your* obligations under this *agreement* and includes any guarantor referred to in the *schedule* and any person who, whether at the time of entering into this *agreement* or subsequently, guarantee *your* obligations under this *agreement*;

(20) *implicit rate* means the rate used by *us* for the purpose of calculating the *rent* payable under the *agreement*;

(21) *insolvent under administration* has the same meaning as in the *Corporations Act*;

(22) *loss* in relation to the *goods* includes any circumstances where the *goods are* destroyed, or damaged so that it is not economic to repair the *goods* and also any circumstance where *you* are not able to obtain and maintain possession of the *goods* including where the *goods* are stolen or seized;

(23) *net proceeds of sale* means the net proceeds of sale received by *us* less all costs in connection with that sale;

(24) *notice* means any notice, demand or consent;

(25) *OHS laws* means any laws, regulations or standards relating to occupational health and safety;

(26) *postal address* means:

(a) the address specified in the *schedule* for that entity or such other address as may be from time to time notified to *us* in writing; or

(b) in addition for a company, either of its registered office or its principal place of business as notified to the Australian Securities and Investment Commission.

(27) *PPS Act* means the *Personal Property Securities Act 2009* (Cth), as amended from time to time;

(28) *PPS law* means:

(a) the *PPS Act*;

(b) regulations made from time to time under the *PPS Act*; and

(c) any amendment made to any other legislation as a consequence of the *PPS Act*, including, without limitation, amendments to the *Corporations Act*;

(29) *premises* means the place where the *goods* are used or ordinarily located as set out in the *schedule*;

(30) *present value* calculations are made on a compounding monthly rate of return basis regardless of the actual payment period;

(31) *rent* means the total of the *rental instalments* specified in the *schedule*.
(32) *rent payment date* means the dates for payment of *rental instalments* as set out in the *schedule*;
(33) *rental instalment* means the instalments as set out in the *schedule*;
(34) *residual value* means subject to clause 15.3 the residual value specified in the *schedule*;
(35) *sale* means any sale by *us* of the *goods*. Such sale may be by auction, tender, consignment, public sale, private sale or such other method as *we* determine;
(36) *schedule* means the *schedule* which incorporates these *standards terms and conditions*;
(37) *security* means any *security interest* given by *you*, any *guarantor* or any other person to secure *your* obligations or the obligations of any *guarantor* under this *agreement*. It includes the *security interest* granted by *you* and any *guarantor* under this *agreement*;
(38) *security interest* means:
(a) a mortgage, charge, pledge, lien or other security interest securing the payment of money or performance of any obligation of any person or any other agreement, notice or arrangement having a similar effect;
(b) a right, interest or an arrangement which has the effect of giving another person a preference, priority or advantage over creditors including any right of set-off;
(c) third party right or interest or any right arising as a consequence of the enforcement of a judgment; or
(d) anything that is defined to be a 'security interest' under the *PPS law*;
(39) *standard terms and conditions* means these *standard terms and conditions*;
(40) *state* means the state or territory of *your* address specified in the *schedule*;
(41) *term* means the term of this *agreement* as set out in the *schedule*;
(42) *termination* means a termination of this *agreement* prior to the expiry of the *term* and *terminate* has a similar meaning;
(43) *termination amount* means at a relevant time the amount which is the total of:
(a) all *rental instalments* and other amounts which have accrued due at that time but which are then unpaid;
(b) the sum of the *present value* calculated at that date, of each *rental instalment* which has not then accrued due but would have accrued due if this *agreement* had continued for the remainder of the *term*.
(44) *trust* means each trust in respect of which *you* or any *guarantor* is a *trustee*. It includes but is not limited to the trusts specified in the *schedule*;
(45) *trustee* means each person (including any *guarantor*) who enters into this *agreement* on behalf of a *trust*;
(46) *value of goods* means an amount determined at *our* option as either:
(a) the *net proceeds of sale* of the *goods*; or
(b) the amount certified to be the bona fide market value of the *goods* at a date no later than 4 months after repossession of the *goods* by *us* by a dealer in goods of a similar description or a licensed or other competent valuer selected by *us*.
(47) *we, us, our* means the person shown as owner in the *schedule* and its successors and assigns; and
(48) *you, your* means the person described in the *schedule* as you, your successors and permitted assigns.

37.2 Each term referred to in the *schedule* has, subject to succeeding paragraphs, the meaning given to it in the *schedule*.

37.3 If there is more than one of *you* named in the *schedule* then the liability of each of *you* is joint and several.

37.4 If there is more than one *guarantor* named in the *schedule* then the liability of each *guarantor* is joint and several.

37.5 Words importing the singular number include the plural and vice versa. Any gender includes any other gender.

37.6 References to legislation include all regulations orders proclamations, notices and other requirements under that legislation and include the legislation as consolidated amended, modified or re-enacted.

37.7 Clause headings are for reference purposes only.

37.8 "Include", "includes" and "including" are not words or limitations.

37.9 A reference to a thing includes all or any part of that thing.

37.10 A reference to a person includes a reference to an individual, person, a trust, partnership, joint venture or other incorporated association and corporation or an authority as the case may be and includes that person's executive administrators, successors and permitted assigns.

37.11 Where any matter or thing is required to be done by you on a day which is not a *business day* then it must be done on the preceding day which is a *business day*. Where the day on which any act, matter or thing to be done is the 29th, 30th, or 31st day of any month and such a day does not occur in that month, then, such act matter or thing must be done on the last *business day* of that month.

37.12 References to clauses are references to clauses of these *standard terms and conditions*.

37.13 Unless the contrary intention appears, a reference in this *agreement* to “chattel paper”, “commercial property”, “financing statement”, “financing change statement”, “inventory”, “proceeds”, “verification statement” and “VIN number” have the respective meanings given to them under the *PPS Act*.

37.14 Nothing in this *agreement* is to be construed as:

(1) an agreement that a *security interest* provided for by this *agreement* attaches at a later time then the time specified in section 19(2) of the *PPS Act*; or

(2) an agreement to subordinate a *security interest* provided for by this *agreement* in favour of any person.