

This is the Annexure “A” referred to in the Lease between Western Sydney Parklands Trust ABN 85 202 544 800 as Lessor and Sydney Zoo Pty Ltd ACN 168 970 090 as Lessee
Dated:

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OPERATIVE PROVISIONS

1. INTERPRETATION

1.1 Definitions

In this Lease unless the contrary intention appears:

Access Road has the meaning given in clause 13.2.

Approvals means all approvals, authorisations, permits, consents, licences, exemptions and the like which are required to be issued by or obtained from any Authority in connection with the Premises or Permitted Use or the performance by the Lessee of its obligations under this Lease.

Auditor means one of:

- (a) PricewaterhouseCoopers;
- (b) Deloitte Touche Tohmatsu;
- (c) KPMG;
- (d) Ernst & Young;
- (e) Crowe Horwath Australia Limited; or
- (f) such other auditor as the parties may agree in writing from time to time.

Authority means any government department or agency, local government council, government or statutory authority, or any other body, which imposes a requirement or whose consent is required in connection with the performance by any person of any obligation under, or in connection with, this Lease or the Premises.

Bank Guarantee has the meaning given in clause 19.1.

Base Rent means the annual rent specified in Item 6.

Business Day means any day which is not a Saturday, Sunday or public holiday in New South Wales or 27, 28, 29, 30 or 31 December.

Change of Control has the meaning give in clause 14.2.

Claim means any claim, notice, demand, action, proceeding, litigation, investigation or judgement, requisitions, damage, loss, cost, expense or liability whether immediate, future or contingent and whether based in contract, tort, statute or otherwise and whether involving a third party or a Party to this Lease.

Commencement Date means the date specified in Item 3.

Concept Plan means the concept plan a copy of which is in Schedule 2, as amended from time to time in accordance with clause 7.23.

Contamination means, in respect of land the presence of any substance, including any waste, Pollution, Hazardous Substance, toxic substance, dangerous goods, hazardous waste, special waste or any constituent of any such substance or waste such that:

- (a) the substance is above the concentration or level at which the substance is normally present in land in the same general locality; and
- (b) having regard to the use to which the land is put or is likely to be put, the presence of that substance presents a risk of harm to human health or any other aspect of the Environment or results in non-compliance with any Environmental Law,

and includes the act or omission giving rise to the contaminated state. For the purposes of this definition "land" shall include any air or water in, on, above or beneath the ground.

CPI means the Consumer Price Index (All Groups) for Sydney published from time to time by the Australian Bureau of Census and Statistics, or if there is any suspension or discontinuance of the publication of such consumer price index then until publication of the CPI is resumed, CPI will mean such other index reflecting fluctuations in the cost of living in Sydney, as determined by the Lessor (acting reasonably).

Cure Period means:

- (a) in respect of a Financial Default, 15 Business Days from and including the date of service of the Default Notice; and
- (b) in respect of all other Events of Default which are capable of remedy, a reasonable period given the nature of the alleged breach (which must not be less than 15 Business Days from and including the date of service of the Default Notice).

Default Notice means a notice given by the Lessor under clause 15A.1.

Environment means all components of the earth, including:

- (a) land, air and water;
- (b) any layer of the atmosphere;
- (c) flora and fauna;
- (d) any organic or inorganic matter and any living organism including humans;
- (e) human made or modified structures and areas;
- (f) the aesthetic characteristics or components of the earth, including appearance, sound, odour, taste and texture; and
- (g) ecosystems with any combinations of the above.

Environmental Aspects means in relation to the Premises any breach of an Environmental Law or the existence of any Contamination, Hazardous Substance or Pollution whether originating from the Premises or elsewhere.

Environmental Investigation Report means the environmental investigation report prepared by an appropriately qualified environmental consultant for the Lessee in relation to the Premises dated [] a copy of which has been signed by the Parties as Exhibit 1 to this Lease.

Environmental Law means any Law or State protection policy incorporated by reference to or being part of any Law relating to protection of the Environment.

Essential Term means the terms referred to in Item 14.

Event of Default has the meaning given to that term in clause 15.1.

Event of Insolvency means for a person, being in liquidation or provisional liquidation or under administration, having a New Controller (as defined in the *Corporations Act*) or analogous person appointed to it or any of its property, being taken under section 459F(1) of the *Corporations Act* to have failed to comply with a statutory demand, being unable to pay its debts or otherwise insolvent, dying, ceasing to be of full legal capacity or otherwise becoming incapable of managing its own affairs for any reason, taking any step that could result in the person becoming an insolvent under administration (as defined in section 9 of the *Corporations Act*), entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors, or any analogous event.

Financial Default means a failure by the Lessee to pay when due any money which the Lessee is obliged to pay to the Lessor under this Lease.

Further Lease means a lease to occupy the Premises for the Further Term.

Further Term means the further terms if any stated in Item 5.

General Standards for Exhibiting Animals means the publication entitled General Standards for Exhibiting Animals in NSW prepared by the Director-General NSW Agriculture dated 15 March 2004, originally in accordance with the *Exhibited Animals Protection Regulation 1995* (NSW) and now under the *Exhibited Animals Protection Regulation 2010* (NSW) and includes any modification of or substitution for that publication.

Gross Turnover means all money and the value in money of things other than money brought to account by the Lessee or sublessees, licensees or other persons carrying on business on the Premises from their use of the Premises including from admission charges, sales of goods and tickets, signage and advertising revenue and the provision of services:

- (a) excluding the amount of any GST, grants, donations, sponsorships and discounts reasonably and properly allowed to any customer in the usual course of business; and
- (b) including gross takings, gross receipts, gross income and similar concepts:
 - (i) from the Premises;
 - (ii) from somewhere other than the Premises but originating from the Premises; or
 - (iii) neither from the Premises nor originating from the Premises but which would normally be attributed to business conducted from the Premises.

Hazardous Substance means a substance that because of its quantity, concentration, acute or chronic toxic effects, carcinogenicity, teratogenicity, mutagenicity, corrosiveness, flammability, or physical, chemical or infectious characteristics, poses a hazard to property, human health or the Environment when improperly treated, stored, disposed of or otherwise managed.

Improvements means any structure or work of a permanent nature attached to the Premises.

Insurances means the policies of insurance referred to in clause 11.

Interest Rate means the annual percentage rate of interest charged by the Commonwealth Bank of Australia or its successor on overdraft accounts exceeding \$100,000 plus 2% per annum, or if such an annual percentage rate is not published by the Commonwealth Bank of Australia or its successor, such rate as is in the opinion of any officer for the time being of the Commonwealth Bank of Australia or its successor an equivalent replacement rate, or if the Commonwealth Bank of Australia has ceased to exist, and there is no successor, such rate as is in the opinion of any officer for the time being of an Australian trading bank nominated by the Lessor, an equivalent replacement rate

Item means an item in the Reference Schedule.

Law means any statute, ordinance, code, regulation, by-law, local law, official directive, order, instrument, undertaking, obligation or applicable judicial administrative or regulatory decree, judgment or order and includes conditions and standards, authorisations, licences, permits, consents, assurances, bonds or similar requirements including all applicable standards and obligations under the common law.

Lease means this lease including the Schedules, and all Annexures hereto.

Lessee's Fit Out means installation by or on behalf of the Lessee of the Lessee's Fixtures and Fittings.

Lessee's Fixtures and Fittings means all fixtures, fittings, plant, equipment, services and other articles on or at the Premises, which have been or are installed or attached by the Lessee and at any time are in or form part of the Premises or service the Premises.

Liquor Act means the *Liquor Act* 1982, as amended or replaced.

Liquor Licence means any licence or licenses granted from time to time pursuant to the Liquor Act in respect of any part of the Premises.

Local Council means the council established under the *Local Government Act* 1993 for the Local Government Area in which the Premises are situated.

Maximum Trading Hours means the hours in Item 8.

New Controller means any person who will become an officer of or hold an interest in the Lessee or any Related Body Corporate in connection with a Change of Control.

Nominated Licensee means a person acceptable to the Lessor (acting reasonably) who is nominated by the Lessee to hold the Liquor Licence.

Operating Year means:

- (a) the period from and including the Commencement Date of the Original Lease to and including the next 30 June;
- (b) each period of 12 months thereafter;
- (c) the period from and including the day following the last day of the last such 12 month period during the Term to and including the Termination Date;
provided that:
- (d) if this Lease is terminated or otherwise comes to an end prior to the Termination Date, the then current Operating Year will end on the date of such termination; and

- (e) if this Lease is renewed pursuant to the exercise of an option to renew contained in this Lease, or the Lessee holds over after the Termination Date in accordance with this Lease, the above provisions will be applied as if the Term of this Lease, and the term of the renewed lease, or the period of holding over, as the case may be, together constituted the term of one continuous lease.

Original Lease means the first lease of the Premises from the Lessor, or any predecessor in title of the Lessor to the Lessee or any predecessor in title of the Lessee.

Outgoings means the total of all reasonably and property incurred amounts, paid or payable by the Lessor in connection with the Premises including but not limited to:

- (a) rates, land taxes (on a single holding basis) and other charges imposed by any Authority;
- (b) taxes (except income or capital gains tax), levies, imposts, deductions, charges, withholdings and duties imposed by any Authority; and
- (c) charges for the supply, installation, connection and consumption of Services used in connection with the Premises either separately metered or otherwise attributed to the Premises.

Parklands has the same meaning as in the WSPT Act and includes the Premises.

Party means a party to this Lease.

Permitted Use means the use stated in Item 7.

Pollution means and includes the release, emission or discharge into the Environment of a substance which causes damage or harm to any aspect of the Environment, and the degradation of, or adverse affectation of, the Environment including air pollution, pollution of surface or sub-surface waters, emission of offensive noise and dust and other temporary effects on the Environment.

Premises means the land described in Item 1, including any Improvements, and Lessee's Fixtures and Fittings.

Quarter means:

- (a) the period from and including the Commencement Date of the Original Lease to and including the last day of the calendar quarter in which that Commencement Date occurs;
- (b) each period of 3 months thereafter until and including the last day of the last such 3 month period during the Term;
- (c) the period from and including the day following the last day of the last such 3 month period during the Term to and including the Termination Date;

provided that:

- (d) if this Lease is terminated or otherwise comes to an end prior to the Termination Date, the then current Quarter will end on the date of such termination; and

if this Lease is renewed pursuant to the exercise of an option to renew contained in this Lease, or the Lessee holds over after the Termination Date in accordance with this Lease, the above provisions will be applied as if the Term of this Lease, and the term of the renewed lease, or the period of holding over, as the case may be, together constituted the term of one continuous lease.

Reference Schedule means Schedule 1.

Related Body Corporate means a related body corporate as defined in section 50 of the *Corporations Act 2001* (Cth).

Rent means the Base Rent and the Turnover Rent.

Services means the services (such as water, drainage, gas, electricity, communications) running through or servicing the Premises and includes all plant, equipment, pipes, wires, cables, ducts and other conduits in connection with them.

Signage Policy means the policy as agreed between the Parties as at the Commencement Date in relation to the advertising and signage within the Premises any replacement or variation of it agreed by the Parties pursuant to clause 7.10.

Term means the period specified in Item 2 commencing on the Commencement Date and expiring on the Termination Date.

Termination Date means the date on which the Term expires, as specified in Item 4.

Turnover Rent for any Operating Year means % of the amount if any by which Gross Turnover for that Operating Year exceeds the Turnover Threshold.

Turnover Threshold has the meaning given in clause 5.6(a).

WSPT Act means the Western Sydney Parklands Act 2006 (NSW).

1.2 Interpretation

- (a) Words importing the singular shall include the plural and vice versa.
- (b) Gender words importing any particular gender include all genders. The word "person" includes a company and vice versa.
- (c) Subject to section 109 of the Commonwealth Constitution this Lease shall be subject to and construed in accordance with the laws of the State of New South Wales and the parties agree that the courts of that State shall have jurisdiction to entertain any action in respect of or arising out of this Lease.
- (d) All headings contained in this Lease are for convenient reference only and are not intended to, and do not, form part of the substance of this Lease.
- (e) Where the context permits, references in this Lease to the Lessor include the Western Sydney Parklands Trust ABN 85 202 544 800.
- (f) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (g) Provisions requiring the Lessee to comply with a particular Law or Laws do not limit the Lessee's obligation to comply with all applicable Laws.
- (h) A reference to any party to this Lease or any other agreement or document includes the party's successors and substitutes or assigns.
- (i) A reference to any agreement or document is to that agreement or document as amended, novated, supplemented, varied or replaced from time to time, except to the extent prohibited by this Lease.

- (j) A reference to legislation or to a provision of legislation includes a modification, re-enactment of or substitution for it and a regulation or statutory instrument issued under it.
- (k) A reference to conduct includes any omission, statement or undertaking, whether or not in writing.
- (l) Unless stated otherwise, one provision does not limit the effect of another.

2. GRANT & TERM

2.1 Grant of Lease

The Lessor leases the Premises to the Lessee for the Term.

2.2 Option to renew

If a Further Term is specified in Item 5, the Lessor must grant to the Lessee, at the Lessee's cost, and the Lessee must accept, a new lease of the Premises for the Further Term commencing on the day after the Termination Date if:

- (a) the Lessee notifies the Lessor (at least 12 months but not more than 18 months before the Termination Date) that the Lessee wants a lease of the Premises for the Further Term;
- (b) the Lessee is not in default under this Lease on the date of the notice or on the Termination Date; and
- (c) the condition in clause 2.3 has been satisfied.

2.3 Option condition

- (a) The Lessee will only be entitled to a new lease of the Premises for the Further Term if the Lessee has spent at _____ (excluding GST) on:

- (i) capital expenditure for new exhibits and facilities; or
- (ii) refurbishment of the existing exhibits; or
- (iii) redecoration of the facilities; or
- (iv) other major capital expenditure works; or
- (v) a combination of the works in paragraphs (i) to (iv),

at the Premises in the period from the Commencement Date until the 35th anniversary of the Commencement Date and such expenditure has been confirmed by notices in writing from the Lessor under clause 2.3(b)(iv).

- (b) If the Lessee wishes capital expenditure by it to be taken into account for the purposes of clause 2.3(a):
 - (i) the Lessee must submit to the Lessor written details of proposed capital expenditure and a request in writing that the amount of such expenditure be approved for the purposes of this clause;

- (ii) the Lessor must not unreasonably withhold or delay its approval, and if approved, the Lessor must confirm in writing that such capital expenditure is approved for the purposes of this clause within 20 Business Days of receipt of notification from the Lessee pursuant to paragraph (b)(i);
 - (iii) when amounts have been expended by the Lessee, the Lessee must submit reasonable written evidence of such expenditure to the Lessor with a request in writing that the Lessor approve the amount expended for the purposes of this clause. If preliminary approval for the expenditure has been provided pursuant to paragraph (b)(ii), the Lessor must approve the amount expended; and
 - (iv) the Lessor must not unreasonably withhold its approval, and if approved, the Lessor must confirm in writing that such capital expenditure has been expended for the purposes of this clause within 20 Business Days of receipt of the evidence supporting the expenditure pursuant to paragraph (b)(iii).
- (c) The Lessee must maintain a register including details of all expenditure confirmed by the Lessor under clause 2.3(b)(iv) including the dates and amounts of all such expenditure, and the notices given by the Lessor under clause 2.3(b)(iv).

2.4 Terms of new lease

The new lease for the Further Term contains the same terms and conditions as this Lease except that:

- (a) appropriate changes are made to the cover page and the Reference Schedule to reflect the term, commencing date, termination date and Base Rent;
- (b) the new lease includes any variations made to this Lease during the Term;
- (c) the amount for public liability insurance specified in Item 8 is replaced with the amount applicable on the last day of the Term, or any other amount the Lessor reasonably requires;
- (d) the new lease includes any term which the Lessor reasonably requires due to any change in Law;
- (e) clauses 2.2, 2.3 and 2.4 and any defined terms which are required only for those clauses are omitted from the new lease; and
- (f) any provisions which in the reasonable opinion of the Lessor are only relevant to this Lease (and agreed by the Lessee) may also be omitted from the new lease.

3. PERMITTED USE

3.1 Lessee's Permitted Use

The Lessee will not use the Premises or allow the Premises to be used for any purpose other than the Permitted Use.

3.2 No residence

Unless expressly permitted under a provision of this Lease, the Lessee will not reside on the Premises or permit any other person to reside on the Premises, except for the use of a caretaker's residence for after-hours security and animal welfare.

4. BASE RENT

4.1 Payment of Base Rent

- (a) The Lessee must pay the Base Rent to the Lessor without demand and without set-off, deduction or counterclaim.
- (b) The Lessee must pay the Base Rent by equal quarterly instalments in advance.
- (c) The first Base Rent payment is due on the Commencement Date and subsequent payments are due on or before the 1st day of each Quarter during the Term.

4.2 Base Rent Increases

On each anniversary of the Commencement Date, the Base Rent will increase by %.

5. TURNOVER RENT

5.1 Records

The Lessee must keep full and accurate accounting records to enable the calculation of Gross Turnover for at least 2 years after the Quarter to which they relate.

5.2 Quarterly Statements

Within 20 Business Days after the end of each Quarter, the Lessee must give to the Lessor, in a form reasonably required by the Lessor:

- (a) a statement of the Gross Turnover for that Quarter together with a certificate signed by a director of the Lessee certifying the amount of the Gross Turnover for the Quarter; and
- (b) a statement signed by a director of the Lessee certifying the director's estimate of Gross Turnover for the current Operating Year including:
 - (i) the amount of Gross Turnover for each completed Quarter in the Operating Year;
 - (ii) estimated Gross Turnover for each remaining Quarter in the Operating Year;
 - (iii) total estimated Gross Turnover for the Operating Year; and
 - (iv) an explanation in reasonable detail of how the estimates for Gross Turnover for each remaining Quarter have been arrived at.

5.3 Payment of Turnover Rent

- (a) Within 14 days after the end of each Quarter, the Lessee must pay to the Lessor on account of Turnover Rent without demand and without setoff, deduction or counterclaim, an amount equal to:

$$A \times \frac{B}{C}$$

where:

A = % of the amount if any by which the total estimated Gross Turnover for the current Operating Year in the most recent statement provided by the Lessee to the Lessor under clause 5.2(b) exceeds the Turnover Threshold

B = the number of days in the relevant Quarter

C = the number of days in the current Operating Year

- (b) If the Lessee's Gross Turnover in any Quarter is less than the Turnover Threshold, such that the calculation of Turnover Rent in paragraph (a) would result in a negative amount, then the only Rent payable in that Quarter is the Base Rent.

5.4 Annual adjustment

- (a) As soon as practicable after the end of each Operating Year, and not later than 6 months after the end of each Operating Year, the Lessee must cause to be prepared, and submit to the Lessor audited accounts of the Lessee for that Operating Year including a certificate by an Auditor certifying the Gross Turnover for the Operating Year.
- (b) If the Lessee does not give the Lessor the Auditor's certificate within 6 months after the end of the Operating Year, the Lessor may:
- (i) notify the Lessee in writing that the certificate by an Auditor certifying the Gross Turnover has not been provided and allow the Lessee 15 Business Days to arrange that Certificate; and
 - (ii) if the certificate referred to in paragraph (a)(i) has not been provided within 15 Business Days arrange for an Auditor to inspect the records of the Lessee for the Operating Year and determine Gross Turnover for that year.
- (c) The Lessee must promptly pay or reimburse the Lessor for the Auditor's reasonably incurred costs pursuant to paragraph (b)(ii) and the Lessee must make sufficient records available to such Auditor for the Auditor to determine the Gross Turnover.
- (d) When the Gross Turnover for the Operating Year has been determined in accordance with this clause, the Lessee must make such adjustments as may be necessary to ensure that the amount received by the Lessor for Turnover Rent for that Operating Year is % of the amount if any by which Gross Turnover exceeds the Turnover Threshold. Any adjustment required to be made by the Lessee must be made by payment to the Lessor within 20 Business Days of such amount being determined. Any adjustment required to be made by the Lessor may be made by crediting any amount due to the Lessee against future Rent or Turnover Rent payable by the Lessee.

5.5 Lessor may inspect records

If the Lessor gives the Lessee reasonable notice, the Lessor may inspect or audit the accounting records at the Premises or any other place the Lessor reasonably requires. If an audit or inspection shows that the Gross Turnover stated in a certificate under clause 5.2 is understated by more than 3%, the Lessee must pay for the audit. If an audit reveals any error in a certificate under clause 5.2 the Lessor and Lessee must make any necessary adjustment within 15 Business Days of the error being discovered.

5.6 Turnover Threshold

- (a) For the purposes of this clause 5, Turnover Threshold for an Operating Year means, subject to clause 5.6(b), the amount of _____, increased on each anniversary of the earlier of 1 April 2017 and the Commencement Date of the Original Lease in accordance with the following formula:

$$A = B \times D \div C$$

where:

A = increased Turnover Threshold

B = previous Turnover Threshold

C = CPI for the quarter ending immediately prior to:

- (a) the earlier of 1 April 2017 and the Commencement Date of the Original Lease; or

- (b) where an increase under this clause has previously taken place, the date one year before the date of that increase

D = CPI for the quarter ending immediately prior to the relevant anniversary

- (b) If any Operating Year is less than 365 days the Turnover Threshold for that Operating Year will be:

$$A \times B/C$$

where:

A = the current Turnover Threshold as provided in clause 5.6(a)

B = the number of days in the relevant Operating Year

C = 365

6. OTHER PAYMENTS

6.1 Lessee to Pay Outgoings

The Lessee must pay or reimburse the Lessor for all Outgoings during the Term. Where the Lessor receives invoices or other requests for payment of Outgoings, the Lessor may forward such invoices or other requests direct to the Lessee for payment, in which case the Lessee must promptly pay such invoices or other requests. Alternatively, the Lessor may elect to pay the Outgoings itself, in which case, if the Lessor provides a written request for payment to the Lessee together with reasonable details of the relevant Outgoings, the Lessee must promptly reimburse the Lessor for such payments.

6.2 Lessee to Pay for Services

Subject to clause 6.1 and to the extent that the relevant Services charges are not already covered in the definition of Outgoings, the Lessee will as and when the same become due for payment pay to the Lessor or to any other person or body authorised to supply the same all proper charges for gas, electricity, water or other services, either separately metered or otherwise attributed to the Premises, and supplied to the Lessee or consumed in or on the Premises, by the Lessee.

6.3 Lessee to Pay for Cost of Works

Whenever the Lessee is required under this Lease to do or effect any act, matter, work or thing then the doing of such act matter or thing will unless this Lease otherwise provides be at the sole risk, cost and expense of the Lessee.

6.4 Manner of Payment of Rent and Other Moneys

The Rent and other moneys payable in accordance with this Lease must be paid to the address or bank account specified in Item 13 or to such other person or at such other address as the Lessor may from time to time direct by notice in writing served on the Lessee.

6.5 Interest on Overdue Payments

Without prejudice to any other rights, powers or remedies of the Lessor under this Lease, the Lessee must pay to the Lessor interest on any money due to the Lessor under this Lease but unpaid. Such interest will be calculated on a daily basis and on the basis of a year of 365 days from (and including) the due date up to (and excluding) the date of actual payment at the Interest Rate. Interest will be payable monthly in arrears. If such interest is not paid when due, it will itself bear interest in accordance with this clause.

6.6 Determination of Outgoings and Rates

In the event that the Lessee objects to any assessment of rates or Outgoings levied in respect of the Premises by any Authority or any other body which is entitled to raise any tax, charge, levy or fee in respect of the Premises or the use or supply of Services to the Premises, the Lessor shall, upon the written request of the Lessee, authorise the Lessee to raise all objections and bring any appeal including an appeal or proceedings before any tribunal or court of competent jurisdiction in respect of the liability for or the amount of any tax, charge, levy or fee in respect of the Premises or the use or supply of Services to the Premises, provided that the Lessee shall indemnify the Lessor in respect of any liabilities or expenses incurred by the Lessor including any adverse costs orders as a result of any objection and or appeal brought by the Lessee.

7. LESSEE'S OBLIGATIONS

7.1 General Obligations

Without limiting the Lessee's other obligations under this Lease, the Lessee must at all times during the Term, in using, managing, maintaining and repairing the Premises comply with its obligations under this Lease and must:

- (a) comply with all Laws, all Environmental Laws, all Approvals and all applicable requirements of any Authority in connection with the Premises or the use and

occupation of the Premises by the Lessee, including all Laws and Approvals relating to public health and safety;

- (b) ensure that all Approvals necessary to authorise the use of the Premises for the Permitted Use are held and maintained by the Lessee; and
- (c) comply with any conditions imposed by any of the Insurances.

7.2 Management During Term

The Lessee must, at all times during the Term, and in accordance with the terms and conditions of this Lease:

- (a) manage the Premises in a professional and cost effective manner, in accordance with relevant industry standards including being responsible for contractual arrangements and the collection of money and the payment of all operating expenses relating to the Premises; and
- (b) manage the Premises in accordance with the Lessor's approved operational and environmental management plan in force from time to time in relation to the Premises or the Parklands.

7.3 Environmental Conservation

- (a) The Lessee must take reasonable steps to ensure that its use of the Premises does not pose a threat to any threatened species within or in the vicinity of the Premises and must if requested to do so by the Lessor, provide the Lessor with written details of the reasonable steps taken by it to comply with this requirement.
- (b) The Lessee must comply with any conservation management plan which applies to the Premises or land of which the Premises forms part.
- (c) The Lessee must not damage or remove any vegetation within that part of the Premises which is within or adjoins the area known as the southern green belt, and must if requested to do so by the Lessor, provide the Lessor with written details of steps taken by it to comply with this requirement.

7.4 Staff

- (a) The Lessee must take reasonable steps to ensure that the Lessee's employees, contractors and agents, and others employed to work at the Premises do not do anything which would be a breach of this Lease if done by the Lessee.
- (b) The Lessee must ensure that an appropriate number of experienced staff are employed at the Premises to enable a high level of customer service to be provided and to reasonably service the public in an appropriate and timely manner.
- (c) The Lessee must ensure that at all times an experienced operations director is employed at the Premises to be responsible for curatorial operations, animal welfare and management.
- (d) The Lessee must ensure that staff at the Premises include an appropriate number of staff who are suitably qualified in animal handling and husbandry, and that ongoing training for staff is provided in relation to these matters.

7.5 Improvements

The Lessor and Lessee agree that all Improvements for the purposes of any Law relating to the right of the Lessee to claim depreciation benefits and building allowances will be and remain always for all purposes owned by the Lessee.

7.6 Maintenance and repair

The Lessee must:

- (a) promptly replace any part of the Premises which is worn or damaged with items of similar quality;
- (b) keep the Premises and the Lessee's Fixtures and Fittings in good and substantial repair and structurally sound condition having regard to their condition at the commencement of the Lease, subject to fair wear and tear;
- (c) keep the Premises clean and free from waste and rubbish, including animal waste and refuse, to a standard equivalent to the standard of a well maintained major tourist attraction, removing all rubbish and refuse on each day on which the Premises are open for business;
- (d) store all cleaning products, chemicals and flammable substances in a cool and dry place within the Premises, away from any direct sunlight or an open flame;
- (e) provide adequate and appropriate facilities for the storage and management of animal feed material;
- (f) attend to structural and capital maintenance, replacement and repair of the Premises; and
- (g) repaint those parts of the Improvements as are normally painted to a reasonable standard at least once every 10 years.

7.7 Alterations or Additions

- (a) The Lessee will not at any time:
 - (i) conduct any capital works to the Premises;
 - (ii) make any significant alterations or additions to the Improvements; or
 - (iii) conduct any activities which physically alter the structure of the Premises and which require Approvals from an Authority, without the prior written consent of the Lessor (such consent not to be unreasonably withheld or delayed).
- (b) The Lessee may conduct minor works to the Improvements or the Premises without Lessor's consent.
- (c) Before the Lessee carries out any works referred to in paragraph (a), it must obtain, at its own cost, all necessary Approvals from the relevant Authorities.
- (d) The provisions of this clause 7.6 apply in relation to any alterations or additions to the Premises including new exhibits and facilities referred to in clause 2.3.

7.8 Submission of Plans and Specifications

- (a) In seeking the consent of the Lessor to works pursuant to clause 7.7(a), the Lessee will submit detailed drawings, plans and specifications in relation to such activity.
- (b) The Lessor may impose such conditions as it reasonably sees fit on any consent issued by the Lessor pursuant to clause 7.7(a), including that:
 - (i) the Lessee shall procure at the Lessee's cost any Approval from any relevant Authority for such work and promptly produce copies of such Approvals to the Lessor upon request by the Lessor to do so; and
 - (ii) upon completion of such work the Lessee shall produce to the Lessor any certificates of compliance or other certificates required by the Lessor and issued or appropriate to be issued by any relevant Authority including private certifiers.

7.9 Conduct of Works

In conducting any works referred to in clauses 7.7(a) or 7.7(b), the Lessee:

- (a) must cause as little inconvenience, nuisance or damage as reasonably possible to any adjoining occupier or adjoining property;
- (b) must not store any Hazardous Substances in or about the Premises except as reasonably necessary for the works and shall not allow any Hazardous Substances to escape from the Premises;
- (c) must not do anything to contravene any Environmental Law in relation to the Premises; and
- (d) must comply with all Laws and the requirements of any Authorities including Laws in relation to animals.

7.10 Signage

- (a) No signs or advertisements are to be placed on any part of the Premises except in accordance with the Signage Policy and in accordance with the requirements of all relevant Authorities.
- (b) Despite clause 7.10(a), the Lessee is not required to obtain the Lessor's consent to the following signs:
 - (i) notices which are required for workplace health and safety purposes or otherwise required by Law;
 - (ii) signs inside structures that are not visible from the exterior of, or outside, those structures; and
 - (iii) usual directional signage and signage of an administrative nature,
 provided always that any such signage is consistent with the Signage Policy.
- (c) If the Lessor or the Lessee wishes to vary the Signage Policy, the Party proposing the variation must seek the written consent of the other Party and provide full details of the proposed variation.
- (d) The Parties must:

- (i) act reasonably; and
 - (ii) discuss in good faith any proposals advanced by the other Party,
- to agree and finalise any variation to the Signage Policy.

7.11 Infectious illness

If an infectious illness or disease occurs in the Premises, or to any person using the Premises, the Lessee must promptly:

- (a) notify the relevant Authorities which are required to be advised by Law of that occurrence;
- (b) provide a copy of each notification referred to in clause 7.11(a) to the Lessor; and
- (c) fumigate and disinfect the Premises as required by the relevant Authorities, and comply with their other requirements in respect of the Premises.

7.12 Bushfire Management and Risk Mitigation

- (a) The obligations for bush fire management as defined by the *Rural Fires Act, 1997* and any associated Acts, Regulations or bush fire planning instruments which specifically relate to the Premises shall be the responsibility of the Lessee.
- (b) The Lessee (acting reasonably) must prepare its own bush fire management plan in relation to the Premises in consultation with the Lessor (acting reasonably) and relevant emergency service organisations.
- (c) The Lessee must, in relation to the Premises, comply with the requirements of the NSW Rural Fire Service Cumberland Zone Bush Fire Management Committee (BFMC) Bush Fire Management Plan (BFMP) and the reasonable requirements of the associated Bush Fire Management Plan prepared by the Lessor for lands under its control as amended from time to time and notified to the Lessee, and any requirements of relevant emergency service organisations.
- (d) The parties agree they will cooperate to create, or allow to be created, and give access thereto to emergency service organisations, such as internal access ways, service roads and external entry points and the like as may be reasonably required from time to time by any relevant emergency service organisations provided that any access granted under this paragraph (d) which the Lessee is not required by Law to grant must not adversely affect the Lessee's use of the Premises for the Permitted Use.
- (e) The Lessee must not make any Claim against the Lessor in relation to any costs of complying with its obligations under this clause 7.12.
- (f) The Lessee is not required under this clause to maintain any Asset Protection Zones, Fire Management Trails or Strategic Fire Management Zones (as defined in the BFMP BFMC or its own bush fire management plan) that may lie within or cross the Premises.
- (g) The Lessee is not required under this clause to protect any infrastructure or utility assets within the Premises that belong to third parties, except to the extent that any damage is caused or contributed to by the negligent act or omission of the Lessee or its employees or contractors.

7.13 Lessee's Obligations

Without limiting the Lessee's obligations under this Lease, the Lessee must (and where applicable must ensure that its employees, contractors, agents and invitees):

- (a) (notice or order): give the Lessor a copy of any notice or order which may materially affect the Lessor or the Premises, or the use or occupation of the Premises, promptly after the Lessee receives the notice or order;
- (b) (restrictions easement and covenants): comply with the restrictions, easements and covenants, if any, registered on the title to the land;
- (c) (general Parklands regulations): comply with any general regulations imposed by the Lessor from time to time in respect of the Parklands provided that these are not inconsistent with the terms of the Lease;
- (d) (emergency requirements): comply with the directions of the Lessor in relation to security and emergency control at the Parklands;
- (e) (animal security): take all reasonable steps necessary to ensure that animals at the Premises pose no threat to the Lessee's employees, contractors, agents or invitees including members of the public within the Premises or in the vicinity of the Premises; and
- (f) (animal welfare): comply with all government standards and Laws with regard to animal welfare, exhibit specifications and animal housing quality.

7.14 Prohibited Acts

Without limiting the Lessee's obligations under clause 7 the Lessee must not (and where applicable must ensure that its employees and invitees do not):

- (a) (nuisance): operate the business or do anything in or upon the land or the Premises which in the reasonable opinion of the Lessor may become a nuisance, disturbance or obstruction or cause of damage whether to the Lessor or to other users of the Parklands;
- (b) (danger): do anything in or around the Premises which is dangerous;
- (c) (damage or accident): inform the Lessor of any material damage to, or significant accident in, the Premises as soon as reasonably possible after the Lessee becomes aware of it;
- (d) (hazardous substances) bring on to the Premises or keep any Hazardous Substance on the Premises, except as required for the operation of the Lessee's business, without the prior consent of the Lessor, which consent shall not be unreasonably withheld;
- (e) (contamination or pollution): do anything to cause Contamination or Pollution to the Premises or the Parklands; or
- (f) (Authority consent or approval): object to any condition of a consent or approval issued by an Authority which repeats or reinforces a restriction, right, reservation or obligation under this Lease.

7.15 Security

- (a) The Lessee is responsible for arranging and maintaining security at the Premises to protect against unauthorised entry during the Term, at its cost.
- (b) The Lessee must comply with General Standards for Exhibited Animals in relation to
 - (i) enclosure design;
 - (ii) animal safety; and
 - (iii) animal security.

7.16 Work Health and Safety

- (a) *Work Health and Safety Act 2011*

Without limiting its obligations under any other provision of this Lease, when the Lessee is using and occupying the Premises it must comply with all applicable occupational health and safety legislation, including the *Work Health and Safety Act 2011* (NSW) and the regulations made under that Act which the Lessee acknowledges it will fully and competently do at all times during the Term.

- (b) *Lessee's acknowledgement of the Lessor's reliance*

The Lessee acknowledges that the Lessor relies on the Lessee's competency and capability in meeting its obligations under clause 7.16(a) to put in place and control safe systems of work and relevant procedures and that the Lessor has no control over the systems of work or procedures employed by the Lessee while it is using and occupying the Premises or performing its obligations under this Lease.

7.17 Lessee to comply with Environmental Laws

- (a) The Lessor does not warrant or represent:
 - (i) that the Premises are suitable for any use, or for any particular use;
 - (ii) that there are no Environmental Aspects either affecting the Premises or arising as a result of activities on the Premises;
 - (iii) the accuracy of information about the past use of the Premises before they were owned by the Lessor; or
 - (iv) that the Premises are or are not Contaminated, or the nature or extent of any Contamination.
- (b) Subject to clause 7.18, on and from the date on which the Lessee takes possession of the Premises, the Lessee:
 - (i) accepts the Premises in its existing state and condition including:
 - (A) any existing Contamination of the Premises; and
 - (B) the condition of any existing structures located on the Premises.

- (c) Subject to clause 7.18, the Lessee shall, as and from the Commencement Date, be responsible for, and will release the Lessor from any Claims in relation to, any Contamination it causes on the Premises during the Term.
- (d) Subject to clause 7.18, to the extent that remediation is necessary to enable the Permitted Use to be carried out, the Lessee agrees to pay for the cost of remediation of any Contamination.
- (e) The Lessee must:
 - (i) not Contaminate the Premises;
 - (ii) not cause any Pollution of or from the Premises;
 - (iii) subject to the other provisions of this Lease regarding the Lessor's access to the Premises, allow the Lessor and the Lessor's employees, contractors and agents access to the Premises at reasonable times (provided written notice is first given to the Lessee) to carry out environmental audits, assessments and investigations of any part of the Premises; and
 - (iv) at the Lessee's cost remediate any Contamination of or from the Premises to the extent caused by the Lessee or the Lessee's employees, contractors, agents or invitees.
- (f) In relation to its use of the Premises, the Lessee must, during the Term, and in relation to the Premises:
 - (i) comply with relevant Environmental Laws;
 - (ii) use its reasonable endeavours to prevent a breach of any Environmental Law;
 - (iii) report any breach of Environmental Law to the extent that the Lessee is aware such a breach has occurred; and
 - (iv) provide to the Lessor as soon as reasonably practicable details of notices received by or proceedings commenced against the Lessee pursuant to an Environmental Law:
 - (A) relating to a breach or alleged breach by the Lessee of an Environmental Law; or
 - (B) requiring the Lessee to carry out works to decrease the affectation of the Premises by any Hazardous Substance; and
 - (v) before carrying out any remediation works, provide full written details of the Contamination and the proposed remediation works, and obtain the approval in writing of the Lessor (such approval not to be unreasonably withheld) and all Approvals required from relevant Authorities for the carrying out of such remediation works.
- (g) Without prejudice to any other indemnity granted by this Lease, but subject to clause 7.18, the Lessee shall indemnify and keep the Lessor indemnified against all Claims arising from a breach by the Lessee of any Environmental Law which breach is in relation to the Premises or any Contamination caused by the Lessee in relation to the Premises. This clause shall not merge on expiration or other

determination of this Lease in respect of any act, deed, matter or thing happening before such expiration or determination.

7.18 Contamination Responsibility

Notwithstanding anything to the contrary in this Lease, the Lessee is not obliged to remediate or take any other action in relation to Contamination which:

- (a) first affected the Premises after the date of the Environmental Investigation Report; and
- (b) was not caused by the Lessee, or by any activity or occurrence on the Premises on or after the Commencement Date.

Where paragraphs (a) and (b) apply, and the Contamination in question was caused by a particular third party or third parties, the Lessor must if requested to do so by the Lessee take such steps as may be reasonably required on its part to assist the Lessee in taking action against such third party or third parties to prevent further Contamination and to have existing Contamination remediated.

7.19 Compliance with particular Legislation

- (a) Notwithstanding anything to the contrary in this Lease, including without limitation, the description of the Permitted Use, the Lessee must comply with the provisions of the *State Environmental Planning Policy (Western Parklands) 2009* and any Plan of Management or Precinct Plan for the Premises prepared and administered under the *Western Sydney Parklands Act (2006)*.
- (b) When accessing or utilising the Premises and/or administering any installation or maintenance as permitted under this Lease, the Lessee must observe and comply with all Laws relating to the Premises and/or the Permitted Use.

7.20 Safety Management System

- (a) The Lessee must prepare and submit to the Lessor for approval details of a safety plan for the Premises to provide for the safety of the Lessee's employees, contractors, agents and invitees, and members of the public. The Lessee must consult with the Lessor in relation to the safety plan, and must incorporate in the safety plan all reasonable requirements of the Lessor. The Lessee must ensure that its employees, contractors, agents and invitees comply with the safety plan.
- (b) The Lessee must comply with all applicable safety Laws.

7.21 Trading hours

- (a) Subject to paragraph (b), the Lessee may not trade from the Premises outside the Maximum Trading Hours.
- (b) Following a request by the Lessee, the Lessor may at its discretion (exercised reasonably) permit extended trading hours particularly in relation to the Function Centre operations, subject to compliance with after-hours security access control arrangements and any other reasonable conditions imposed by the Lessor. The Lessee may not trade outside of the hours stipulated in any relevant Approval.

7.22 Bio-filtration system

If the Lessee elects to install a proposed bio-filtration system including wetlands and retention dams for the treatment of liquid animal waste during the term of this Lease then the Lessee must at its own expense maintain the bio-filtration system at the Premises:

- (a) in accordance with the relevant Authority requirements and Laws; and
- (b) the relevant Approvals (if any).

7.23 Concept Plan

- (a) The Concept Plan must provide for:
 - (i) development of a high quality, family oriented zoological park;
 - (ii) themed around 'on-safari', natural experiences providing educational and entertaining interactions with animals;
 - (iii) management of issues of conservation, habitat protection and indigenous culture preservation;
 - (iv) a minimum species list, exhibits and attractions, such as exotic animals and Australian fauna;
 - (v) complementary visitor services, restaurant and gift shop;
 - (vi) ancillary activities – such as a function centre and retail veterinary clinic; and
 - (vii) educational facilities and interpretative activities.
- (b) The Lessee must regularly review the Concept Plan and submit to the Lessor for approval written details of any proposed changes to the Concept Plan that it considers appropriate from time to time.
- (c) The Lessor must not unreasonably withhold or delay its approval of any such changes.
- (d) The Lessee must ensure that the Concept Plan is at all times consistent with the requirements of the General Standards for Exhibiting Animals.
- (e) The Lessee must use reasonable endeavours to comply with the requirements of the Concept Plan.

7.24 Education and Activities Program

- (a) The Lessee must use reasonable endeavours to provide at the Premises an education and activities program in accordance with the Concept Plan.
- (b) The education and activities program must satisfy the requirements of the General Standards for Exhibiting Animals.

7.25 Conservation Program

- (a) The Lessee must use reasonable endeavours to undertake conservation programs in accordance with the Concept Plan.

- (b) The conservation program may include a mix of activities such as breeding programs, animal rescue, veterinary clinic services, animal husbandry, animal welfare and research.
- (c) The conservation program must satisfy the requirements of the General Standards for Exhibiting Animals.

7.26 Destocking

- (a) Not less than 2 years prior to the end of the Term the Lessee must submit to the Lessor for approval a program for the orderly relocation of animals from the Premises to suitable alternative accommodation prior to the Termination Date or the termination date of any Further Term.
- (b) The relocation plan must have regard to the good industry practice for such arrangements.
- (c) The Lessor must not unreasonably withhold its approval of the relocation plan.
- (d) The Lessee must comply with the relocation plan as approved by the Lessor (acting reasonably).
- (e) The Lessee is not obliged to comply with this clause 7.26 if not less than 2 years prior to the end of the Term it gives notice in writing to the Lessor that it intends to exercise its option to renew the Original Lease. If the Lessee gives such notice, and does not exercise its option to renew the Original Lease, this clause will apply as if the reference in paragraph (a) to 2 years was 1 year. If the Lessee does exercise its option to renew the Original Lease, this clause will apply to the Further Term.

8. OTHER DEVELOPMENT IN BUNGARRIBEE

- (a) The Lessee acknowledges that during the Term there will be further development of other land owned by the Lessor in the vicinity of the Premises and in the Parklands.
- (b) The Lessee must not object to any such further development or activities on such other land or make any Claim in relation to such further Development, or activities on such other lands.

9. LIQUOR LICENCE

9.1 Lessee Obligations

- (a) If the Lessee wishes to provide liquor at the Premises the Lessee must:
 - (i) ensure that in providing liquor at the Premises it does not breach its obligations under any other provision of this Lease;
 - (ii) at its own expense, procure that it or the Nominated Licensee obtains a Liquor Licence;
 - (iii) at its own expense, procure that the Liquor Licence is kept current at all times during which it intends to provide liquor at the Premises;

- (iv) comply with the conditions of the Liquor Licence, as applicable from time to time;
 - (v) not do or permit (to the extent such actions are within the control of the Lessee any act, matter or thing in or around the Premises that may cause the Liquor Licence to be varied, suspended or cancelled;
 - (vi) give notice to Lessor within 48 hours of the receipt by the Lessee or the Nominated Licensee of:
 - (A) every complaint, summons and conviction against either the Lessee or the Nominated Licensee affecting the Premises, the Lessee or the Nominated Licensee under any statute; and
 - (B) every notification received by either the Lessee or the Nominated Licensee from any magistrate, licensing inspector or licensing or other court, tribunal or other competent Authority; and
 - (vii) keep all records to the extent required by the Liquor Act and its regulations.
- (b) The Lessee and the Nominated Licensee must comply with all of Lessor's general policies applying to all venue operators in Western Sydney Parklands for the authorised sale of liquor at the Premises, as notified by the Lessor from time to time.
 - (c) The Lessee must not, and must ensure that the Nominated Licensee does not, object to or oppose the grant or issue of a liquor licence under the Liquor Act relating to any premises in the Parklands outside the Premises without the prior written consent of Lessor.
 - (d) The Lessee must not, and must ensure that the Nominated Licensee does not, apply for or seek to obtain or obtain a hotel licence for the Premises at any time during the Term.
 - (e) The Lessee will ensure that whenever a declaration of liquor purchases in respect of the Premises is delivered to the Liquor Authority or other duly appointed Authority, a true copy is also delivered to Lessor.
 - (f) Any provision under the Liquor Act or any other statute at any time during the Term relating to the postponement of the dates for payment by a licensee (as defined by the Liquor Act or any statute amending or consolidating the same) of any rent or other moneys payable by a licensee for the Premises or in any way limiting the powers or remedies of Lessor or its successors and assigns under this Lease are expressly excluded to the extent permitted by Law.

9.2 Appointment of Manager

The Lessee may appoint a manager and such other persons in respect of the Premises as may be required by the licensing laws. The manager or other persons will be individuals who are acceptable to Lessor (which acceptance will not be unreasonably withheld) and the Lessee will not without Lessor's prior written consent (which consent will not be unreasonably withheld) substitute any such manager or other persons or appoint or permit any other persons to manage, superintend or carry on the business of the sale of liquor as authorised by the licensing laws PROVIDED that Lessor's consent will be deemed to have been given in respect of any manager approved by the Liquor Authority as a person authorised to manage, superintend or carry on the business of the sale of liquor.

9.3 Restriction on use of Liquor Licence

Except where clause 7.21(b) applies, the Lessee must obtain the Lessor's prior written consent to use the Liquor Licence at the Premises outside the Maximum Trading Hours, for which consent Lessor has absolute discretion.

10. INDEMNITIES

10.1 Indemnity for use of Premises

The Lessee will indemnify and keep indemnified the Lessor from and against any Claims:

- (a) which the Lessor may be or becomes liable, in respect of or arising directly from any loss, damage or injury to property or persons caused or contributed to by:
 - (i) any wilful or negligent act or omission;
 - (ii) any default under this Lease; or
 - (iii) the occupation, operation or use of the Premises,

by or on the part of the Lessee or the Lessee's employees, agents, contractors or invitees except to the extent that any such Claims arise from or are caused or contributed to by the negligence or wilful act or omission on the part of Lessor or Lessor's employees, agents or contractors.

10.2 Indemnity Continues After Expiration of Lease

The rights of the Lessor and obligations of the Lessee under this clause 10 continue after the expiration or other determination of this Lease in respect of any act, deed, matter or thing happening before such expiration or determination.

10.3 Release of Lessor from Liability

- (a) The Lessee shall occupy, use and keep the Premises at the risk of the Lessee.
- (b) The Lessee hereby releases the Lessor from any Claims resulting from:
 - (i) any accident, damage, injury or death occurring in the Premises;
 - (ii) the Lessee's use, occupation or operation of the Premises; and
 - (iii) the Premises not complying with any law or the requirements of Authorities,

except to the extent any such Claims arise from or are caused or contributed to by the negligence or wilful act or omission on the part of the Lessor or Lessor's employees, agents or contractors.

10.4 No Liability for Failure of Services

The Lessor will not be under any liability for any loss, injury or damage sustained by the Lessee or any other person at any time as a result of or arising in any way out of the failure of the electricity, telephones, gas, water supply, sewerage, drainage or any other Services or facilities provided by the Lessor or enjoyed by the Lessee in conjunction with the

Premises or this Lease provided that such failure is not due to the delay, negligent or wilful act or omission of the Lessor its servants or agents.

10.5 Lessee's Failure to Comply with Statutory Requirements

- (a) Where the Lessee breaches any Law in relation to its use of the Premises it is taken to breach a condition of this Lease.
- (b) The Lessee will indemnify and keep indemnified the Lessor from and against any Claims arising from the non-compliance by the Lessee with any New South Wales or Commonwealth legislation that may apply to the Lessee's use and occupation of the Premises and access thereto and the Lessee's operation of their business from the Premises and access thereto.

11. INSURANCES

11.1 Public Liability Insurance

The Lessee will effect and maintain throughout the Term, with a reputable and solvent insurer with respect to the Premises and the activities carried on in the Premises public liability insurance for an amount not less than the amount set out in Item 8 (or such other amount as the Lessor may from time to time reasonably require) as the amount payable in respect of liability arising out of any one single accident or event. The public liability insurance must cover the Lessee's obligations to indemnify the Lessor under clause 10.1.

11.2 Building Insurance

The Lessee will effect and maintain with a reputable and solvent insurer, an insurance policy, on such terms as is usual for policies of this type (having regard to the Permitted Use), insuring the Premises against loss, damage or destruction from any insurable risk (which must include loss, damage or destruction by fire, water, wind, hail, lightning, explosion, storm, tempest, smoke, riot, strikes, civil commotion, malicious damage, sprinkler leakage, impact by vehicles, flood, earthquake, theft, attempted theft and vandalism and such other insurable risks of a nature and in an amount usually insured by prudent building owners) for not less than their full insurable value on a full replacement or reinstatement basis and including, in the event of reinstatement, consequential loss provisions covering removal of debris and design professional fees and approval fees. If any loss or damage occurs which is covered by any insurance, the Lessee is required to maintain under this Lease, the Lessee must apply for the insurance proceeds promptly and (unless the Lease is terminated under clause 16.3) use the proceeds to restore, replace, repair or reinstate the loss or damage.

11.3 Employers' Liability and Workers Compensation Insurance

The Lessee will effect and maintain with a reputable and solvent insurer with respect to the Premises and the activities carried on in the Premises employers' liability and workers compensation insurance.

11.4 Provisions Re Insurance Policies

- (a) All insurance policies required to be effected by the Lessee pursuant to this Lease are specified in this Clause 11 and must be in place prior to the Lessee occupying the Premises.

- (b) The Lessee must produce to the Lessor, once per calendar year or once per period of insurance (whichever first occurs), a certificate of insurance and/or a certificate of currency in respect of the insurance policies required to be effected by the Lessee pursuant to this Lease. The Lessee must ensure that the certificate (and if not the certificate, a copy of the policy or other document acceptable to the Lessor) for the public liability insurance policy shows that the policy complies with the requirements of clause 11.1.
- (c) The Lessee must not at any time during the Term do any act or omit to do any act which it ought reasonably believe may render void or voidable any policy of insurance. If the Lessee does any act or fails to do any act whereby the rate of premium on such insurance shall be liable to be increased, the Lessee must obtain insurance cover for such increased risk and pay all additional premiums required on account of the additional risk caused by the use to which the Premises are put by the Lessee.
- (d) The Lessee must use all reasonable endeavours to ensure that full, true and particular information is given to the office or company with which the insurances are effected of all matters and things the non-disclosure of which might in any way prejudice or affect any such policy or policies of insurance or the payment of all or any moneys there under.
- (e) The Lessee must ensure that all insurance policies note the interest of the Lessor as the owner of the Premises.

12. EASEMENTS

12.1 Easements

- (a) The Lessor may grant rights of support or easements to or enter into any agreement with any person interested in any land or improvement near the Premises, or any Authority, to provide services for or access to the Premises or such other land or improvement or support any structure at any time on the Premises or such other land or improvement or for any other purpose provided that the grant of the easement, right of support or right of access does not materially adversely affect the Lessee's ability to use the Premises for the Permitted Use and the Lessee's Fixtures and Fittings for the Permitted Use.
- (b) Before granting any rights pursuant to paragraph (a), the Lessor must consult with the Lessee and take into account any of the Lessee's concerns regarding the grant.

12.2 Documents

Subject to clause 12.1, the Lessee must at the Lessor's request promptly execute any consents or other documents to enable the Lessor to exercise its rights under clause 12.1. The Lessor and the Lessee will act reasonably in creating easements on the Premises for such purposes as may be necessary from time to time.

13. LESSOR'S OBLIGATIONS

13.1 Quiet Enjoyment

- (a) The Lessor warrants that subject to:
-

- (i) the Lessor's rights under this Lease;
- (ii) the Lessee complying with its obligations under this Lease;

the Lessee may hold and occupy the Premises without undue interference by the Lessor.

13.2 Access Road

In this clause, the word Access Road means an access road from the Great Western Highway signalised intersection to the boundary of the Premises. The Lessor must at its own cost and expense maintain the Access Road in a reasonable condition appropriate as a means of access to the Premises from the Great Western Highway. As soon as practicable after the Commencement Date, the Lessor must create a right of access easement in favour of the Lessee over the Access Road for the Term and register the easement at the time to the Premises.

13.3 Services

The Lessor must use reasonable endeavours to ensure that the supply of Services to the boundary of the Premises is not interrupted, except where required for maintenance and repairs, or required by any Authority, provided that the Lessor uses reasonable endeavours to provide the Lessee with prior notice of any such interruption.

13.4 Access

The Lessee and the Lessee's employees, agents and contractors may access the Premises 24 hours a day 7 days a week.

14. ASSIGNMENT, SUBLEASING AND PARTING WITH POSSESSION

14.1 General Prohibition

Subject to clauses 14.3 – 14.7 inclusive, the Lessee must not during the Term assign, transfer, sub-lease, licence or otherwise deal with its interest under this Lease.

14.2 Change of Control

- (a) The Lessee must ensure that there is no Change of Control of the Lessee. For the purposes of this clause 14.2, any of the following transactions is a Change of Control:
 - (i) where the Lessee is a body corporate (other than a body corporate whose shares are listed on any Australian stock exchange), a transfer of shares with the result that:
 - (A) a person or group of persons cease to have voting power of more than 50% in the Lessee; or
 - (B) a person or group of persons who on the Commencement Date did not have voting power of more than 50% in the Lessee are to have voting power of more than 50% in the Lessee;
 - (ii) where the Lessee is the trustee of a unit trust (other than a unit trust whose units are listed on any Australian stock exchange), a transfer of the units in that trust with the result that:

- (A) a person or group of persons cease to have the power to control the outcome of decisions made by the Lessee; or
- (B) a person or group of persons who on the Commencement Date did not have the power to control the outcome of decisions made by the Lessee are to have that power; or
- (iii) any declaration by the Lessee that it holds its interest in this Lease on trust for any person or persons, with the effect that:
 - (A) a person or group of persons cease to have voting power of at least 50% in the Lessee; or
 - (B) a person or group of persons who on the Commencement Date did not have voting power of more than 50% in the Lessee are to have voting power of more than 50% in the Lessee.
- (b) For the purposes of this clause 14.2, voting power means the voting rights attaching to the shares in the Lessee (where the Lessee is a body corporate) or the units in a unit trust (where the Lessee is the trustee of unit trust).

14.3 Assignment

An assignment of this Lease or a Change of Control shall be deemed not to be a breach of clause 14.1 or 14.2 if:

- (a) the Lessee has given the Lessor at least one month's notice in writing of the proposed assignment or Change of Control together with details of the parties and a copy of all proposed documentation and all other relevant information reasonably requested by the Lessor; and
- (b) the Lessee is not in default under this Lease, unless the default is waived by the Lessor; and
- (c) the Lessee establishes to the Lessor's satisfaction that any proposed assignee or New Controller is of good repute and has not been the subject of significant adverse publicity or the subject of any formal adverse finding by any Authority that would cause a reasonable person to have concerns about reputational risk to the Lessor or the fitness or ability of the Lessee to perform its obligations:
- (d) the Lessee establishes to the Lessor's satisfaction that any proposed assignee:
 - (i) is solvent; and
 - (ii) has funding available to fund its obligations under this Lease; and
 - (iii) (or a Related Body Corporate) has demonstrable experience in successfully carrying on a business of the kind permitted under the Permitted Use.
- (e) the Lessor is given any additional guarantee, indemnity or other security it requires in relation to the proposed transaction, to be prepared by the Lessor's solicitors at the Lessee's cost; and
- (f) the Lessee and assignee enter into a deed in the form reasonably required by the Lessor under which (amongst other things):

- (i) the assignee agrees to perform all of the Lessee's express and implied obligations under this Lease, including the obligation to indemnify the Lessor; and
 - (ii) the Lessee releases the Lessor from all obligations under this Lease from the date of assignment except any Claim(s) that have arisen before the date of assignment.
- (g) the Lessee gives the Lessor a signed stamped and registrable transfer of this Lease; and
 - (h) the Lessor has given its written consent to the proposed assignment or Change of Control (such consent not to be delayed or unreasonably withheld or delayed).

14.4 Subleasing and Licensing

- (a) A sublease and or licence of part of the Premises shall be deemed not to be a breach of clause 14.1 if:
 - (i) the Lessee has given the Lessor at least one month's notice in writing of proposed sublease or licence together with details of the proposed transaction and a copy of all proposed documentation and all other relevant information; and
 - (ii) the Lessee is not in default under this Lease, unless the default is waived by the Lessor; and
 - (iii) the Lessee establishes to the Lessor's satisfaction that any proposed sublessee or licensee:
 - (A) is solvent;
 - (B) has funding available to fund its obligations under the sublease or licence;
 - (iv) the sublease or licence contains a provision to the effect that the sublease or licence terminates immediately on termination of this Lease;
 - (v) where the whole of the Premises is to be subleased or licensed, the total rent or licence fee payable is equal to or greater than the Base Rent;
 - (vi) where part of the Premises is to be subleased or licensed, the rent or licence fee payable is equal to or greater than the proportion of the Base Rent calculated in accordance with clause 14.4(b);
 - (vii) the Lessee and the sublessee or licensee enter into a deed in the form reasonably required by the Lessor under which (amongst other things):
 - (A) the Lessee acknowledges its continuing obligations under this Lease;
 - (B) the sublessee or licensee agrees that the sublease or licence terminates immediately on termination of this Lease; and

- (C) the sublessee or licensee agrees that it must not grant a sublease or licence, transfer its sublease or licence or part with or share possession of the subleased or licensed premises; and
 - (viii) the Lessor has given its written consent to the proposed sublease or licence (such consent not to be unreasonably withheld or delayed).
- (b) If any sublease contains a provision requiring the sublessee to pay to the Lessee or any Related Body Corporate of the Lessee or any person otherwise associated with the Lessee a premium or rent in advance, the sublease must require the sublessee to pay annual rent to the Lessee, in addition to any premium or any rent in advance, of not less than the amount calculated in accordance with the following formula:
- $$R \times (A/B)$$
- where:
- R = the annual Base Rent payable under this Lease at the time that the sublease is entered into.
 - A = the total area subleased pursuant to the sublease
 - B = the total area leased pursuant to this Lease
- In this paragraph (b), references to sublease include licence and references to rent include licence fees.
- (c) No sublease or licence can extend for a term longer than the term of this Lease and must be structured so that a plan of subdivision is not required.

14.5 Assignment to a Related Body Corporate

While the Lessee is Sydney Zoo Pty Ltd:

- (a) the Lessee may at any time transfer its interest in, assign, sublet, license or part with possession of all or any part of the Premises to a Related Body Corporate in which case:
- (b) clauses 14.3(d), 14.3(h), 14.4(a)(iii) and 14.4(a)(viii) do not apply but the remaining provisions of this clause 14 do apply.

14.6 Mortgage and Charge

- (a) The Lessee must not agree to create or allow to exist any charge, mortgage, lien or any other security or encumbrance in favour of any person (Mortgagee) over any interest it may have under this Lease without the prior written consent of the Lessor to be given or withheld in accordance with paragraph (b).
- (b) the Lessor must not withhold its consent to a security where:
 - (i) the security is to a financier of the Lessee to enable the Lessee to procure the funds to undertake the development of the Premises;
 - (ii) the Mortgagee has consented to entering into an agreement with the Lessor containing terms and conditions which are reasonably acceptable

to the Lessor consistent with normal market practice and includes provisions that:

- (I) require the Mortgagee to promptly notify the Lessor if the Lessee is in default under the security;
- (II) give the Mortgagee the right (subject to compliance with the terms of this Lease) but not the obligation to carry out the obligations of the Lessee under this Lease; and
- (III) prohibit the Lessor from terminating this Lease for breach without prior notice to the Mortgagee, that allows the Mortgagee a reasonable period (having regard to the nature of the breach) to have rectified the breach.

the parties acknowledge and agree that execution of a financier tripartite deed substantially in the form of the deed in Schedule 3, with any changes reasonably requested by the Mortgagee, will comply with the requirements set out in this paragraph (b)(ii).

- (iii) the Lessor acting reasonably is satisfied that the Lessee will be able, after the security is granted, to comply with its obligations (including its financial obligations) under this Lease.
- (c) The Lessee will pay the Lessor's reasonable costs and expenses of and incidental to matters the subject of this clause including, but not limited to, its legal costs and expenses.
- (d) To the extent that the provisions of paragraph (a) apply and paragraphs (b) and (c) are satisfied then the Lessor will enter into the agreement as contemplated by paragraph (b)(ii).
- (e) If the Lessee agrees to create or allow to exist a security or encumbrance over any interest it may have under this Lease in accordance with this clause 14.6 and if requested by the Lessee, the Lessor must promptly enter into the form of financier tripartite deed substantially in the form of the deed attached as Schedule 3, with any changes reasonably requested by the Mortgagee, in respect of that security or encumbrance.

14.7 Lessor's Costs Consent to Assignment, change of Control, Subleasing and Licensing

The Lessee must:

- (a) Provide the Lessor with such information as the Lessor may reasonably require concerning the financial standing and business experience of the proposed assignee, New Controller, sublessee or licensee including information as to the proposed assignee's, New Controller's, sublessee's or licensee's business skills and the business skills of the directors of the assignee, New Controller, sublessee or licensee, if the assignee or New Controller is a company to the extent the Lessee has access to such information; and
- (b) pay the Lessor is reasonable costs, charges and expenses of and incidental to any assignment, Change of Control, sublease or licence including any inquiries which may be made by or on behalf of the Lessor as to the respectability, responsibility, solvency, fitness and suitability of the proposed assignee, New Controller, sublessee or licensee.

15. LESSEE'S DEFAULT

15.1 Events of Default

Each of the events set out in this clause 15.1 is an Event of Default, whether the cause is beyond the control of the Lessee or any other person:

- (a) any money payable by the Lessee under this Lease has not been paid for 10 Business Days after its due date or, if payable on demand, has not been paid within 10 Business Days of the making of a demand for payment; or
- (b) the Lessee commits, permits or suffers to incur any breach or default in the due and punctual observance and performance of any of the covenants, obligations and provisions to be performed by the Lessee under this Lease (other than an obligation to pay money)
- (c) an Event of Insolvency occurs in relation to the Lessee; or
- (d) the Lessee repudiates its obligations under this Lease.

15A.1 Notice of Breach

Before exercising any rights under clause 15.2, the Lessor must give notice to the Lessee:

- (a) setting out details of the relevant Event of Default; and
- (b) where the relevant Event of Default is capable of being remedied, specifying the Cure Period; and
- (c) where the relevant Event of Default is not capable of being remedied, stating whether or not the Lessor considers that clause 15A.3(a)(ii) applies.

(Default Notice).

15A.2 Cure Period

- (a) The Lessee will be permitted to remedy the Event of Default within the Cure Period.
- (b) The Lessee may only remedy a Financial Default by payment of the amount then owing in respect of the Financial Default.

15A.3 Breach cannot be cured

- (a) Where:
 - (i) the Lessor has served a Default Notice; and
 - (ii) the Default Notice relates to an Event of Default which cannot be remedied, but the Lessor could be reasonably compensated by payment of compensation,the Lessee may remedy the Event of Default by paying compensation to the Lessor for the Event of Default.

- (b) Where the Parties cannot within 10 Business Days of receipt of the Default Notice agree whether paragraph (a)(ii) applies, either party may refer the matter to an independent expert for determination in accordance with clause 25.4.
- (c) If paragraph (a) applies and the Parties cannot within 10 Business Days of receipt of the Default Notice agree on the compensation payable by the Lessee, either party may refer the matter to an independent expert for determination in accordance with clause 25.4. If the Parties cannot within such 10 Business Day period agree whether paragraph (a) applies, either party may also refer that issue to the independent expert for determination at the same time as the amount of compensation is determined.
- (d) If applicable, the Lessee must pay the Lessor the compensation:
 - (i) where the parties agree the amount of compensation, within 15 Business Days of reaching agreement; or
 - (ii) where the amount of compensation is determined by an independent expert in accordance with clause 25.4, within 10 Business Days of the expert's determination.
- (e) If applicable, the Lessee will be deemed to have remedied the Event of Default upon payment of the compensation.

15.2 Rights upon Event of Default

- (a) The Lessor may at any time after the occurrence of any one or more of the Events of Default and that the Lessor has complied with its obligations under clause 15A, without prejudice to any other actions or remedies which the Lessor has or may have or otherwise could have had for any such event, failure to perform or non-observance of any provision of this Lease:
 - (i) terminate this Lease by re-entering and taking possession of the Premises, using reasonable force to secure possession; or
 - (ii) by notice in writing to the Lessee terminate this Lease and from the date of giving such notice this Lease will be terminated; or
 - (iii) institute proceedings for possession of the Premises against the Lessee.
- (b) The termination of this Lease will not prejudice or affect any rights or remedies of any party against any other party on account of any antecedent claim or antecedent breach or non-observance by any party of any covenant or provision of this Lease.

15.3 Breach of Essential Term

The Lessor may treat the Lessee's breach of an Essential Term of this Lease as a repudiation of this Lease and may terminate this Lease for breach of the essential term and for repudiation provided that that the Lessor has complied with its obligations under clause 15A. The Lessor is then entitled to immediate possession of the Premises.

15.4 Lessor's Entitlement to Damages

- (a) If the Lessee:

- (i) repudiates this Lease;
- (ii) breaches an Essential Term under this Lease; or
- (iii) defaults under this Lease in any other way,

the Lessee must compensate the Lessor for the loss or damage suffered by the Lessor as a consequence of the repudiation, breach or other default, provided that the Lessee has not already compensated the Lessor pursuant to clause 15A.3.

- (b) The compensation payable by the Lessee under paragraph (a) extends to the loss or damage suffered by the Lessor during the Term, including the periods before and after termination of this Lease.
- (c) The Lessee's obligation to compensate the Lessor for loss or damage is not affected if:
 - (i) the Lessee abandons or vacates the Premises;
 - (ii) the Lessor elects to re-enter or to terminate this Lease;
 - (iii) the Lessor accepts the Lessee's repudiation; or
 - (iv) the parties' conduct constitutes a surrender by operation of law.
- (d) The Lessor's entitlement to damages is in addition to any other remedy or entitlement, including termination of this Lease.

15.5 Waiver

A waiver by the Lessor of a particular breach or default will not be deemed to be a waiver of the same breach or default if it occurs again or of any subsequent breach or default nor will the Lessor's failure to take action on any breach or default be, or be construed as, a waiver of that breach or default.

15.6 Mitigation of Loss

The Lessor acknowledges that it has a general duty to mitigate the loss in the event of termination of this Lease due to an Event of Default.

16. DAMAGE OR DESTRUCTION

16.1 No abatement or termination rights

For the avoidance of doubt, if the whole or a substantial part of the Premises is damaged or destroyed so that the Lessee's access to or ability to use the Premises is lost or restricted, Rent and other amounts payable by the Lessee under this Lease do not abate and the Lessee cannot terminate this Lease.

16.2 Lessee's obligations

Subject to clause 16.3, if the whole or a substantial part of the Premises is damaged or destroyed:

- (a) the Lessee must remove debris and rubble from the Premises and do all things reasonably required by Law to make the Premises safe; and
-

- (b) the Lessee must, in consultation with the Lessor, and after obtaining all necessary Approvals, reinstate or replace the damaged Premises; and
- (c) if work to reinstate or rebuild the Premises is not expected to be substantially commenced within 6 months after the damage or destruction, the Lessee must landscape the Premises and maintain the Premises in a clean and presentable condition.

16.3 After 35 years

If the whole or a substantial part of the Premises is destroyed or damaged after the 35th anniversary of the Commencement Date of the Original Lease:

- (a) the Lessee must comply clause 16.2(a);
- (b) the Lessee is not obliged to comply with clause 16.2(b); and
- (c) if the Lessee gives notice to the Lessor that it does not intend to comply with clause 16.2(b), or does not substantially commence reinstatement or replacement of the damaged Premises within 6 months after the damage or destruction, either Party will be entitled to terminate this Lease by notice in writing to the other without any obligation to pay damages or compensate the other Party for such termination, but without prejudice to the rights of either Party in relation to any preceding breach of this Lease.

17. RIGHTS AND OBLIGATIONS ON TERMINATION ON EXPIRY

17.1 Lessee to Cooperate

In the 6 months prior to expiry of the Term (unless the Lessee has exercised any option to renew this Lease), the Lessee is required to co-operate with the Lessor with respect to any process conducted by the Lessor for the granting of a new Lease of the Premises.

17.2 Removal of Lessee's Fixtures and Fittings

- (a) At the expiry of the Term, or within 120 Business Days of the sooner determination of this Lease, the Lessee is to remove all of the Lessee's Fixtures and Fittings from the Premises, if required by the Lessor but not otherwise. The Lessor will, if necessary, provide access to the Premises for this purpose. On such removal, the Lessee must not cause or contribute to any damage to the Premises. The Lessee must make good any damage.
- (b) In relation to removal of any of the Lessee's Fixtures and Fittings, the Lessee must make good those parts of the Premises affected by such removal so that any rubbish or debris is removed, the ground surface is at the same level as immediately surrounding ground, and necessary fill is of suitable quality and in regard to surrounding ground, and free from Contamination and any other foreign objects, and the ground surface is sown with native grasses and/or otherwise treated so that it conforms to adjoining ground surfaces in the immediate vicinity, and any Services in connection with such removed Lessee's Fixtures and Fittings are disconnected, removed and made safe in accordance with the requirements of relevant Authorities.
- (c) Subject to clauses 17.2(a) and (b), the Lessee must leave the Premises in good condition, clean and tidy.

- (d) If the Lessee fails to remove any of the Lessee's Fixtures and Fittings in accordance with clause 17.2(b), the Lessor may, at its option:
 - (i) cause such items to be removed and destroyed or stored in such manner as the Lessor in its absolute discretion deems fit at the risk and at the cost of the Lessee; or
 - (ii) treat such items as if the Lessee had abandoned its interest in them and they had become the property of the Lessor and deal with the same in such manner as the Lessor thinks fit without being liable in any way to account to the Lessee.

17.3 Environmental matters

- (a) The Lessee must at the expiration of the Term or within 40 Business Days after the sooner determination of this Lease at its own expense arrange for a suitably qualified environmental consultant to prepare an environmental report in relation to the Premises addressed to the Lessee and the Lessor and provide a copy to the Lessor.
- (b) Subject to clause 7.18 and paragraph (d), if the environmental report identifies or recommends the remediation of Contamination on the Premises, then the Lessee must at its own expense carry out such remediation works as are required so that the environmental consultant can issue a further report addressed to the Lessee and the Lessor confirming that the Contamination has been remediated to the standards reasonably set out in the environmental report, and the Lessee must cause such report to be prepared and delivered to the Lessor.
- (c) If the Lessee fails to comply with its obligations under this clause 17.3, the Lessor may perform such obligations and recover the costs from the Lessee.
- (d) Notwithstanding anything to the contrary in this clause 17.3, if the environmental report identifies or recommends the remediation of Contamination on the Premises which was identified in the Environmental Investigation Report as being in existence on the date of the Environmental Investigation Report, the Lessee is only required to carry out any remediation works under paragraph (b) in relation to that Contamination if:
 - (i) the Lessor gives notice in writing to the Lessee requiring that such remediation works be carried out; and
 - (ii) the Lessor reimburses the Lessee's costs of carrying out such remediation works.

17.4 Lessee May Hold Over

- (a) If the Lessee continues to occupy the Premises after the Termination Date with the consent of the Lessor, clause 17.4(b) will apply.
- (b) The Lessee holding over under this clause is a monthly tenant of the Lessor:
 - (i) determinable by either party on one month's written notice given at any time; and

- (ii) on the same terms as this Lease (with any changes appropriate to a monthly lease) with a monthly Rent that is one twelfth of the annual Rent on the Termination Date.

18. RIGHTS RESERVED BY THE LESSOR

18.1 Inspection and right of entry

The Lessee grants to the Lessor and its agents the right at any time during the Term to enter the Premises on reasonable notice (if at least two Business Days notice is provided) during business hours to inspect and observe the Lessee's operation, maintenance and repair of the Premises and compliance by the Lessee with this Lease provided that the Lessor is accompanied by a representative of the Lessee.

18.2 Further rights

The Lessor reserves the right to enter the Premises with all necessary material and equipment at all reasonable times (except in the case of an emergency in which case the Lessor may enter at any time):

- (a) to carry out repairs or other works to the Premises or any Services in the Premises which the Lessor wishes to carry out, which is deemed necessary or desirable by the Lessor or which the Lessee is required to carry out in accordance with this Lease but has failed to carry out despite written notice being provided by the Lessor to do so;
- (b) for the purpose of complying with the terms of any law affecting the Premises or of any notice served on the Lessor or the Lessee by any Authority; and
- (c) if the Premises are destroyed or damaged, and the Lessor elects to rebuild or reinstate the Premises.

19. BANK GUARANTEE

19.1 Bank Guarantee

In this Lease, Bank Guarantee means:

- (a) an unconditional undertaking to pay to the Lessor on demand an amount not less than the amount specified in Item 10 or such other amount as may be provided for in this clause 19.
- (b) issued by an Australian Trading Bank acceptable to the Lessor, acting reasonably;
- (c) having no expiry date, or an expiry date which is in accordance with this clause 19.

19.2 Lessee must provide

- (a) On or before the date of this Lease the Lessee must provide the Bank Guarantee to the Lessor for the amount specified in Item 10.
- (b) Prior to each 5th anniversary of the Commencement Date during the Term, the Lessee must provide a replacement Bank Guarantee so that the amount of the Bank Guarantee is an amount equal to at least 6 months' Base Rent, Outgoings

and GST payable under this Lease taking into account any previous increases in the Base Rent under this Lease and any increase in the Base Rent to take effect on that 5th anniversary. The Lessor must return the previous Bank Guarantee on receipt of the replacement Bank Guarantee.

- (c) If the Lessor calls on all or part of the Bank Guarantee provided under this clause 19, the Lessee must give the Lessor an additional or replacement Bank Guarantee so that the amount of the Bank Guarantee held by the Lessor is equal to at least 6 months' Base Rent, Outgoings and GST then payable under this Lease.
- (d) A Bank Guarantee provided under paragraph (a) may have an expiry date which is not earlier than 5 years after the later of the Commencement Date and the date that the Bank Guarantee is provided to the Lessor. A bank guarantee provided under this clause 19.2 otherwise than under paragraph (a) may have an expiry date as set out in paragraph (e).
- (e) If a Bank Guarantee provided under this clause 19 has an expiry date, the Lessee must provide a replacement Bank Guarantee without an expiry date, or with an expiry date not earlier than 5 years after the expiry date of the Bank Guarantee which is to be replaced, not later than 10 Business Days before the expiry date of the Bank Guarantee which is to be replaced.
- (f) The Lessor must return the previous Bank Guarantee provided under this clause 19 on receipt of the replacement Bank Guarantee.
- (g) Notwithstanding the provisions of this clause 19.2, any Bank Guarantee which is to apply during the last 5 years of the Term must have no expiry date, or an expiry date not earlier than 6 months after the Termination Date.
- (h) If the Lessee fails to provide a replacement Bank Guarantee as required by this clause 19.2, the Lessor may, after giving 5 Business Days' written notice to the Lessee, call on the existing Bank Guarantee and hold the amount received in lieu of the Bank Guarantee and the provisions of this clause 19 will apply in relation to such amount as if such amount was the Bank Guarantee. When the Lessee provides the replacement Bank Guarantee, the Lessor must return the amount received from its call of the previous Bank Guarantee to the Lessee.

19.3 Purpose

The Bank Guarantee is to be provided to the Lessor to secure the Lessor against any failure of the Lessee to perform and observe the terms and conditions of this Lease.

19.4 Lessor's Rights

If in the reasonable opinion of the Lessor a failure described in clause 19.3 occurs, the Lessor must provide notice to the Lessee and a 10 Business Day period to remedy the breach before calling upon the Bank Guarantee. If the Lessee does not remedy the breach within such 10 Business Day period, the Lessor will be entitled to call upon the Bank Guarantee wholly or in part, and to apply any money paid under that Bank Guarantee to any loss or damage sustained by or to the Lessor arising from the relevant breach without prejudice to the Lessor's rights of reimbursement from the Lessee for any loss or damage sustained and the Lessor's rights to claim payment for any deficiencies.

20. REPRESENTATIONS NEGATIVED

20.1 Representation warranty or undertaking

- (a) The Lessee acknowledges and agrees that no representation, warranty or undertaking has been given by the Lessor relating to:
 - (i) the suitability of the Premises for the Permitted Use, or any other uses;
 - (ii) the condition or state of repair of the Premises;
 - (iii) the Premises and amenities found in the Premises;
 - (iv) the suitability of the Services available at the Premises; or
 - (v) whether the Permitted Use are uses which may lawfully be made of the Premises.
- (b) The Lessee will make its own enquiries in relation to the matters referred to in this clause 20.1 and all other matters relating to the Premises generally and this Lease.

21. NOTICES

21.1 Service of Notice on Lessee

Any notice served by the Lessor on the Lessee must be in writing and will be sufficiently served if served personally or left addressed or forwarded by prepaid post addressed to the Lessee at the address stated in Item 11 or such other address as the Lessee notifies in writing to the Lessor.

21.2 Service of Notice on Lessor

Any notice served by the Lessee on the Lessor must be in writing and will be sufficiently served if served personally or left addressed or forwarded by prepaid post addressed to the Lessor at the address stated in Item 12 or such other address as the Lessor notifies in writing to the Lessee.

21.3 Notices

- (a) Any notice served by a Party under this Lease will be effective if signed by the party personally if an individual a director or secretary or the solicitors for the party giving the notice or any other person or persons nominated in writing from time to time respectively by the Lessor or by the Lessee to the other. In addition, any notice may be signed on behalf of the Lessor by any officer for the time being of the Lessor.
- (b) Any notice sent by prepaid post will be deemed to be served at the expiration of 2 Business Days after the date of posting.
- (c) Any notice sent by facsimile machine will be deemed to be served on the first Business Day after the date of transmission (provided that the sending Party receives a facsimile machine verification report indicating that the notice has been transmitted).

22. EXPENSES AND STAMP DUTIES

22.1 Liability for Expenses

The Lessee must indemnify the Lessor against, and must pay to the Lessor on demand the amount of all costs and expenses incurred in connection with:

- (a) any request for the consent or approval of the Lessor, the Lessor's mortgagee or any head lessor required in order to grant the Lease;
- (b) any assignment, Change of Control, sublease, licence, mortgage, charge or other encumbrance referred to in clause 14;
- (c) any default by the Lessee under this Lease and the enforcement or protection, or attempted enforcement or protection of any other right under this Lease;
- (d) any amendment to, or waiver of or under, or surrender of, this Lease or any Further Lease; or
- (e) the cost of preparing any plan needed for any Further Lease,

including legal expenses on a full indemnity basis, administration costs of the Lessor and expenses incurred in engaging consultants in respect of any Further Lease.

22.2 Stamp Duties

The Lessee must pay all stamp duties and similar taxes, including fines and penalties, which may be payable to or required to be paid by any appropriate authority or determined to be payable in connection with the execution, performance or enforcement of this Lease.

23. GOODS AND SERVICES TAX

- (a) For the purposes of this Lease, "GST", "taxable supply", "consideration" and "tax invoice" have the meanings given to those terms in *A New Tax System (Goods and Services Tax) Act 1999*.
- (b) Subject to paragraph (d), all payments to be made or other consideration to be provided under this Lease are GST exclusive unless otherwise expressly stated. If any payment or consideration to be made or provided by either Party is for a taxable supply under this Lease that payment or consideration must be increased by the amount equal to GST imposed on that taxable supply and GST will be payable at the same time and in the same manner as the consideration for that taxable supply.
- (c) Subject to paragraph (d), if a clause of this Lease requires a Party to reimburse, indemnify or otherwise pay another Party for any expense, loss or outgoing (**reimbursable expense**), the amount required to be paid by the first party will be the amount of the reimbursable expense inclusive of any GST paid when the expense, loss or outgoing was incurred less the amount of any input tax credits (if any) to which the other party is entitled in respect of a reimbursable expense.
- (d) A Party is not obliged to pay any amount under paragraphs (b) or (c) unless a tax invoice is first provided.

- (e) The Parties agree that they are respectively liable to meet their own obligations under the GST Law. The GST Amount must not include any amount incurred in respect of penalty or interest or any other amounts payable by a Party as a result of default by that Party in complying with the GST Law.
- (f) Each separate or periodic component of a taxable supply as referred to in section 156-5 of the GST Law is taken to be a separate taxable supply.
- (g) This clause 23 will continue to apply after expiration or termination of this Lease.

24. MISCELLANEOUS

24.1 No Moratorium

Any present or future legislation which operates to vary obligations between the Lessee and the Lessor, except to the extent that such legislation is expressly intended to apply to this particular Lease or that its exclusion is prohibited, is excluded from this Lease.

24.2 Further assurances

Each Party must do everything necessary to give full effect to this Lease.

24.3 Relationship of Lessor and Lessee

Nothing contained or implied in this Lease will be deemed or construed to create the relationship of partnership or of principal and agent or of joint venture between the Lessor and the Lessee. Specifically, the Parties understand and agree that neither the method of computation of Rent, nor any other provision, nor any acts of the Lessee and the Lessor or either of them will be deemed to create any relationship between them other than the relationship of Lessor and Lessee upon the terms and conditions only as provided in this Lease.

24.4 No Waiver

No waiver by a Party of any breach of any covenant obligation or provision in this Lease either express or implied shall operate as a waiver of another breach of the same or of any other covenant obligation or provision in this Lease contained or implied. None of the provisions of this Lease shall be taken either at law or in equity to have been varied, waived, discharged or released by a Party unless by express consent in writing.

24.5 No Merger

Nothing in this lease merges, postpones, extinguishes, lessens or otherwise prejudicially affects the rights and remedies of the Parties under this Lease or under any other agreement.

24.6 Contact Person

The Lessor and the Lessee each must nominate a person to contact about matters arising under this Lease. The person so nominated is the person referred to in Items 12 and 11 of or such other person as the Lessor nominates in writing to the Lessee and the Lessee nominates in writing to the Lessor from time to time.

24.7 Applicable Law

This Lease shall be construed and interpreted in accordance with the law of New South Wales.

24.8 No Holding Out

The Lessee will not in connection with the Premises or otherwise directly or indirectly hold out or not permit to be held out to any member of the public any statement, act, deed, matter or thing indicating that the Premises or the business conducted or operated thereon or any parts or parts thereof are or is being carried on or managed or supervised by the Lessor nor shall the Lessee act as or represent itself to be the servant or agent of the Lessor.

24.9 Whole Agreement

- (a) The provisions contained in this Lease expressly or by statutory implication cover and comprise the whole of the agreement between the Parties.
- (b) No further or other provisions whether in respect of the Premises or otherwise will be deemed to be implied in this Lease or to arise between the Parties hereto by way of collateral or other agreement by reason or any promise representation warranty or undertaking given or made by any Party hereto to another on or prior to the execution of this Lease.
- (c) The existence of any such implication or collateral or other agreement is hereby negated.

24.10 Severability

Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall as to such jurisdiction be ineffective to the extent of such prohibition or inability to enforce without invalidating the remaining provisions of such provisions in any other jurisdiction.

24.11 Essential Terms of Lease

The Lessor and the Lessee agree that the clauses specified in Item 14 are essential conditions of this Lease. Other provisions of this Lease may also be essential conditions.

24.12 Counterparts

- (a) A Party may execute this lease by signing any counterpart.
- (b) All counterparts constitute one document when taken together.

25. DISPUTE RESOLUTION

25.1 Procedure to settle disputes

- (a) If a Party to this Lease considers that the other Party is in breach of this Lease or a dispute or difference arises between the parties in relation to this Lease, the parties are to be considered in dispute and either party may give to the other a Dispute Notice.
 - (b) If a Dispute Notice has been served, the parties must use reasonable endeavours acting in good faith to settle the dispute as soon as practicable.
-

- (c) The procedure that is to be followed to settle a dispute arising under this Lease is as follows:
 - (i) first, negotiation of the dispute under clause 25.2; and
 - (ii) second, mediation of the dispute under clause 25.3,unless the Parties agree that the dispute is best resolved by an independent expert in accordance with clause 25.4 or clause 25.4 otherwise applies.
- (d) A Party may not commence court proceedings in relation to a dispute arising in connection with this Lease until it has exhausted the procedures in this clause, unless the Party seeks appropriate injunctive or other interlocutory relief to preserve property or rights or to avoid losses that are not compensable in damages.

25.2 Negotiation

If there is a dispute between the Parties relating to or arising out of this Lease (other than a dispute to which clause 25.4 applies), then within 10 Business Days of service of the Dispute Notice, senior representatives from the Parties to the dispute must meet and use reasonable endeavours, acting in good faith, to resolve the dispute by joint discussions.

25.3 Mediation

If a dispute arising under this Lease is not resolved under clause 25.2 within 10 Business Days of service of the Dispute Notice, the Parties will submit the matter to mediation on the following terms:

- (a) the mediator will be chosen by the Parties within 15 Business Days of service of the Dispute Notice and appointed within a further 5 Business Days;
- (b) in the absence of agreement by the Parties as to the mediator within 15 Business Days of service of the Dispute Notice, the mediator will be appointed on the application of any Party by the President of LEADR within 10 Business Days of the application;
- (c) the Parties must endeavour to procure that a mediator appointed under paragraph (a) or (b):
 - (i) assists the parties to reach a resolution of the dispute by agreement;
 - (ii) acts impartially and ensures that each Party has a clear understanding of the other party's points of view to enable proposals to be formulated for settlement of the dispute;
 - (iii) does not make his or her personal or professional views known to the parties or give any professional advice to one of the Parties;
 - (iv) is entitled to terminate the mediation if, after consultation with the Parties, the mediator forms the view that the mediation process is exhausted; and
 - (v) does not impose a solution on the Parties and any suggestion made during the course of the mediation by the mediator will not be binding on the parties;

- (d) each Party may appoint a person, including a legally qualified person, to represent it or assist it in the mediation;
- (e) each Party will bear its own costs relating to the preparation for and attendance at the mediation;
- (f) the costs of the mediator will be borne equally between the Parties to the mediation; and
- (g) the mediation process will cease if the dispute has not been settled within 20 Business Days of the mediator being appointed, or such longer time as may be agreed by the Parties.

25.4 Independent Expert

If the Parties agree the dispute is best resolved by an independent expert, or this Lease requires the dispute to be determined under this clause 25.4, the Party serving the Dispute Notice will specify that this clause 25.4 applies and the Parties will submit to the following procedure prior to any other course of action being taken to resolve the dispute:

- (a) the Parties will jointly choose and appoint an independent expert;
- (b) in the absence of agreement by the parties as to the independent expert within 2 Business Days of notice of a dispute, the independent expert will be appointed on the application of any Party to the dispute by the President of the Institute of Arbitrators Australia;
- (c) the independent expert must make a determination or finding on the issues in dispute as soon as practicable and in any event within 15 Business Days, or such longer period as may be agreed between the parties to the dispute;
- (d) the independent expert will act as an expert and not as an arbitrator and may adopt such procedures as he or she sees fit;
- (e) the independent expert's decision will be final and binding on the Parties to the dispute; and
- (f) the costs of the independent expert will be borne by the Parties equally or as the independent expert may otherwise determine and each Party will bear its own costs relating to the independent expert's decision.

25.5 Amalgamation of Disputes

The parties may by agreement permit a dispute being dealt with under this clause 25 to be amalgamated with any other dispute or disputes involving the parties.

Schedule 1

REFERENCE SCHEDULE

1. **Premises (Clause 1.1)**

2. **Term (Clause 1.1)**

40 years

3. **Commencement Date (Clause 1.1)**

4. **Termination Date (Clause 1.1)**

5. **Further Term (Clause 1.1)**

Further Term: 10 years

Commencement Date:

Termination Date:

6. **Base Rent (Clause 4.1)**

per annum, subject to increase as provided in this Lease.

7. **Permitted Use (Clause 3)**

Primary Permitted Use - operation of zoological park

Ancillary Permitted Uses - café, function centre, gift shop and other activities, all being ancillary to the primary Permitted Use of the Premises as a zoological park

8. **Maximum Trading Hours**

The hours of 8.00 am to 10.00 pm in the period from 1 September to 30 April in each year.

The hours of 8.00 am to 8.00 pm in the period from 1 May to 31 August in each year.

9. **Public Liability Insurance (Clause 11.1)**

\$50,000,000

10. **Bank Guarantee (Clause 19)**

An amount equal to 6 months' Base Rent, Outgoings and GST payable under this Lease.

11. **Lessee's address for Service of Notices (Clause 21.1)**

12. Lessor's address for Service of Notices (Clause 21.1)

Level 7, 10 Valentine Avenue, Parramatta NSW 2150

13. Electronic Funds Transfer Details for Payment of Rent (Clause 6.4)

Bank: Westpac Bank

BSB: 032-001

Account No: 115594

Account Name: Western Sydney Parklands Trust

Cheque / Postal Details: Western Sydney Parklands Trust, Locked Bag 2, Haymarket NSW 1240

14. Essential Terms

The Lessee's obligations under the following clauses:

Clause 3	Permitted Use
Clause 4	Payment of Base Rent
Clause 5	Payment of Turnover Rent
Clause 7.3	Environmental Certification
Clause 7.6	Maintenance and Repair
Clause 7.7	Alterations or Additions
Clause 7.14	Prohibited Acts
Clause 7.17	Lessee to Comply with Environmental Laws
Clause 11.1	Public Liability Insurance
Clause 14	Assignment, Subleasing and Parting with Possession
Clause 19	Bank Guarantee
Clause 23	Goods and Services Tax

Schedule 2

CONCEPT PLAN

Schedule 3

CONSENT DEED

EXECUTED as a deed

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the body named below by the authorised delegate(s) whose signature(s) appear(s) below pursuant to the authority specified.

Body: Western Sydney Parklands Trust

Authority: s 8 of the Western Sydney Parklands Act 2006

Signature of witness:

Signature of delegate:

Name of witness (print):

Name of delegate: Suellen Fitzgerald

Occupation of witness (print):

Position: Director

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the corporation named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

Corporation: Sydney Zoo Pty Ltd

Authority: s 127 of the Corporations Act 2001

Signature of Director/Secretary:

Signature of Director:

Name of Director/Secretary:

Name of Director:

Office held:

Office held:

