

ANNEX D TO ATTACHMENT I**DRAFT****GOVERNMENT FURNISHED FACILITIES LICENCE**

This Licence is made between the Commonwealth of Australia represented by the Department of Defence ABN 68 706 814 312 (the "Commonwealth") and (...INSERT COMPANY NAME, COMPANY ACN/ARBN AND ABN AS APPLICABLE...) and having its registered office at (...INSERT COMPANY'S REGISTERED OFFICE...) (the "Contractor").

Note to drafters: The details of the parties above should be identical to the parties' details in the Contract.

RECITALS

- A. The Commonwealth and the Contractor have entered into (or will enter into) the Contract for the supply of goods or services.
- B. To assist the Contractor in performing its obligations under the Contract, the Contractor has requested, and the Commonwealth has agreed to provide the Contractor with, access to and use of the Defence Estate assets on the terms of this Licence.

Note to drafters: All necessary approvals under the Lands Acquisition Act 1989 (Cth) (LAA) to enter into this Licence must be obtained before the Licence and the Contract are signed. Failure to obtain the necessary LAA approvals before the Licence and the Contract are signed will breach the LAA.

Defence does not hold the delegation to give approvals under the LAA. Property Leasing and Acquisitions, Property Services Branch, Infrastructure Division, Defence Support Group is required to liaise with the Department of Finance and Deregulation to ensure the necessary approvals are in place before Licence and Contract signature and only a manager from this area is authorised to sign the Licence on behalf of Defence.

THE PARTIES AGREE AS FOLLOWS

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ANNEX D TO ATTACHMENT I**DRAFT****1. DEFINITIONS**

- 1.1.1. Unless the contrary intention appears, words, abbreviations and acronyms used in this Licence:
- a. have the same meaning given to them in the Contract, and are incorporated into this Licence to the extent applicable; or
 - b. in any other case, have the meaning given to them in the Glossary set out in clause 14.

2. GRANT OF LICENCE**2.1. Grant**

- 2.1.1. In accordance with clause [^]3.7 *[if the Contract is based on the ASDEFCON (Support) template]* OR 3.7 *[if the Contract is based on the ASDEFCON (Strategic Materiel) template]*[^] of the Contract, the Commonwealth grants to the Contractor a non-exclusive licence to use the Licensed Area on the terms contained in this Licence together with the right in common with others of access to and use of Common Areas as approved in writing by the Commonwealth from time to time and subject to any restrictions imposed by the Commonwealth.

Note to drafters: Check and insert the clause number, from the Contract that obliges the Commonwealth to grant the Licence.

- 2.1.2. The Contractor's rights under this Licence:
- a. are personal rights in contract;
 - b. do not create any interest or estate in the Licensed Area;
 - c. do not create the relationship of landlord and tenant between the Contractor and the Commonwealth; and
 - d. do not confer exclusive possession on the Contractor.

Note to drafters: The purpose of the Licence is to provide the Contractor with non-exclusive rights to access Defence's premises. Defence does not intend to provide the Contractor with a lease. Therefore, the above clause must remain unchanged in order to reflect Defence's intentions in granting the Contractor access to Defence's premises.

- 2.1.3. The Commonwealth has the following rights relating to exclusion of the Contractor from the Licensed Area:
- a. From time to time at any time and for any length of time the Commonwealth may exclude the Contractor from the Licensed Area.
 - b. In exercising its rights under clause 2.1.3.a the Commonwealth shall endeavour to not deprive the Contractor of the whole or a significant part of the Licensed Area unless it is necessary to do so for Defence Purposes or security purposes.
 - c. If the Commonwealth exercises its rights under clause 2.1.3.a the Contractor shall not be entitled to make any claim or seek compensation, costs, losses or expenses in any form whatsoever in respect of any exclusion from the Licensed Area, unless that right is specifically contained in the Contract. The onus of proving that a right to make a claim or seek compensation is specifically contained in the Contract rests with the Contractor.

2.2. Term

- 2.2.1. The term of the Licence commences on the Commencement Date and, unless terminated earlier under clause 11.1 or 11.3, ends on the Expiry Date.
- 2.2.2. For the avoidance of doubt, [^]if the Commonwealth exercises its rights under clause 1.8 *[use if the Contract is based on the ASDEFCON (Support) template and includes the optional extension clause]* OR if the Parties extend the term of the Contract[^] the term of this Licence will be extended to be a corresponding term.

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Note to drafters: If the Contract includes a clause that contemplates extension of the Contract, insert that clause number.

2.3. Licensed Fittings and Contractor's own supplies

- 2.3.1. The Licensed Area includes the Licensed Fittings, any replacement of these during the continuation of this Licence and any other equipment or items made available by the Commonwealth in the Licensed Area for the Contractor's use and benefit.
- 2.3.2. The Contractor shall supply and maintain all fittings, furniture, office machines and other equipment and all administrative consumables required by the Contractor in its use of the Licensed Area.
- 2.3.3. Within 30 days of each anniversary of the Commencement Date the Contractor shall:
- a. undertake an audit of the Licensed Fittings;
 - b. prepare an inventory identifying any Licensed Fittings which have been removed or replaced, the replacement Licensed Fittings and any other equipment or items made available by the Commonwealth in the Licensed Area for the Contractor's use and benefit; and
 - c. provide the inventory prepared under this clause 2.3.3 to the Commonwealth.

2.4. Shared Facilities

- 2.4.1. The Contractor acknowledges and agrees that the Licensed Area or part of the Licensed Area may also be utilised by the Commonwealth and other Commonwealth contractors during the term of this Licence. In such cases the Licensed Area, or the relevant part notified by the Commonwealth, is referred to in this Licence as 'Shared Facilities'.
- 2.4.2. The Parties agree that:
- a. any conflicts that arise regarding the use of the Shared Facilities shall be referred to the Commonwealth which shall decide on the operational priority of the tasks requiring the use of the Shared Facilities; and
 - b. the Commonwealth shall be guided by the relative operational priority of tasks in deciding which party has priority of use of the Shared Facilities.
- 2.4.3. The Parties agree that the Commonwealth's decision on which Party has priority of use of Shared Facilities shall be final and binding. The Contractor further agrees that it shall not be entitled to make any claim or seek compensation, costs, losses or expenses in any form whatsoever arising from any decision of the Commonwealth regarding the priority of use of the Licensed Area.

2.5. Damage and Obstruction

- 2.5.1. The Contractor shall not cause any damage to;
- a. the Base;
 - b. any improvements on the Base;
 - c. the Common Areas;
 - d. the Licensed Area; or
 - e. any appurtenances, services, fittings, fixtures or other items on the above.
- 2.5.2. Without limiting its rights the Commonwealth may elect to make good at the cost of the Contractor any damage to the Base, improvements on the Base, any appurtenances, fittings, fixtures or other items on the Base, the Common Areas or the Licensed Area caused by want of care, misuse or abuse, negligence, default or other act or omission of the Contractor.
- 2.5.3. The Contractor shall not obstruct or permit the obstruction in any way of the Common Areas, fire doors and escape doors of the Licensed Area.

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Option for use if the Commonwealth is not providing and maintaining fire protection equipment in the Licensed Area, and the Contractor will be permitted to install and maintain its own equipment; at its own cost:

- 2.5.4. Without limiting any other obligation of the Contractor under this Licence, the Contractor shall:
- a. install and maintain fire protection equipment which is adequate for the Licensed Area and the activities on the Licensed Area; and
 - b. maintain the fire services to the Licensed Area in accordance with all Laws and the requirements of relevant Authorities.

2.6. Commonwealth and Commonwealth Contractor Access

- 2.6.1. The Contractor acknowledges and agrees that, without limiting clause 10.7 of the Contract, the Commonwealth may access the Licensed Area at any time for the purposes of:
- a. exercising its rights and powers under this Licence or under the Contract;
 - b. monitoring or inspecting the performance of the Contractor of its obligations under this Licence or the Contract; or
 - c. any other reasonable purpose.

Note to drafters: Clause 10.7 is the Commonwealth access clause in the ASDEFCON (Support) and (Strategic Materiel) templates. Confirm the clause number in the Contract you are using, and change the number here if necessary.

- 2.6.2. The Contractor acknowledges and agrees that Commonwealth contractors may access the Licensed Area in accordance with their contracts with the Commonwealth.

3. CONTRACTOR'S FINANCIAL OBLIGATIONS

3.1. Licence Fee

- 3.1.1. Subject to clause 3.2, the Contractor shall pay to the Commonwealth the Licence Fee (whether formally demanded or not and without deduction) on the Commencement Date and thereafter [^]monthly/[^]quarterly/[^]annually - select option to apply[^] in advance on the date for payment specified in Item 15 of the Schedule.

Note to drafters: Select whichever variable above applies and delete the other options.

- 3.1.2. The Licence Fee comprises the consideration for the right to use the Licensed Area and the other costs which are specified elsewhere in this Licence to be included in the Licence Fee.

3.2. Non Contract Work Licence Fee

- 3.2.1. Pursuant to clause 4.1.1, the Contractor shall not undertake any Non Contract Work in the Licensed Area unless it has obtained the prior written consent of the Commonwealth.
- 3.2.2. If the Contractor undertakes any Non Contract Work in the Licensed Area in accordance with clause 3.2.1, the Contractor shall pay to the Commonwealth a Non Contract Work Licence Fee determined under clause 3.2.3. The Non Contract Work Licence Fee is payable at the same time and in the same manner as the Licence Fee is payable under clause 3.1.1 and will be reviewed in the same manner as the Licence Fee is reviewed under this clause 3.
- 3.2.3. The Commonwealth shall notify the Contractor of the Non Contract Work Licence Fee at the time it provides written approval for the Non Contract Work. The Non Contract Work Licence Fee is comprised of the consideration for the right to perform the Non Contract Work in the Licensed Area and the amount the Licensor determines, acting reasonably, to cover the additional Operating Expenses and Utilities costs resulting from undertaking the Non Contract Work in the Licensed Area.
- 3.2.4. If the Contractor wishes to object to the Commonwealth's calculated costs for Non Contract Work Licence Fee, the Contractor shall do so by written notice to the Commonwealth within ten (10) Working Days of receipt of the Commonwealth's notice.

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- 3.2.5. If the Contractor notifies the Commonwealth of an objection in accordance with clause 3.2.4, the Commonwealth shall engage a third party to act as an independent expert and not as an arbitrator, to assess and determine the calculated costs for Non Contract Work Licence Fee.
- 3.2.6. An independent expert engaged pursuant to clause 3.2.5 shall be entitled to access, and the Parties shall facilitate the independent expert's access to, all information that is relevant to an assessment and determination under clause 3.2.5.
- 3.2.7. The Parties agree that an assessment and determination of the costs for Non Contract Work Licence Fee, by an independent expert engaged under clause 3.2.5 shall, subject to clause 13.10, be final and binding on the Parties.
- 3.2.8. The cost of the independent expert engaged pursuant to clause 3.2.5 shall be borne equally by the Parties unless the independent expert determines otherwise.

3.3. Interest for Late Payment

- 3.3.1. If the payment of an amount due under this Licence is unpaid or paid late, the Commonwealth may notify the Contractor that interest shall be payable to the Commonwealth in accordance with the formula set out in clause ^ 7.9 [if the Contract is based on the ASDEFCON (Support)] OR ^ 7.12 [if the Contract is based on the ASDEFCON (Strategic Material) template] of the Contract.

Note to drafters: Check and insert the clause number, from the Contract that imposes interest.

3.4. Adjustments

- 3.4.1. If the Commonwealth charges the Contractor any money calculated using a time period, and the Licence starts or ends during that period, the Commonwealth shall make any necessary proportional adjustment.
- 3.4.2. Unless Item 9 of the Schedule states that this clause 3.4.2 is not applicable, the Licence Fee shall be reviewed on the dates specified in Item 9 to an amount which the Commonwealth considers reasonable and appropriate.

3.5. CPI Review

- 3.5.1. If Item 7 of the Schedule provides for a CPI licence fee review, the Commonwealth may review the Licence Fee on each Licence Fee Review Date, using the following formula:

$$(R1 \times C2)$$

$$R2 = C1$$

Where:

R2 = the reviewed Licence Fee;

R1 = the Licence Fee at the date immediately preceding the relevant Licence Fee Review Date;

C1 = for the first review, the Index Number of the quarter ending immediately prior to the Commencement Date or, for any subsequent review, the Index Number for the quarter ending immediately prior to the last Licence Fee Review Date; and

C2 = the Index Number for the quarter ending immediately prior to the Licence Fee Review Date.

- 3.5.2. For the purpose of this clause, "Index Number" means:
- 3.5.3. The Contractor acknowledges and agrees that, without limiting clause 10.7 of the Contract, the Commonwealth may access the Licensed Area at any time for the purposes of:
- a. the Consumer Price Index (All Groups) relevant to the location of the Base ("relevant location") published from time to time by the Australian Bureau of Statistics; and

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- b. if there is any suspension or discontinuance in the publication of the Consumer Price Index, then until publication of the Consumer Price Index is resumed, some other index reflecting fluctuations in the cost of living in the relevant location:
- (i) upon which the parties agree; or
 - (ii) failing agreement, determined by the Regional Manager DSG as reflecting fluctuations in the cost of living in the relevant location

The decision of the Regional Manager DSG shall be final and binding upon the parties. In making the determination the Regional Manager DSG shall be deemed to be acting as an expert and not as an arbitrator.

- 3.5.4. If the amount of the reviewed Licence Fee is not ascertained by the CPI review date, the Contractor shall:
- a. pending ascertainment, continue to pay the instalments of the Licence Fee applicable prior to the Licence Fee Review Date but subject to the revision; and
 - b. upon the reviewed Licence Fee being ascertained, pay any necessary adjustment of the Licence Fee calculated from the Licence Fee Review Date within thirty (30) days of demand being made by the Commonwealth.

3.6. Market Licence Fee Review

- 3.6.1. If Item 8 of the Schedule provides for a Market Review Date, the Commonwealth may, in the period from 60 days before and at any time after each Market Review Date, give the Contractor a notice specifying a reviewed Licence Fee based on the current market Licence Fee on that Market Review Date (Review Notice).
- 3.6.2. The reviewed Licence Fee determined under this clause 3.6 takes effect on the relevant Market Review Date.
- 3.6.3. Pending the determination of the reviewed Licence Fee in accordance with this clause 3.6, the Contractor shall pay to the Commonwealth the amount specified in the Review Notice as the reviewed Licence Fee.
- 3.6.4. If the Commonwealth does not give the Review Notice before the relevant Market Review Date but gives it after that date and the Licence Fee is increased, the adjustment is calculated retrospectively from the relevant Market Review Date.
- 3.6.5. If the Contractor disputes the reviewed Licence Fee in the Commonwealth's Review Notice, the procedure in clause 3.6.6 shall be followed. Each time limit in clause 3.6.6 is of the essence.
- 3.6.6. If the Contractor disputes the reviewed Licence Fee in the Review Notice:
- a. the Contractor shall give the Commonwealth notice of objection within twenty eight (28) days of giving the Commonwealth's Review Notice (Contractor's Notice);
 - b. the Contractor and the Commonwealth shall negotiate in good faith to try to agree on a reviewed Licence Fee and if the Contractor and the Commonwealth agree, the Contractor shall pay the agreed Licence Fee;
 - c. if the Contractor and the Commonwealth do not agree within thirty (30) days of the Commonwealth receiving the Contractor's Notice (Negotiation Period), each party shall appoint a valuer within thirty (30) days of the expiry of the Negotiation Period and instruct the valuer as to what to do in accordance with this Licence;
 - d. each party shall notify the other party of the date of appointment and the name of their respective valuer within five (5) days of the valuer accepting that appointment;
 - e. the date of appointment of valuers for the purposes of the following clauses will be the latest of the dates of appointment notified by each party to the other under clause 3.6.6(d);
 - f. both valuers shall each decide on the current market Licence Fee, compare their decisions and reach agreement within twenty one (21) days of the appointment date

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determined under clause 3.6.6(e) (Determination Period). If they agree, the amount agreed will be the reviewed Licence Fee and the Contractor shall pay that reviewed Licence Fee;

- g. if the Contractor or the Commonwealth do not appoint a valuer by the expiry of the Appointment Period, the other party may appoint a sole valuer and the Contractor shall pay the Licence Fee decided by the sole valuer;
 - h. if the valuers do not agree on a reviewed Licence Fee by the expiry of the Determination Period either the Contractor or the Commonwealth may ask the President of the Australian Property Institute (API) (or if that organization no longer exists an equivalent organisation) in the jurisdiction in which the Base is located within seven (7) days of the expiry of the Determination Period to appoint a third independent valuer to decide the Licence Fee; and
 - i. the independent third valuer shall decide the current market Licence Fee within twenty one (21) days of his or her appointment.
- 3.6.7. Each valuer shall be a member of the API and have at least five (5) years experience in valuing similar premises in the location of the Base.
- 3.6.8. The third valuer shall act as an independent expert and not as an arbitrator, and shall give written reasons for the decision. Each party shall bear the costs of its own valuer. The Contractor and the Commonwealth shall share the third valuer's costs equally.
- 3.6.9. In determining or agreeing upon a reviewed Licence Fee for the Licensed Area, the Commonwealth and the Contractor shall each take into account and shall each require the valuers and the third independent valuer to take into account all relevant matters on the date when that Licence Fee is to apply for the Licensed Area assuming that:
- a. the Commonwealth is a willing but not anxious licensor and the Contractor is a willing but not anxious licensee; and
taking account of:
 - b. the licence fee value or equivalent rental value (other than values which have been escalated to a predetermined amount or in accordance with movements in the consumer price or any other index) at the Market Review Date in respect of any comparable premises in the locality in which the Licensed Area is located whether that value is determined in respect of new lettings with vacant possession or in respect of occupied premises;
 - c. the permitted use of the Licensed Area;
 - d. the period which will elapse between the Market Review Date and the next review date under this Licence or, if there is no further review date, the expiration of the term of this Licence;
 - e. the increased value of the Licensed Area occasioned by the Commonwealth upgrading or improving the Licensed Area (or any part of it including the Licensed Fittings) or any services available to the Licensed Area;
 - f. any increase in value in the Licensed Area as a result of any structural alterations or other voluntary improvements made to the Licensed Area (including repair, replacement or additional Licensed Fittings) by the Commonwealth at its discretion for any reason to the cost of which the Contractor has not contributed either by way of outgoings charge or otherwise;
 - g. the terms and conditions generally of this Licence; and
 - h. any licence fee free period or financial or capital contribution of the Commonwealth;
but not taking into account:
 - i. any partitions and other improvements installed in or made to the Licensed Area by or for the Licensee its sub-licensee or their respective predecessors in title during the term of this Licence;

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- j. any special interest of the Licensee,
 - k. goodwill occasioned by the Licensee, its sub-licensee or their respective predecessors in title;
 - l. areas other than the Licensed Area; and
 - m. any amounts equivalent to GST paid or payable in respect of a taxable supply for which the Lessor is entitled to claim an input tax credit.
- 3.6.10. If the reviewed Licence Fee determined under this clause 3.6 is less than the Licence Fee payable on the day immediately prior to the relevant Market Review Date (the Prior Licence Fee) the Licence Fee will not be reduced but will be the amount of the Prior Licence Fee.
- 3.6.11. If the amount of the reviewed Licence Fee is not ascertained by the relevant Market Review Date, then the Contractor upon the reviewed Licence Fee being ascertained, shall pay any necessary adjustment of the Licence Fee calculated from the Market Review Date within seven (7) days of demand.

3.7. Operating Expenses

- 3.7.1. The Contractor shall pay or reimburse the Commonwealth the Contractor's Share of the Operating Expenses for the Licensed Area.
- 3.7.2. The Commonwealth shall give the Contractor an Estimated Operating Expenses Notice containing the Commonwealth's estimate of the Contractor's Share of Operating Expenses:
- a. within twenty one (21) days of the Commencement Date containing estimates to the next 1 July; and
 - b. within twenty one (21) days of each 1 June for the period from the next Financial Year.
- 3.7.3. The Contractor shall pay the estimated Contractor's Share of Operating Expenses by equal instalments in advance on the first day of each month (except for the first instalment after the Commencement Date which will be payable with and on the date of the second instalment after the Commencement Date).
- 3.7.4. By each 30 September the Commonwealth shall provide to the Contractor a statement of the actual Contractor's Share of Operating Expenses for the relevant year (or part of year as the case may be) and an adjustment will be made for the difference between the amounts paid (representing the estimated Contractor's Share of Operating Expenses) and the actual amount payable. If the Contractor owes the Commonwealth money, that amount is payable to the Commonwealth within thirty (30) days of demand. If the Commonwealth owes the Contractor money, that amount will, at the Commonwealth's discretion, be credited against future amounts of the Licence Fee and Operating Expenses payable by the Contractor until the reimbursable amount has been paid in full, or refunded to the Contractor.
- 3.7.5. Any facilities or equipment provided by the Commonwealth to the Contractor (beyond those specifically covered by Operating Expenses paid under this clause 3.7 or Utilities costs paid under clause 3.8) will be provided at the cost of the Contractor and the Contractor and the Commonwealth shall agree a fee for these prior to the Commonwealth providing them.

3.8. Utilities and Telecommunications Facilities

- 3.8.1. The Contractor may utilise the Utilities on the Licensed Area:
- a. in order to duly and properly perform its obligations under the Contract; and
 - b. to perform Non-Contract Work only to the extent (if any) approved by the Commonwealth under clause 4.1.1.
- 3.8.2. The Commonwealth shall notify the Contractor of the Utilities costs for using the Utilities in accordance with this clause 3.8.
- 3.8.3. If the Contractor wishes to object to the Commonwealth's calculated costs for Utilities costs, it shall do so by written notice to the Commonwealth within ten (10) business days

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- 3.8.4. If the Contractor notifies the Commonwealth of an objection in accordance with clause 3.8.3, the Commonwealth shall engage a third party to act as an independent expert and not as an arbitrator, to assess and determine the calculated costs for Utilities.
- 3.8.5. An independent expert engaged pursuant to clause 3.8.4 shall be entitled to access, and the Parties must facilitate the independent expert's access to, all information that is relevant to an assessment and determination under clause 3.8.4.
- 3.8.6. The Parties agree that an assessment and determination of the costs of Utilities by an independent expert engaged pursuant to clause 3.8.4 shall, subject to clause 13.10, be final and binding on the Parties.
- 3.8.7. The cost of the independent expert engaged pursuant to clause 3.8.4 shall be borne equally by the Parties unless the independent expert determines otherwise.
- 3.8.8. The Contractor shall at its cost install separate digital electricity metering to the Licensed Area within three (3) months of the Commencement Date or within such other time approved by the Commonwealth.

Note to drafters: Defence is obliged, under the Energy Efficiency in Government Operations Policy 2006 (EEGO) to progressively install sub-meters at relevant Defence bases in order to measure and monitor energy usage and to identify efficiency opportunities, address problems and evaluate outcomes. Advice should be sought from [Defence's environmental team] or the Australian Greenhouse Office before agreeing to deleting or modifying clause 3.8.8. Please also consider the cost implications for Defence, as well as the broader EEGO requirements, before agreeing to pay the Contractor's costs of installing separate digital electricity metering.

- 3.8.9. Subject to clause 3.8.11 the expense of utilising the Utilities and consumption charges shall be borne by the Contractor and shall be paid within thirty (30) days of demand. For the avoidance of doubt, the relevant charges and rates will be in accordance with the relevant agreement entered into by the Commonwealth and the Utilities providers, as amended from time to time.
- 3.8.10. The Commonwealth shall not be responsible for any inconvenience, damage or loss resulting from a disruption to any of the Utilities howsoever caused.
- 3.8.11. If the Utilities are separately metered, consumption by the Contractor shall be metered and billed to the Contractor accordingly. The Contractor shall make payments of these amounts on time. In other instances, the Contractor shall pay that proportion of the Commonwealth's costs of supplying the Utilities as the Commonwealth may determine in its absolute discretion.
- 3.8.12. For activities within the Licensed Area, the Commonwealth shall provide the Contractor with access to Telecommunications Facilities in order to perform its obligations under the Contract. The Commonwealth shall not be responsible for any inconvenience, damage or loss resulting from disruption to the Telecommunications Facilities howsoever caused. Any alterations or additions required to Telecommunications Facilities and any related facilities will be subject to the approval of the Commonwealth and, if approved, will be made at the Contractor's expense. The Contractor agrees to pay for the reasonable costs associated with its use of the Telecommunications Facilities and those costs shall be paid within thirty (30) days of demand. Without limiting any other obligation of the Contractor, the cost of calls on Telecommunications Facilities assigned to the Contractor for its own use (including staff use and corporate management and IT requirements) shall be reimbursed by the Contractor to the Commonwealth (on a user pays basis) within thirty (30) days of demand.
- 3.8.13. The Contractor shall ensure that its use of the Utilities and Telecommunications Facilities does not interrupt, damage or diminish the use of the Telecommunications Facilities and Utilities to other users at the Licensed Area or the Base.
- 3.8.14. The Contractor shall be responsible for the connection and disconnection of all equipment supplied by it and connected to the Utilities or Telecommunications Facilities. The Contractor shall ensure that all Contractor supplied equipment is approved for use by the relevant Authorities. All connection and disconnection shall comply with all Laws and requirements of relevant Authorities.

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3.8.15. The Contractor shall use best commercial practices to minimise its consumption and use of the Utilities in connection with the Licensed Area including without limitation the formulation and implementation of a utility conservation plan. Without limiting the Contractor's obligations and the Commonwealth's other rights under this clause 3.8, if the Commonwealth considers that it incurs additional costs or charges arising out of or in connection with the Contractor's consumption of Utilities, the Commonwealth may elect to seek reimbursement from the Contractor of any such additional costs or charges. The Commonwealth shall advise the Contractor of how it has calculated the additional costs or charges and the decision of the Commonwealth regarding the amount payable will be final and binding. The Contractor shall pay that amount within thirty (30) days of demand.

3.9. Airfield rights

Note to drafters - not every GFF Licence will provide airfield rights to a Contractor. Please ensure you consider the terms of the transaction, including the ASDEFCON Contract before completing Item 12 in the Schedule.

3.9.1. This clause 3.9 will only apply if Item 12 of the Schedule states that it is applicable.

3.9.2. The Commonwealth shall provide the Contractor with reasonable access to the use of the Airfield and navigational facilities, air traffic control, aviation rescue, fire fighting facilities, radio technicians and meteorological services on the Base to enable the Contractor to carry out its obligations under the Contract. The Commonwealth shall not be responsible for any inconvenience, damage or loss resulting from disruption to the on Base activities howsoever caused. The access shall be provided on a user pays basis for an amount notified by the Commonwealth from time to time.

3.9.3. The Contractor acknowledges and agrees that the Commonwealth may recover the Airfield Costs from the Contractor where the Airfield Costs are incurred arising out of or in connection with the carrying out of Non-Contract Work. The Contractor shall pay such amounts within thirty (30) days of demand.

3.10. GST

3.10.1. Unless otherwise stated, all amounts payable by one Party to another Party in this Licence are exclusive of GST.

3.10.2. A recipient of a taxable supply made under this Licence must pay to the supplier an amount equivalent to any GST paid or payable by the supplier in respect of a taxable supply subject to the supplier issuing a valid tax invoice in accordance with the GST Legislation to the recipient.

3.10.3. A Party's obligation to reimburse the other Party for an amount paid or payable to a third party includes GST on the amount paid or payable to the third party except to the extent that the Party being reimbursed is entitled to claim an input tax credit for that GST.

3.10.4. Each Party must issue an adjustment note to the other Party as soon as it becomes aware of an adjustment event relating to a taxable supply by it under this Licence.

3.11. Legal and Other Costs

3.11.1. The Contractor shall:

- a. bear its own costs; and
- b. within thirty (30) days of demand pay the Commonwealth's costs, including legal costs,

arising out of the preparation, negotiation, settling and execution of this Licence.

3.11.2. The Contractor shall pay:

- a. within thirty (30) days of demand, the Commonwealth's legal and other costs:
 - (i) arising out of any other dealing at the request of the Contractor relating to the Licence after the Commencement Date; or

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- (ii) associated with enforcement, preservation of any rights or other action relating to the Licence;
- b. on time, any stamp duty on the Licence or any other document arising out of the Licence; and
- c. within thirty (30) days of demand, the Commonwealth's costs (including legal and any other costs) of considering the Contractor's request for the Commonwealth's approval or consent.

3.12. Amounts owing under the Licence

3.12.1. The Contractor acknowledges and agrees that amounts payable to or recoverable by the Commonwealth under this Licence (whether as a debt due and owing to the Commonwealth or otherwise) may be set off by the Commonwealth against amounts payable to the Contractor under the Contract.

3.13. Security Bond

3.13.1. On or before the Commencement Date, the Contractor must provide a security bond in the amount set out in Item 11 by way of a deposit paid by bank cheque (to be held by the Commonwealth in an appropriate account) or an unconditional undertaking in a form and given by an institution approved in writing by the Commonwealth.

3.13.2. The Commonwealth may use the security bond to recover any loss, costs or expenses incurred by the Commonwealth due to the Contractor's breach. The Contractor must promptly replace any amount used within seven (7) days of notification by the Commonwealth of the amount deducted or used. When the Licence ends and the Contractor has vacated the Premises, the Commonwealth must release the security bond or any part of it which is not needed to recover the Commonwealth's loss, costs or expenses.

3.13.3. The Commonwealth is not liable to pay the Contractor interest on the cash proceeds of any security bond converted into money.

3.13.4. The claiming against the security bond will not limit any other right the Commonwealth may have as a result of any breach of this Licence by the Contractor.

4. CONTRACTOR'S OBLIGATIONS

4.1. Occupation and Use of the Licensed Area

4.1.1. The Contractor shall only use the Licensed Area for the Permitted Use and Non Contract Work approved in writing by the Commonwealth.

4.1.2. The Contractor shall:

- a. keep the Licensed Area clean and tidy;
- b. keep all Hazardous Substances and other environmentally deleterious material under proper control and safekeeping, and shall ensure that all such substances and materials are properly and clearly labelled and managed and used in accordance with the instructions and/or recommendations of the supplier and/or manufacturer, and all relevant Laws and any environmental management plan in force from time to time for the Licensed Area;
- c. not do anything that is, or may be, dangerous, annoying, or offensive, or that may interfere with the Commonwealth or other people using the Base (including the Licensed Area) or adjoining owners; and
- d. comply with the requirements of the Commonwealth concerning the storage and removal of waste and debris.

The Contractor's obligation to keep the Licensed Area clean and tidy only applies to the extent to which the uncleanliness or untidiness is not materially caused or contributed to by the Commonwealth or any other party lawfully claiming through the Commonwealth.

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4.1.3. The Contractor shall maintain in good condition and repair its equipment and any other equipment or material provided to the Contractor under the terms of this Licence or the Contract (including the Licensed Fittings) and which is stored or used in the Licensed Area.

4.2. When the Licence Ends

4.2.1. When the Licence ends, the Contractor:

- a. shall vacate the Licensed Area and give the Licensed Area, the Licensed Fittings and any other Commonwealth property or items on the Licensed Area back to the Commonwealth in a clean and tidy condition and otherwise in the same condition as they were in at the Commencement Date (as evidenced by the Facilities Condition Appraisal), or in the case of things brought onto the Licensed Area after the Commencement Date in the condition they were in at the time they were first brought onto the Licensed Area, except for fair wear and tear; and
- b. shall make sure all the Contractor's property is removed and that all damage caused by that removal is repaired immediately. Anything left on the Licensed Area becomes the Commonwealth's property and the Commonwealth may keep it or dispose of it. Any costs of removing, storing or disposing of the Contractor's property shall be paid by the Contractor within thirty (30) days of demand.

4.3. Contractor Damage

4.3.1. Without in any way limiting or derogating from its other obligations under this Licence or the Contract, the Contractor shall promptly repair, replace or make good any breakage, defect, damage or loss, of or to:

- a. the Licensed Area (including for the avoidance of doubt the Licensed Fittings); or
- b. any other Commonwealth property or equipment,

caused or arising from or as a consequence of any act or omission (whether involving a breach of the Contract or not) of the Contractor, its subcontractors, employees or agents.

4.3.2. The Contractor's obligations under clause 4.3.1 shall be undertaken in a good and workmanlike manner, in accordance with all Laws and requirements of an Authority and by tradespersons nominated by the Commonwealth or, if the Commonwealth approves, by suitably qualified tradespersons and to the Commonwealth's reasonable satisfaction.

4.3.3. If the Contractor fails to discharge its obligations in accordance with this clause 4.3, the Commonwealth may undertake such repairs, replacement or making good which the Commonwealth in its absolute discretion considers necessary and the cost of such repairs, replacement or making good shall be a debt due and owing by the Contractor to the Commonwealth payable on demand.

4.4. Waste Disposal

4.4.1. Except to the extent (if any) that waste disposal is provided as GFS under the Contract, the Contractor shall dispose of all debris and waste (hazardous and non-hazardous) arising out the activities performed by the Contractor pursuant to the Contract in a safe and effective manner, in accordance with all Laws and in compliance with any requirements of applicable Authorities.

4.5. Contractor's Use of Sewerage System

Note to drafters - not every GFF Licence will impose obligations or confer the Contractor with rights regarding the sewerage system. Please check with DSG and Defence Environmental Manager before including this clause in the GFF Licence as DSG/Defence Environmental Manager may require some specific amendments be included. In addition, please ensure you consider the terms of the transaction, including the ASDEFCON Contract before completing Item 13 in the Schedule.

4.5.1. This clause 4.5 will only apply if Item 13 of the Schedule states that it is applicable.

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4.5.2. The Contractor shall be entitled to discharge trade waste from the Licensed Area, after processing through the Trade Waste Treatment Plant, through the sewerage system interface to the Commonwealth's Sewerage Treatment Plant on the Base. This right shall be on a user pays basis for the amount notified by the Commonwealth time to time. That discharge will be permitted subject to the following conditions:

- a. The Contractor shall at its cost maintain at its cost the effective operation of the Trade Waste Treatment Plant and will be entitled to reasonable access to the Commonwealth's Sewerage Treatment Plant for such purpose.
- b. The Contractor in maintaining the effective operation of the sewerage interface shall:
 - (i) repair any damage that it may cause to the Commonwealth's Sewerage Treatment Plant;
 - (ii) cause as little interference to the Commonwealth's activities on the Base as reasonably possible;
 - (iii) comply with any directions of the Commonwealth; and
 - (iv) comply with all Laws and requirements of Authorities.

Without limiting or otherwise affecting the Contractor's obligations under clause 8 of the Contract, the Contractor shall indemnify the Commonwealth in respect of any claim in respect of which the Commonwealth shall or may be or become liable as a result of the Contractor maintaining or dismantling the sewerage interface except to the extent that such a claim is a result of the negligence, default or wilful misconduct of the Commonwealth.

- c. The Contractor shall not discharge any material through the sewerage interface so as to adversely affect the operation of the Sewerage Treatment Plant or adversely affect the Base in any way. The Contractor shall reimburse the Commonwealth within thirty (30) days of demand all reasonable costs incurred by it in repairing all damage to the Sewerage Treatment Plant or the Base as a result of such discharge. The Contractor shall indemnify the Commonwealth in respect of all claims made against the Commonwealth as a result of the Contractor discharging all material other than suitably processed trade waste through the sewerage interface.
- d. If the Contractor continues to discharge material which in the Commonwealth's opinion adversely affects the Sewerage Treatment Plant or the Base after thirty (30) days of written notice from the Commonwealth to refrain from doing so, the Commonwealth shall be entitled to sever the sewerage interface and the Contractor shall reimburse the Commonwealth for all costs incurred in doing so. The Contractor shall not be entitled to make any claim against or seek compensation, costs or expenses as a result of the Commonwealth exercising its rights under this clause 4.5.2.d.
- e. The Commonwealth shall use its best endeavours to keep the Sewerage Treatment Plant in operation but shall not be liable for any failure of the Sewerage Treatment Plant to operate except and to the extent of a malfunction, failure or interruption caused by the negligence of the Commonwealth.
- f. The Contractor shall pay the cost of upgrading the processing of the Trade Waste Treatment Plant and the Commonwealth's Sewerage Treatment Plant if the upgrade is required due to the Contractor's increased use of the sewerage interface.
- g. The Commonwealth shall bear the cost of upgrading the Sewerage Treatment Plant if the upgrade is required due to the Commonwealth's increased use of the Sewerage Treatment Plant.
- h. Any damage caused to the Licensed Area by:
 - (i) the repair or removal of the sewerage interface; or
 - (ii) the connection to the Sewer Sewerage Treatment Plant,shall be made good immediately by the Contractor at the cost of the Contractor.

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- i. Any damage caused to the Base by:
 - (i) the repair or removal of the sewerage interface or the Sewerage Treatment Plant; or
 - (ii) the connection to the Sewerage Treatment Plant,shall be made good immediately by the Contractor at the cost of the Contractor.
 - j. If separate metering of the Contractor's interface to the Sewerage Treatment Plant is not available, the Contractor shall pay to the Commonwealth a proportion of the relevant charges on a pro rata basis according to use. The Commonwealth's decision on the amount payable will be final and binding.
 - k. The Contractor shall maintain and provide to the Commonwealth every three (3) months (or such other period agreed by the Commonwealth in writing from time to time) reports regarding the testing and performance of the Trade Waste Treatment Plant, with any discharge quality breaches notified to the Commonwealth within one week of the Contractor becoming aware of these.
 - l. The Contractor shall maintain and provide to the Commonwealth a duplicate copy of laboratory reports prepared as a result of the testing described in clause 4.5.2.k within thirty (30) days of demand.
- 4.5.3. The Commonwealth may, at any time, upon notice, terminate the Contractor's rights under clause 4.5.2 to discharge trade waste in the Licensed Area after processing through the Trade Waste Treatment Plant through the sewerage system interface to the Commonwealth's Sewerage Treatment Plant on the Base.
- 4.5.4. If the Commonwealth exercises its rights under clause 4.5.3, the Contractor must immediately make its own arrangements for the safe removal and disposal of all its trade waste from the Licensed Area.
- 4.6. Environmental Compliance**
- 4.6.1. Throughout the continuation of this Licence, the Contractor shall maintain the Environment of the Licensed Area in accordance with all obligations imposed on it by Laws and relevant Authorities which from time to time apply or have jurisdiction in respect of the Environment of the Licensed Area and at the expiration or earlier termination of the Licence, the Contractor shall yield up and hand over the environment of the Licensed Area in a condition that complies with such obligations.
- 4.6.2. The Contractor shall comply with any Environmental Management Plan in force from time to time for the Base.
- 4.6.3. This clause does not impose any obligation on the Contractor in relation to pollution to the extent that the pollution was caused or contributed to by the Commonwealth, its employees, agents or contractors (other than the Contractor).
- 4.6.4. Without limiting clause 4.6.7 the Commonwealth has no liability to the Contractor in the event that the Contractor is required to expend monies on remedial action to have the Environment of the Licensed Area comply with all obligations imposed on it by Laws or relevant Authorities except to the extent that the pollution is caused or contributed to by the Commonwealth, its employees agents or contractors (other than the Contractor).
- 4.6.5. At intervals reasonably required by the Commonwealth, and immediately before the Expiry Date the Contractor shall arrange for environmental audits of the Licensed Area to be carried out and shall carry out any work recommended in the audits for remediation of the Licensed Area.
- 4.6.6. Without limiting any other obligations the Contractor shall comply with the requirements of the EPBC Act and shall provide all necessary assistance to enable the Commonwealth to comply with its obligations under the EPBC Act.
- 4.6.7. The Contractor shall not do or omit to do anything which may cause the Commonwealth to be in breach of its obligations under the EPBC Act.

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- 4.6.8. The Contractor indemnifies the Commonwealth against any claims, actions, costs, expenses or liability incurred or sustained by the Commonwealth as a result of a breach by the Contractor of its obligations under clause 4.6.1 to clause 4.6.7 inclusive.

Note to drafters: Defence has important obligations under the EPBC Act. Advice from Defence's environmental team, as well as legal advice, should be sought before agreeing to any amendments to clause 4.6.

4.7. Heritage

- 4.7.1. Throughout the continuation of this Licence, the Contractor shall maintain the heritage of the Licensed Area in accordance with all obligations imposed on it by Laws and relevant Authorities which from time to time apply or have jurisdiction in respect of the heritage of the Licensed Area and at the expiration or earlier termination of the Licence, the Contractor shall yield up and hand over the heritage of the Licensed Area in a condition that complies with such obligations.
- 4.7.2. The Contractor shall comply with any Heritage Management Plan in force from time to time for the Base.
- 4.7.3. Without limiting any of its other obligations, the Contractor shall comply with the requirements of the EPBC Act and shall provide all necessary assistance to enable the Commonwealth to comply with its obligations under the EPBC Act.
- 4.7.4. The Contractor shall not do or omit to do anything which may cause the Commonwealth to be in breach of its obligations under the EPBC Act.

Note to drafters: Defence has important obligations under the EPBC Act. Advice from Defence's environmental team, as well as legal advice, should be sought before agreeing to any amendments to clause 4.7.

5. THE COMMONWEALTH'S RIGHTS AND OBLIGATIONS**5.1. Consent or Approval**

- 5.1.1. Subject to clause 5.1.2, if the Contractor requests the Commonwealth's consent or approval under this Licence, the Commonwealth shall consider the request in a reasonable time. The Commonwealth may also require the Contractor to obey any reasonable terms before it gives its consent or approval or may give consent subject to the conditions notified. The Contractor shall comply with all terms and conditions imposed by the Commonwealth.
- 5.1.2. The Commonwealth may refuse to give its consent for any reason if the request for consent concerns structural, building, excavation or other redevelopment work to the Licensed Area or if the giving of the consent may result in interference with any of the Commonwealth's activities or proposed activities on the Base or may cause a security or operational risk to the Commonwealth which it believes, in its absolute sole opinion, is unacceptable.

5.2. Suitability of Licensed Area

- 5.2.1. The Commonwealth has not made, and the Contractor acknowledges and agrees that the Commonwealth has not made, any promise, representation or warranty as to the suitability of the Licensed Area for the Permitted Use or any other use.
- 5.2.2. Without prejudice to the generality of clause 5.2.1, unless the Contract expressly provides otherwise, if the Licensed Area is found not to be suitable for the Permitted Use or any other use (including due to a failure in the maintenance of it), that unsuitability:
- a. does not permit any delay or postponement in the performance by the Contractor of this Licence or the Contract or relieve the Contractor from (or suspend the performance of) any obligation under this Licence or the Contract; and
 - b. is not to be taken into account under this Licence or the Contract when assessing liability as an act or omission by the Commonwealth or an event or loss caused by the Commonwealth,

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unless and to extent that the Commonwealth caused the unsuitability by a negligent act or omission.

6. MAINTENANCE AND BUILDING WORK

6.1. Maintenance

6.1.1. Subject to clause 6.1.2, the Contractor shall:

- a. undertake such maintenance as is necessary to keep the Licensed Area and Licensed Fittings in good and functional repair and condition having regard to their condition at the Commencement Date (as evidenced in the Facilities Condition Appraisal) or as provided in the Facilities Condition Appraisal; and/or
- b. if required by the Commonwealth, make such contributions to the cost of maintenance works carried out by the Commonwealth as the Commonwealth reasonably requires, having regard to the period, nature and level of use or permitted use of the Licensed Area and Licensed Fittings by the users of it.

6.1.2. With respect to the functional repair and condition of the Licensed Area and Licensed Fittings, the Commonwealth is only required to effect any structural repair to the Licensed Area and Licensed Fittings to the extent that the Contractor has contributed toward the cost of those repairs under clause 6.1.1 provided that loss or damage to the Licensed Area and Licensed Fittings arising from any act, omission, neglect or default of the Contractor, its employees, agents or sub-contractors, or their employees, agents or subcontractors shall be immediately made good by the Contractor at the Contractor's expense.

6.1.3. If the Contractor fails to:

- a. keep the Licensed Area and Licensed Fittings in good and functional repair and condition in accordance with clause 6.1.1 and the requirements of this Licence and the Contract; or
- b. repair any loss or damage as required by the Contract or this Licence,

the Commonwealth may undertake such repairs to the Licensed Area and Licensed Fittings which the Commonwealth in its absolute discretion considers necessary and the cost of such repairs shall be a debt due and owing by the Contractor to the Commonwealth on demand.

6.1.4. For the avoidance of doubt, the Parties agree that the Commonwealth is not under any obligation to maintain the Licensed Area and Licensed Fittings. Without prejudice to the terms of clause 5.2.1, the Contractor bears the contractual risk of maintenance failure of the Licensed Area and Licensed Fittings except to the extent that the Commonwealth caused the maintenance failure by a negligent act or omission.

6.1.5. Without limiting clause 6.1.1, the Contractor shall maintain the fixed plant and equipment listed in Annexure C in accordance with all Laws and requirements of Authorities, acceptable industry standards, manufacturer's recommendations and having regard to the residual life expectancy of the equipment as at the date of this Licence.

6.2. Altering the Licensed Area

6.2.1. The Contractor shall not carry out any alteration, improvement or other works to the Licensed Area without the prior written approval of the Commonwealth. Any alteration, improvement or other works approved by the Commonwealth shall be carried out by the Commonwealth's nominated tradesperson or, if the Commonwealth agrees in writing in advance of the works, by suitably qualified and licensed trades persons and in accordance with all Laws and requirements of Authorities to the satisfaction of the Commonwealth. All costs associated with the work, including the costs to the Commonwealth of obtaining professional advice relevant to the approval sought, shall be met by the Contractor and shall be payable on demand and may at the Commonwealth's option be set off against money payable by the Commonwealth to the Contractor under the Contract.

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- 6.3.1. Subject to clause 11.1.1, the Commonwealth may require the Contractor to move out of the Licensed Area and to another area on the Base. The Commonwealth shall give the Contractor at least one (1) month's notice that the Contractor is required to move (Relocation Notice).
- 6.3.2. In the Relocation Notice, the Commonwealth shall:
- a. specify the date by which the Contractor must move; and
 - b. offer the Contractor a licence of the alternative area with terms similar to this Licence, including the same Expiry Date, and the same Licence Fee.
- 6.3.3. The Licence will terminate in respect of the Licensed Area on the date specified in the relocation notice in accordance with clause 6.3.2.a.
- 6.3.4. The Contractor shall:
- a. yield up the Licensed Area on the date specified by the Commonwealth in the Relocation Notice; and
 - b. enter into a new licence of the alternative area commencing on the day after the date specified in the Relocation Notice in accordance with clause 6.3.2.a, on the terms offered under clause 6.3.2.b.
- 6.3.5. The Contractor shall not be entitled to make any claim or seek compensation, costs or expenses from the Commonwealth (including but not limited to costs of such relocation and loss of profit) as a result of or in connection with the Commonwealth exercising its rights under clause 6.3.1 to clause 6.3.4 inclusive.

7. DAMAGE OR DESTRUCTION OF THE LICENSED AREA

7.1. Damage or Destruction

- 7.1.1. If the Licensed Area or the Base or both are damaged or destroyed, and as a result the Contractor cannot use or access the Licensed Area, the Commonwealth may re-build either or both of them. Meanwhile the Contractor shall continue to use any part of the Licensed Area that is useable, safe and accessible.
- 7.1.2. If the Commonwealth does not re-build the Base or the Licensed Area or relocate the Contractor to alternative accommodation that is suitable for the purpose of the Licence within a reasonable time, or if the Commonwealth decides not to re-build the Base or the Licensed Area, as the case may be, either the Commonwealth or, subject to clause 7.1.3, the Contractor, may end the Licence by no less than seven (7) days' notice to the other (but without prejudice to any antecedent claim or remedy which the Commonwealth may have against the Contractor).
- 7.1.3. The Contractor cannot end the Licence and shall continue to pay the Licence Fee and all other money up to the end of the Term if the Contractor caused or contributed to the damage or destruction referred to in clause 7.1.1.
- 7.1.4. The Commonwealth is not liable to pay the Contractor compensation under this clause 7.1, but the Commonwealth may reduce the Licence Fee and any other money by a reasonable amount depending on the type and extent of the damage or destruction, until the Licensed Area is again fit for use or the Licence is ended.

8. RISKS AND INSURANCE

8.1. Contractor's Insurance

- 8.1.1. The Contractor shall maintain and provide evidence of the following insurances:

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- a. the insurances required under clause 8.6 of the Contract and the Contractor shall ensure that such insurance is extended to cover the risks and obligations under this Licence as well as the Contract;
- b. the Contractor must take out and maintain in the joint names of the Contractor and the Commonwealth public liability insurance written on an occurrence basis covering all risks in respect of injury, loss or damage to any person or property however sustained arising out of this Licence, the Permitted Use or any activity or circumstance on the Licensed Area for not less than twenty million dollars (\$20,000,000.00) for any single occurrence or such greater amount as the Commonwealth or the Contractor may from time to time reasonably require;
- c. the Contractor must take out and maintain in the joint names of the Contractor and the Commonwealth property damage insurance of a type approved by the Commonwealth for the Licensed fittings for full replacement or reinstatement value (including cover for Commonwealth property which is in the care, custody or control of the Contractor). The Contractor must also effect property insurance for all its property, plant and equipment on the Base for replacement or reinstatement value.
- d. and any other insurances which the Commonwealth may require in respect of the Licensed Area, the Permitted Use or the Contractor's activities (including Non Contract Works carried out on the Licensed Area).

Note to drafters: Confirm the clause number of the insurance clause in the Contract you are using, and change the number here if necessary. In determining appropriate kinds and values of insurances to be maintained by the Contractor under the Contract, you must take into account the value and nature of GFF.

- 8.1.2. The Contractor shall not do or permit anything or omit to do anything whereby any insurance effected pursuant to the Licence or the Contract may become vitiated or otherwise non-effective.
- 8.1.3. Upon request by the Commonwealth the Contractor must produce to the Commonwealth reasonable proof of the currency of any of the insurances required by clause 8.1.1.

8.2. Release and Indemnity

- 8.2.1. The Contractor enters on the Base and occupies the Licensed Area and carries out any work or activities in the Licensed Area at its own risk.
- 8.2.2. The Contractor releases the Commonwealth from all claims or liability arising from any damage, loss, injury or death, occurring in the Licensed Area or the Base, except to the extent that the Commonwealth caused the damage, loss, injury or death by a negligent act or omission.
- 8.2.3. In addition to the obligations to indemnify set out in clause 8 of the Contract, the Contractor indemnifies the Commonwealth its officers, employees and agents against all losses, liabilities, costs and expenses incurred and any claim, action or demand made against the Commonwealth by any person due to any damage, loss, injury or death by reason of any act, omission, default or neglect of the Contractor, its officers, employees, agents, contractors, sub contractors and invitees in connection with the Contractor's use or occupation of the Licensed Area or the Base except to the extent that the Commonwealth caused the damage, loss, injury or death by a negligent act or omission.

Note to drafters: Confirm the clause number of the liability and indemnity clause in the Contract you are using, and change the number here if necessary. If the template cap on liability clause is used in the Contract, you must take into account the value of GFF in determining appropriate levels for the caps.

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9.1. Compliance with Laws and Notices

- 9.1.1. Without limiting any other provision in this Licence, the Contractor at its own expense shall comply with, and procure that its personnel, and subcontractors comply with:
- a. all Laws relating to:
 - (i) the Licensed Area, the Base and the structures on or attached to the Licensed Area;
 - (ii) the use, occupation of and any activities on the Licensed Area, the Base and the structures on or attached to the Licensed Area and the Base; and
 - (iii) any matter arising from this Licence;
 - b. the Security Rules, orders, directions and requirements made by the Commonwealth and notified to the Contractor; and
 - c. all requirements in notices and orders given or made (whether issued to either the Contractor or the Commonwealth) by an Authority and notified to the Contractor.
- 9.1.2. If a Law does not apply to the Licensee or the Licensed Area which would apply if the Licensor was not the Commonwealth or if the Licensed Area was not located on Commonwealth land, then the Licensee must, unless otherwise notified by the Commonwealth, comply with that Law as if the Commonwealth was not the Licensor and if the land was not Commonwealth land.

9.2. Licences and approvals

- 9.2.1. At its own expense the Contractor shall, obtain and maintain (or cause to be obtained and maintained) at all times, all licences and approvals required in relation to the Licensed Area and structures on and attached to the Licensed Area and the activities of the Contractor on the Licensed Area and shall produce proof of compliance by the Contractor with its obligations under this clause immediately upon being required to do so by the Commonwealth.
- 9.2.2. Nothing in this clause 9 limits or otherwise derogates from the Contractor's obligations under the Contract or otherwise.

10. LICENCE MANAGEMENT

10.1. Regional Manager Defence Support Group

- 10.1.1. The Regional Manager DSG is the authorised representative of the Commonwealth in discharging each of the functions of the Commonwealth under the Licence.
- 10.1.2. The Contractor shall perform the Contractor's activities in the Licensed Area in accordance with:
- a. the Licence and the Contract; and
 - b. unless inconsistent with the Contract, any directions of the Regional Manager DSG.
- 10.1.3. Any direction which may be or is given to the Contractor by the Regional Manager DSG under the Licence may, unless the Licence expressly provides otherwise, be given either orally or in writing. If a direction is initially given orally, the Regional Manager DSG shall as soon as practicable after it is given confirm it by notice in writing to the Contractor. Any failure on the part of the Regional Manager DSG to confirm the direction in writing does not in any way affect the validity or enforceability of the direction but the Contractor is not liable for failure to carry out any direction if it has not been confirmed in writing within a reasonable time.
- 10.1.4. For the purposes of this clause, a "direction" is any agreement, approval, explanation, instruction, notice or requirement which the Regional Manager DSG may make, give or issue under the provisions of this Licence.

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10.2.1. The Regional Manager DSG may:

- a. by written notice to the Contractor appoint persons to exercise any of the Regional Manager's functions under the Licence; and
- b. revoke any appointment under clause 10.2.1.a by notice in writing to the Contractor.

10.2.2. All references in the Licence to Regional Manager DSG include a reference to a representative appointed under clause 10.2.1.

11. TERMINATION AND EXPIRATION

11.1. Termination when the Contract is terminated for convenience

11.1.1. If the Commonwealth terminates the Contract in whole or in part under clause 12.3 of the Contract, the Commonwealth may, without prejudice to any of its other rights under this Licence, by notice also terminate this Licence in whole or reduce the Licensed Area or the hours that the Licensed Area can be accessed correspondingly, and the Contractor will have no claim (including no claim for compensation or loss of prospective profits or any other losses, costs or expenses) against the Commonwealth for termination or amendment of the Licence other than as provided for in the Contract.

11.2. Expiration when the Contract is terminated other than for convenience

11.2.1. If the Contract is terminated other than under clause 12.3 of the Contract, this Licence is, without prejudice the Commonwealth's other rights under the Licence, deemed to end on the date that the notice of termination issued under the Contract takes effect as if that date was the Expiry Date. Notwithstanding any claim which the Contractor may have as a consequence of the termination of the Contract, the Contractor has no claim against the Commonwealth under the Licence or the Contract for expiration of the Licence.

11.3. Termination for convenience

11.3.1. In addition to its rights under clause 11.1, the Commonwealth may, without prejudice to any of its other rights under this Licence, terminate the Licence or reduce the Licensed Area or the hours that the Licensed Area can be accessed by notifying the Contractor in writing and the Contractor shall have no claim (including no claim for compensation or loss of prospective profits or any other losses, costs or expenses) against the Commonwealth for termination or amendment of the Licence other than as provided for in the Contract.

11.4. Termination for breach of the Licence

11.4.1. The Contractor acknowledges that a breach of this Licence is a 'Default' for the purposes of clause 12.2.3 of the Contract and that the Commonwealth may therefore issue a 'Default Notice' under that clause in respect of a breach of this Licence.

Note to drafters: Confirm the clause number of Default Notice clause in the Contract you are using, and change the number here if necessary.

11.4.2. In addition to any other right or remedy the Commonwealth may have, the Commonwealth may by notice in writing to the Contractor, immediately terminate this Licence if:

- a. the Contractor breaches this Licence and fails to rectify that breach within thirty (30) days of written notice from the Commonwealth requiring the Contractor to rectify the breach;

Option for use if the ASDEFCON (Support) template Operative Date clause is used in the Contract

- b. the Commonwealth is entitled to terminate the Contract for default pursuant to clause 1.4.3 of the Contract;

ANNEX D TO ATTACHMENT I**DRAFT**

- c. in the case of the Contractor being a company, a winding-up order is made in respect of it, or a resolution for voluntary winding up is passed by the Contractor or a provisional liquidator, a receiver and manager or a receiver of the Contractor or of a company which the Contractor is a subsidiary is appointed; or
- d. an assignment or composition is made by the Contractor for the benefit of the Contractor 's creditors; or
- e. a change occurs in the business assets or financial condition of the Contractor or of the Contractor and its subsidiaries taken as a whole, which in the reasonable opinion of the Commonwealth may have a material adverse effect on the ability of the Contractor to observe its obligations under this Licence; or
- f. a person is appointed under any legislation to investigate or manage any part of the affairs of the Contractor or any of its subsidiaries; or
- g. the Contractor engages in any conduct which in the opinion of the Commonwealth may pose a danger to any person or property; or
- h. the Contractor fails to comply with all Laws, requirements, notices, orders or directions relating to the Permitted Use, the use or operation of the Licensed Area or security; or
- i. any other agreement to which the Commonwealth and the Contractor are parties is terminated;
- j. a representation or warranty made or taken to be made by or on behalf of the Contractor in connection with this Agreement is found or notified by the Contractor to be incorrect or misleading when made or taken to be made; or
- k. the Contractor repudiates this Licence,
and this Licence will terminate on the date specified in the notice but without prejudice to any claim, right of action or remedy which the Commonwealth may have against the Contractor in respect of any breach of this Licence.

11.5. Vacation of Licensed Area by the Contractor

- 11.5.1. Upon expiration or earlier termination of this Licence, the Contractor shall vacate the Licensed Area. By the date of the expiration or earlier termination of this Licence or within such further time as may be approved in writing by the Commonwealth, the Contractor shall take down, remove and carry away, without causing any damage to Licensed Area or the Base, all removable items or equipment which the Contractor has fixed or brought on to Licensed Area during the term of the Licence and the Contract. If the Contractor causes any damage it shall immediately make good that damage at its own expense. Within seven (7) days of the completion of the removal by the Contractor of all removable items or equipment which the Contractor has fixed or brought on to Licensed Area during the term of the Licence and the Contract, the Commonwealth shall in the presence of the Contractor examine each part of the Licensed Area to assess its condition.
- 11.5.2. If upon the examination referred to in clause 11.5.1, any part of the Licensed Area is found not to be in the condition in which it was at the Commencement Date, as described in the Facilities Condition Appraisal (including as a result of environmental contamination) or as otherwise required by this Licence, the Contractor shall be liable for the cost of its restoration to that condition, except to the extent the difference in condition is due to:
 - a. fair wear and tear; or
 - b. any alterations, improvements or other works made in accordance with clause 6.2.
- 11.5.3. If the Contractor incurs any liability under clause 11.5.2, the Commonwealth may, at its absolute discretion, require the Contractor to:
 - a. make good any damage to the Licensed Area; or
 - b. pay to the Commonwealth an amount estimated by the Commonwealth as equal to the reasonable cost of restoration of the Licensed Area to the condition required by

ANNEX D TO ATTACHMENT I**DRAFT**

this Licence in which case that amount shall be a debt due from the Contractor to the Commonwealth and payable on demand.

- 11.5.4. The Contractor's liability under clause 11.5.2 and any amount due under clause 11.5.3.b shall not be affected by any decision by the Commonwealth as to the future use or disposal of the Licensed Area, regardless of whether that part of the Licensed Area which is the subject of the liability is restored, continued in use unrestored, retained unused, or sold by the Commonwealth.
- 11.5.5. If the Contractor fails to remove all removable items or equipment which the Contractor has fixed or brought on to Licensed Area, as required by clause 11.5.2, those items or equipment will be deemed to be abandoned and may be removed by the Commonwealth and disposed of by the Commonwealth at the Contractor's cost and expense.

12. NOTICES**12.1. Notices**

- 12.1.1. A notice to be given or served under or arising out of the Licence shall be in writing and delivered by hand or sent by prepaid post or facsimile, as the case may be, in accordance with this clause.
- 12.1.2. For the avoidance of doubt, any notice or communication under the Licence is not effective if it is delivered via electronic mail.

12.2. Address for Notice

- 12.2.1. If a notice is given to the Commonwealth, it shall be addressed and forwarded to the Regional Manager Defence Support Group at the following address or facsimile number:

Commonwealth of Australia

represented by the Regional Manager Defence Support Group –

c/- United Group Limited

^insert address^

Facsimile: ^insert number^

or such other address or facsimile number as notified in writing from time to time by the Commonwealth to the Contractor, with a copy to the Commonwealth Representative in accordance with clause 2.3 of the Contract.

Note to drafters: Confirm the clause number for notices under the Contract.

- 12.2.2. If a notice is given by the Commonwealth, it shall be signed for and on behalf of the Commonwealth by an officer of the Department of Defence, the Regional Manager DSG or the Commonwealth's solicitors and forwarded to the Contractor at the address or facsimile number notified under the Contract or such other address or facsimile number as notified in writing from time to time by the Contractor to the Commonwealth.

12.3. Deemed Receipt

- 12.3.1. A notice or communication shall be deemed to have been delivered:
- a. by prepaid post, in three Working Days if sent within Australia and in eight Working Days if sent by air mail from one country to another; or
 - b. by facsimile, at the time recorded by the transmitting machine, unless within one Working Day the sender is informed that the transmission was received in incomplete or garbled form in which case a re-transmitted notice or other communication shall be received when it is effectively delivered in accordance with this clause 12.3.

ANNEX D TO ATTACHMENT I**DRAFT****13. GENERAL**

13.1. Governing Law

13.1.1. The Licence is subject to and to be construed in accordance with the laws for the time being in force in the [State of ^{^enter appropriate State^} or the ^{^enter appropriate Territory^} Territory].

13.2. Incorporation of Certain Terms from the Contract

13.2.1. The following clauses of the Contract apply to this Licence, as if those clauses were reproduced in full into this Licence and references to 'the Contract' in the clause were read as references to 'this Licence':

- a. Clause 10.3 (Waiver);
- b. Clause 10.4 (Commercial-in-Confidence Information);
- c. Clause 10.5 (Assignment and Novation);
- d. Clause 11.6 (Severability); and
- e. Clause 12.5 (Survivorship);

Note to drafters: Confirm the clause numbers in the Contract you are using, and change the number here if necessary.

13.3. Right to Sub-Licence and Assignment of the Contract

13.3.1. Subject to clause 13.3.3, the Contractor shall not sub-license, part with possession, mortgage, charge or encumber any part or any right or obligation under this Licence without the prior written consent of the Commonwealth, which consent may be withheld or granted subject to conditions, in the absolute discretion of the Commonwealth

13.3.2. The Contractor agrees to pay the Commonwealth's legal costs and other expenses reasonably incurred in respect of any sub-licence whether or not the Commonwealth gives its consent pursuant to clause 13.3.1.

13.3.3. The consent of the Commonwealth is not required for a sub-licence by the Contractor to any of the Approved Sub-Contractors under the Contract provided that:

- a. the Contractor enters into a written binding sub-licence with the Approved Subcontractor that is on the same terms as this Licence;
- b. the Contractor indemnifies the Commonwealth for any costs, damages, losses or claims incurred or sustained by the Commonwealth as a result of or in connection with any sub-licence;
- c. the Contractor shall require the Approved Subcontractors in the sub licence to not make any claim against the Commonwealth as a result of the Commonwealth exercising its rights and powers under this Licence or the Contract; and
- d. the Contractor shall not charge the Approved Subcontractor a licence fee or any other amount for the grant of the sub licence.

13.3.4. If the Contract is assigned or novated by the Contractor this Licence will be deemed to be assigned or novated (as applicable) simultaneously with the Contract to the assignee or novatee of the Contract.

13.4. Commonwealth may Step-In

13.4.1. The Commonwealth may, either itself or by a third party, perform a Licence obligation which the Contractor was obliged to perform but which it failed to perform. The costs, expenses and damages suffered or incurred by the Commonwealth in so performing such a Licence obligation will be a debt due from the Contractor to the Commonwealth and may at the Commonwealth's option be deducted by the Commonwealth from any moneys payable to the Contractor by the Commonwealth pursuant to the Contract.

ANNEX D TO ATTACHMENT I**DRAFT****13.5. Non Reliance**

13.5.1. The Contractor acknowledges that it did not in any way rely upon any information, representation, statement or documentation whether forming part of this Licence or not which has been made by or provided to the Contractor by:

- a. the Commonwealth;
 - b. anyone on behalf of the Commonwealth; or
 - c. any of the consultants engaged by the Commonwealth,
- for the purposes of entering into this Licence.

13.6. Reliance Upon Own Investigations

13.6.1. The Contractor:

- a. warrants that it enters into this Licence based on its own investigations, interpretations, deductions, information and determinations; and
- b. acknowledges that the Commonwealth has entered into the Licence relying upon the warranty in clause 13.6.1.a.

13.7. Entire Agreement

13.7.1. The Licence and the Contract constitute the entire agreement between the Parties and supersede all other communications, negotiations, arrangements and agreements, either oral or written, made or entered into prior to the date of the Licence between the Parties with respect to the subject matter of the Licence.

13.7.2. If there is any inconsistency between the terms of this Licence and the terms of the Contract, to the extent of the inconsistency, the terms of the Contract will prevail.

13.8. No Partnership or Joint Venture

13.8.1. Nothing in this Licence is to be treated as creating a partnership or joint venture between the Commonwealth and the Contractor.

13.9. Payments

13.9.1. Unless otherwise provided in this Licence all payments to be made by the Contractor under this Licence shall be paid within thirty (30) days of demand (except in the case of the Licence Fee when no demand is necessary and which shall be paid on the due date). Amounts payable under this Licence will be deemed to be payable under the Contract for the purpose of the terms of clause 7.12 of the Contract (Early and Late Payments).

Note to drafters: Confirm the clause number of the early and late payment clause in the Contract you are using, and change the number here if necessary.

13.10. Disputes

13.10.1. If any dispute or difference between the parties is not capable of being resolved in accordance with the terms of this Licence, the procedures set out in clause 12.1 of the Contract will apply to that dispute or difference.

Note to drafters: Confirm the clause number of the dispute resolution clause in the Contract you are using, and change the number here if necessary.

ANNEX D TO ATTACHMENT I**DRAFT****14. GLOSSARY OF TERMS**

14.1.1. In this Licence, unless the contrary intention appears, the words in the first column of the table below have the meanings set out in the second column:

Airfield	The part of the base delineated on the plan at ^insert annexure number^ .
Airfield Costs	The costs of the use of the Airfield and navigational facilities, air traffic, control, aviation rescue, fire-fighting facilities, radio technicians and meteorological services, as calculated in accordance with Airservices Australia's "Charges for Facilities and Services" as amended from time to time.
Approved Subcontractor	An Approved Subcontractor under the Contract.
Authority	The Commonwealth, the State of ^insert details^ , or any federal, state or local government administrative body, department or agency or any body exercising regulatory powers or other powers under Laws in respect of the Base, services, heritage, environment, aviation or other activities, uses or transactions contemplated by this Licence and where the context requires means an Authority which has jurisdiction or powers in the context of the relevant clause of this Licence.
Base	^Insert name and location of the Base and title particulars^ .
Commencement Date	The date determined in accordance with Item 3 of the Schedule.
Common Areas	Those areas of the Base available for common use which the Commonwealth designates in writing from time to time including for example car parking areas, footpaths, access ways, entrances, stairs, toilets and loading docks and access through which is required in order to perform the Permitted Use or approved Non Contract Works.
Commonwealth's Sewerage Treatment Plant	The Commonwealth's sewerage treatment plant as shown on the plan set out in Annexure ^insert Annexure number^ .
Contract	The Contract for ^insert details^ between the Commonwealth and the Contractor dated ^insert date^ .
Contractor	The Contractor referred to in the Contract.
Contractor's Activities	Includes all things or tasks which are necessary for the Contractor to do to comply with its Licence obligations.
Contractor's Share	^Insert definition which will represent the Contractor's proportion of Operating Expense^ .
Defence Purposes	Such purposes deemed necessary by the Department of Defence as necessary for the carrying out of its functions and includes functions performed by the Australian Defence Forces.
DSG	Defence Support Group or any other administrative group which replaces the Defence Support Group or is assigned its jurisdiction.

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Environment	Includes the things specified in paragraphs a to g below and the social, economic, aesthetic and cultural aspects of those things: <ul style="list-style-type: none"> a. land, air and water; b. soils and sub-soils; c. a layer of the atmosphere; d. organic or inorganic matter and living organisms; e. natural and physical resources; f. qualities and characteristics of locations and places; g. ecosystems and the parts making up ecosystems; and h. people and communities forming part of ecosystems.
Environmental Management Plan	^Insert description of the applicable plan^ or any plan relating to or affecting the Environment of the Licensed Area from time to time.
EPBC Act	The <i>Environmental Protection and Biodiversity and Conservation Act 1999</i> (Cth) and the regulations made under that Act.
Expiry Date	The date determined in accordance with Item 4 of the Schedule.
Facilities Condition Appraisal	The Facilities Condition Appraisal attached as Annexure "B".
Financial Year	The period 1 July to 30 June.
GST	The tax payable on taxable supplies under GST Legislation.
GST Legislation	The <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth) and any related Act imposing such tax or legislation that is enacted to validate, recapture or recoup such tax.
Government Furnished Services or GFS	means the services listed in Annex C to Attachment E (if any) under the heading 'Government Furnished Services' in the Contract. Note to drafters: If the ASDEFCON Support Contract is used, this definition can be deleted because it is contained in the Contract.
Hazardous Disease	Includes any disease, bacteria, virus or foreign matter which may create a risk to the health or safety of a person.
Immediate Maintenance	Maintenance required to rectify, remedy or repair a fault, defect or damage in the Licensed Area (including for the avoidance of doubt the Licensed Fittings) which if not rectified, remedied or repaired: <ul style="list-style-type: none"> a. constitutes a significant health or safety hazard risk; b. prevents the Contractor from securing the Licensed Area; or c. may cause loss or damage to the Licensed Area, the Base or loss or damage to other property.
Laws:	means a statute, regulation, rule, by-law, ordinance, proclamation, enactment, statutory instrument or delegated or subordinate legislation (whether federal, state, municipal or of any Authority) and the common law.
Licence	This Licence and all schedules, annexures and attachments to this Licence.
Licence Fee	^insert amount^ per annum, as reviewed from time to time.
Licence Review Date	The dates (if any) in Item 7 of the Schedule.

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Licensed Area		That part of the Base delineated on the plans attached at Annexure A, being the whole or part of the Building/s including the Licensed Fittings.
Licensed Fittings		<p>The following items:</p> <ol style="list-style-type: none"> a. all fixed internal partitioning and panelling; b. floor coverings, window blinds and awnings; c. the cabling and connection points of any installed telecommunication systems; d. the lines, conduits, connections, taps, outlets, controls and regulatory and safety devices of any reticulated electricity, gas or water supply; e. any sinks and basins, f. any fire sprinkler systems; g. any light, heating and air-conditioning fittings; h. any installed warning or alarm systems; i. any signage supporting the function or the intended function of the facility; j. air hoses and compressor units; k. any other fixed plant and equipment; and l. any other fixed plant and equipment as detailed in Annexure C not being part of the GFE as defined in the Contract, <p>in the condition in which they were immediately prior to the Commencement Date and includes any replacement of these during the continuation of this Licence and any other equipment or items made available by the Commonwealth in the Licensed Area for the Contractor's use and benefit.</p> <p><i>Note to drafters: This list should be reviewed and updated depending on the actual licensed fittings. If a fitting which is being licensed does not appear on the list above, you will need to include it. Conversely, if an item is listed as being a 'licensed fitting' above, but is not being licensed to the Contractor, it should be deleted from the list above.</i></p>
Market Date	Review	The date (if any) in Item 8 of the Schedule.
month		Calendar month.
monthly		Calendar monthly.
Non Contract Work		Work not required to be performed under the Contract.
Non Contract Work Licence Fee		The fee payable by the Contractor under clause 3.1.
Operating Expenses		<p>The total of all costs, charges, fees, expenses and other outgoings paid or payable, charged or chargeable, assessed or assessable upon or otherwise incurred by the Commonwealth in respect of the Base or in managing, supervising, operating, cleaning, painting, maintaining and keeping secure the Base and not recouped by the Commonwealth pursuant to any other provision of this Licence and include but are not limited to:</p> <ol style="list-style-type: none"> a. all Rates, Taxes, charges, assessments, duties, impositions and fees at any time or from time to time paid or payable to or charged or chargeable assessed or assessable by any Authority in respect of the Base (except where the Licensed Area has been separately assessed and payments have been made by the Contractor under clause 3.7 the Commonwealth may waive the right to require payment by the

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Contractor of amounts under this paragraph);

- b. all insurance premiums payable in respect of the insurances effected from time to time by the Commonwealth in respect of the Base against such risks (referable to the Base or to the Commonwealth in relation to the Commonwealth's ownership or interest in the Base) as the Commonwealth may consider necessary or desirable;
- c. cleaning, lighting, maintaining and servicing the Common Areas of the Base;
- d. caretaking, security and other expenses associated with facilities provided on or from the Base;
- e. maintenance, operation, renovation, repair, upgrade and upkeep of the Base (other than those parts of the Base to which there is no benefit derived from right of access or use by the public or the Contractor);
- f. the costs of all services or services supplied to the Base (excluding any costs which are the responsibility of a particular tenant, licensee or occupier of the Base) and excluding any costs for which the Tenant is liable under clause 3.8 (Utilities and Telecommunications Facilities) and clause 3.9 (Airfield Rights) including the fees and/or premiums payable to specialist contractors and/or the wages paid to permanent staff employed and the cost of materials used by the Commonwealth in or about the maintenance and service of the Services or services;
- g. the cost of IT services to the Base;
- h. maintenance, repair and testing of all fire fighting and protection equipment including sprinkler installations, hydrants, fire extinguishers, smoke detectors and fire fighting equipment installed by the Landlord throughout the Base including charges imposed or claimed by any Authority in the supply maintenance servicing and monitoring of fire alarms;
- i. control and security (including any fees payable to the Commonwealth's security contractors, car parking attendants and traffic supervisors in connection with the base including but not limited to salaries, wages, superannuation, pension payments and accident compensation insurance premiums;
- j. costs the Commonwealth incurs in the management and supervision of the Base and any arrangements for use, occupation or access to the Base;
- k. complying with requirements from time to time made by any Authority in relation to the Base (other than those parts of the Base to which there is no access or use by the public or the Contractor) but excluding any requirements which are the responsibility of a particular tenant, licensee or occupier of the base; and
- l. any other expenditure reasonably and properly incurred by the Commonwealth in the operation and maintenance of the Base;

but excluding

- m. costs of capital repairs (provided these are not needed due to an act or omission of the Contractor);
- n. any expenses which the Commonwealth is not permitted by law to recover from the Contractor;
- o. any amounts of GST pursuant to clause 3.10;
- p. any costs referred to in clause 3.11; and
- q. any other amounts or costs payable or to be borne by the Contractor

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under this Licence.

Note to drafters: Review and amend this list to ensure completeness and accuracy.

Permitted Use	Performing the Contractor's obligations under the Contract but excluding Non-Contract Work and specifically excludes all other uses.
Rates	All rates and levies imposed by an Authority on land or on owners or occupiers of land in relation to their ownership, use or occupation of that land.
Regional Manager DSG	The person holding or performing the office of Regional Manager Defence Support Group or the person for the time being holding or performing the duties of that position or of any position that may replace it. The address for Regional Manager Defence Support Group is in Item 14 of the Schedule or as otherwise notified to the Contractor.
Review Notice	A notice from the Commonwealth under clause 3.6 specifying the reviewed Licence Fee.
Sewerage Treatment Plant	That portion of the Base delineated on the plan attached at Annexure ^{^insert Annexure number^} .
Shared Facilities	The area as notified by the Commonwealth from time to time being the Licensed Area or any part of the Licensed Area utilised by the Commonwealth and other Commonwealth contractors during the term of this Licence in accordance with clause 2.4.
Security Rules	Those requirements established from time to time by the Commonwealth as being essential to the security and safety of the Base, or any part of the Base or persons on the Base and notified to the Contractor including, without limitation, in relation to: <ul style="list-style-type: none"> a. emergency procedures; b. staff security clearances; c. security screening (personnel and goods); d. security identification cards; and e. the payment of fees as set by the Commonwealth from time to time to cover such security.
Taxes	All taxes (including stamp duty), costs, charges, expenses, duties, impositions, fees and penalties of whatever nature levied or imposed by an Authority in respect of instruments, transactions, activities, ownership, use or occupation.
Telecommunications Facilities	Defence internal and external telephone and facsimile facilities and internal data link facilities.
Term	The period determined under clause 2.2 of this Licence.
Trade Waste Treatment Plant	That portion of the Base delineated on the plan attached at Annexure ^{^insert Annexure^} .
Utilities	Electricity, gas, water supplies, sewerage and drainage services.
Working Day	In relation to the doing of an action in a place means any day other than a Saturday, Sunday or public holiday in that place.

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SCHEDULE

1. Licensor: Commonwealth of Australia represented by the Department of Defence.
2. Contractor: **^Insert full name and address^**.
3. Commencement Date: The date on which the Licence is signed by the Parties, or if signed on separate days, the date of the last signature.
4. Expiry Date: Subject to clause 11.2, the date on which the Contract expires.
5. Licensed Area:

That part of the Base delineated on the plans attached at Annexure A, being the whole or part of the Building/s known as **^insert details^** and includes the Licensed Fittings.
6. Licence Fee: **\$\$^insert amount^** per annum, as reviewed from time to time.
7. Licence Fee Review Dates: CPI reviews **do not apply under clause 3.5 / *do apply under clause 3.5 and the dates are **^insert dates^**.*
8. Market Review Date: Market review under clause 3.6 on **^insert date^**.
9. Licence Fee Review by the Commonwealth: Clause 3.4.2 is **not applicable / *is applicable and the review dates are **^insert dates^**.*
10. Right of renewal/extension: **^Clause 2.2. Refer to Contract clause^**.
11. Not Used: Not Used.
12. Airfield Rights: **^Clause 3.9 is *applicable/*not applicable^**.
13. Contractor's Use of sewerage system: **^Clause 4.5 is *applicable/*not Applicable^**.
14. Address of Regional Manager DSG: **^Insert details or if C/- UKFPW^**.
15. Date for payment **^Insert ^ [eg - the fifth working day of every month]**

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EXECUTED as a deed on the date on page 1

**SIGNED for and on behalf of the
COMMONWEALTH OF AUSTRALIA:**

)
)
).....
) (Signature of Delegate)
)

.....
(Name of Witness in Full)

.....
(Name of Delegate)

.....
(Signature of Witness)

.....
(Position of Delegate)

THE COMMON SEAL of
.....
ABN
was affixed in accordance with its
Constitution in the presence of:

)
)
)
)
)

.....
(Name of Secretary/Director)

.....
(Name of Director)

.....
(Signature of Secretary/Director)

.....
(Signature of Director)

ANNEX D TO ATTACHMENT I
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ANNEXURE A
Plans

ANNEX D TO ATTACHMENT I

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ANNEXURE B

Facilities Condition Appraisal

[Attach Facilities Condition Appraisal]

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ANNEXURE C

Attach List of Licensed Fittings (equipment, chattels etc)