

DEED OF RENEWAL AND VARIATION OF LICENCE

VICGRAIN (ASSETS) PTY LTD ACN 068 777 524
(Licensor)

AND

YARRIAMBIACK SHIRE COUNCIL ABN 24 640 824 591
(Licensee)

1986 HENTY HIGHWAY, BRIM VIC

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Reference Schedule

Item 1	Licensor	<p>VICGRAIN (ASSETS) PTY LTD ACN 068 777 524</p> <p>Address for service: Level 2, Tower 2, International Towers, 200 Barangaroo Avenue, Barangaroo NSW 2000</p> <p>Postal address: PO Box A268, South Sydney NSW 1235</p> <p>Phone: 02 9325 9100</p> <p>Email: property@graincorp.com.au</p> <p>Contact: Head of Property</p>
Item 2	Licensee	<p>YARRIAMBIACK SHIRE COUNCIL ABN 24 640 824 591</p> <p>Attention: Jo White, Governance Officer</p> <p>Address for service: 34 Lyle Street, Warracknabeal VIC 3393</p> <p>Postal address: PO Box 243 Warracknabeal VIC 3393</p> <p>Phone: 0409 981 776</p> <p>Email: jwhite@yarriambiack.vic.gov.au</p>
Item 3	Licence	The licence commencing 2 August 2015 between the Licensor (as licensor) and Licensee (as licensee) in respect of the Premises, attached to this deed of renewal and variation of licence at Annexure A.
Item 4	Premises	The land contained within Certificate of Title Volume 10227 Folio 669 known as 1986 Henty Highway, Brim VIC, Crown Allotment 47C in the Parish of Batchica.
Item 5	Further Term	Ten (10) years as varied by this deed.
Item 6	Commencement Date	2 August 2020
Item 7	Expiry Date	1 August 2030
Item 8	Licence Fee	The annual Council rates levied for the Premises each year as considered under the Licence.

Recitals

- A. Pursuant to the Licence, the Licensor (as licensor) licensed the Premises to the Licensee (as licensee) for the Term.
- B. The Parties have agreed to renew and vary the Licence in accordance with the terms of this deed on and from the Commencement Date.

Agreed Terms

1 RENEWAL AND VARIATION OF THE LICENCE

1.1 Renewal Grant and Variation

- (a) The Licensor licences the Premises to the Licensee for the Further Term starting on the Commencement Date and ending at midnight on the Expiry Date:
 - (a) at the Licence Fee payable as set out in the Licence throughout the Further Term; and
 - (b) otherwise on the same conditions as are set out in the Licence, with only those changes necessary for them to apply to this deed, and with effect from the Commencement Date, the variations set out in Schedule 2.
- (b) The Parties acknowledge and agree that on and from the Commencement Date the Licence is varied in accordance with the variations set out in Schedule 2 of this deed.

2 GST

2.1 Interpretation

- (a) Words or expressions not defined in clause 2 which are defined in the GST Act have the same meaning in clause 2 as they do in the GST Act.
- (b) In clause 2, the following definitions apply:
 - (i) "GST" means a tax, any related additional tax, interest, penalty, fine or other charge imposed by or under the GST Act; and
 - (ii) "GST Act" means the A New Tax System (Goods and Services Tax) Act 1999 (Cth) and/or any other Act relating to the imposition or administration of a goods and services tax.

2.2 Consideration does not include GST

Any consideration to be paid or provided for a supply under this deed (including, without limitation, any supply referred to in any schedule to

this deed) does not include any GST imposed on the supply unless specifically described in this deed as GST inclusive.

2.3 Recovery of GST

If any supply made under this deed is subject to GST:

- (a) the recipient of the supply must pay to the supplier, in addition to the consideration payable or to be provided for the supply, an additional amount equal to the GST payable on the supply; and
- (b) the recipient must pay the additional amount at the same time as the GST exclusive consideration.

However, the recipient need not pay the additional amount until the supplier gives the recipient a tax invoice.

2.4 Reimbursements (net down)

If a payment to a party under this deed is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that party, then the payment will be reduced by the amount of any input tax credit to which that party is entitled for that loss, cost or expense.

2.5 Adjustment of GST

If an adjustment event results in the GST on a taxable supply being different from the GST received by the supplier:

- (a) the supplier must refund to the recipient the excess GST recovered, if any; and
- (b) the recipient must pay to the supplier any additional amount of GST due provided an adjustment note or further tax invoice has been given to the recipient by the supplier.

2.6 GST excluded from calculations

- (a) If a payment to be made under this deed is calculated by reference to or as a percentage of another amount, that payment will be calculated by reference to or as a percentage of that amount excluding any GST component unless expressly stated to the contrary.
- (b) All reference to amounts or revenues in formulas will be treated as a reference to GST exclusive amounts and revenue.

3 LICENSOR'S AND LICENSEE'S OBLIGATIONS

The Licensor and the Licensee must each comply with their obligations under the Licence, as varied by this deed, in the same way as if those obligations

were repeated in full in this deed, with only those changes necessary for them to apply to this deed.

Schedule 1 Definitions, interpretation and conditions

1. Definitions, interpretation and conditions

1.1 Definitions

In this deed unless the contrary intention appears:

Term	Meaning
Business Day	any day except a bank or public holiday in the State or a Saturday or a Sunday.
Costs	the sum of any costs, charges, expenses, fees, payments, liabilities or other expenditure of any nature incurred by or on behalf of the Licensor.
Item	an item in the Reference Schedule.
Law	includes any statute, regulation, rule, order, ordinance or by-law (whether federal, state, territorial or local), codes of practice, Australian Standards and compliance codes.
Licence	the licence in Item 3.
Licence Fee	has the meaning given to that term in the Licence.
Licensee	the party referred to as such in Item 2 and, where the context permits, includes its successors, executors and administrators, its assigns approved by the Licensor and, where the context permits, includes the Licensee's Agents.
Licensee's Agents	each of the Licensee's contractors, agents, employees, licensees, invitees, sub-contractors, sub-licensees and any other persons claiming through or under the Licensee.
Licensor	includes, where the context permits, the Licensor's employees and agents.
Party	a party to this deed.

Term	Meaning
Premises	the premises in Item 4 and includes the Licensee's fixtures, fittings, plant, machinery and equipment installed.
Reference Schedule	the schedule of that name at the beginning of this deed.
State	the state or territory in which the Premises is located.
Term	has the meaning given to that term in the Licence (and includes any further term).

1.2 Interpretation

- (a) In interpreting this deed, no rule of construction is to apply to the disadvantage of a Party because that Party drafted or prepared this deed.
- (b) In the interpretation of this deed:
 - (i) unless the context otherwise requires, the rules of interpretation contained in the Licence apply;
 - (ii) reference to:
 - (A) a clause is a reference to a clause of this deed;
 - (B) a clause in a Schedule is a reference to a clause in that Schedule unless otherwise indicated; and
 - (C) defined words and phrases in this deed have the same meaning as in the Licence, unless they are otherwise defined in this deed.

1.3 Costs

- (c) The Licensee agrees to pay within ten (10) Business Days of notice from the Licensor the Licensor's Costs (including legal costs) of or incidental to any breach or default by the Licensee or the Licensee's Agents under this deed, and the exercise of any right, power or remedy of the Licensor under this deed, in Law or equity.
- (d) Each party will pay its own Costs in the preparation, negotiation and finalisation of this deed.

1.4 Further Assurances

Each Party must do everything necessary or desirable to give full effect to this deed with such obligation extending to:

- (a) the signing of documents; and
- (b) the procuring, if applicable, that a Party's officers, agents and/or employees do everything necessary or desirable to give full effect to this deed (including the signing of documents).

1.5 Non-Merger of Provisions

A provision of this deed which can and is intended to operate after its conclusion will remain in full force and effect.

1.6 Waiver

A waiver by one Party of another Party's default under this deed will not constitute a release of the defaulting Party's obligation to observe and perform all of its obligations under this deed in the future.

1.7 No Amendments Without Agreement

This deed may not be modified, discharged or abandoned unless by a document signed by the Parties.

1.8 Covenants – joint and several

Any covenant, indemnity or agreement by two (2) or more persons as Licensee binds them collectively and individually.

1.9 Enforceability

Any provision of this deed which is prohibited or unenforceable is ineffective to the extent of the prohibition, but the validity or unenforceability of the remaining provisions of this deed will not be affected.

1.10 Whole agreement

This deed, the Licence, the New Licence and any related deed or licence comprise the whole of the agreement between the Parties in respect of their subject matter and supersede all earlier conduct by the Parties in respect of their subject matter.

1.11 Notices

- (a) In this deed a reference to a notice requires that notice to be in writing.

- (b) Any notice or other writing served by the Licensor is valid and effective if it originates from the Licensor or from an attorney, director, company secretary, authorised officer or lawyer of the Licensor.
- (c) Any notice or other writing served by the Licensee is valid and effective if it originates from the Licensee or from an attorney, director, company secretary, authorised officer or lawyer of the Licensee.
- (d) Any notice or other writing is sufficiently served on the Licensee if sent to the email or postal address as in Item 2, as updated from time to time by notice in writing.
- (e) Any notice or other writing is sufficiently served on the Licensor if sent to the email or postal address as in Item 1, as updated from time to time by notice in writing.
- (f) If any notice or other writing is served or, in the case of an email, received on a day that is not a Business Day or after 5.00pm (addressee's time) it is deemed to be served or, in the case of an email, received on the next Business Day.

1.12 Laws governing this deed

- (a) This deed is governed by and construed in accordance with the Laws of the State.
- (b) The Parties submit to the non-exclusive jurisdiction of the courts of the State in any legal proceedings concerning this deed.

1.13 No Warranty

The Licensee agrees that, no promise, representation, undertaking or warranty given by or on behalf of the Licensor has been relied on by the Licensee in entering into this deed or has in any material way induced the Licensee to enter into this deed.

1.14 Counterparts and electronic execution

- (a) This deed may be executed in any number of counterparts, each of which is taken to be an original. A counterpart may be physically signed in hard copy, by email or other electronic form, or by any combination of these (if the respective execution method is permitted by Law in the State).
- (b) Without limiting this clause or how a Party may execute this Licence:
 - (i) a Party may sign a counterpart by executing a signature page and electronically transmitting a copy of the

signed page to each other Party or their authorised representative. Each other Party will be taken to have received that signed counterpart from the signing Party at the time they would be taken to have received it if it were a notice given under this deed; and

- (ii) signatures on behalf of one Party that are on different counterparts will be taken to be, and have the same effect as, signatures on the same counterpart and on a single copy of this deed.

Schedule 2 Variations to Licence

1. The Schedule of the Licence is varied as follows:

a. the Licensor's:

- i. address on page 1; and
- ii. notice details at clause 13.4,

of the Licence are deleted and replaced with the details contained at Item 1 of the Reference Schedule of this deed.

b. Item 15 is deleted and replaced with the following:

15. Further Term:

*First Further Term: ten (10) years commencing
2 August 2020 and expiring 1 August 2030*

*Second Further Term: five (5) years
commencing 2 August 2030 and expiring 1
August 2035*

Signing page

EXECUTED as a deed on

BY THE LICENSOR

Executed by VICGRAIN (ASSETS))
PTY LTD ACN 068 777 524 in)
accordance with section 127 of the)
Corporations Act 2001 (Cth):)

.....
Company Secretary/Director

→

.....
Director

→

.....
Name of Company Secretary/Director

.....
Name of Director

.....
Date
If this Licence was signed electronically, I certify that my electronic signature was affixed by me, or at my direction, on the date specified.

.....
Date
If this Licence was signed electronically, I certify that my electronic signature was affixed by me, or at my direction, on the date specified.

BY THE LICENSEE

→ **Signed** on behalf of **YARRIAMBIACK**)
SHIRE COUNCIL ABN 24 640 824 591)
by the below authorised person in the) →
presence of the below witness:) **Signature of Authorised Person**

.....
Signature of Witness Name and Title/Capacity of Authorised
→ Person (print)

.....
Name of Witness (print) Date

.....
Date

If this Lease was signed electronically, I certify that my electronic signature was affixed by me, or at my direction, on the date specified.

If this Licence was signed electronically, I certify that my electronic signature was affixed by me, or at my direction, on the date specified.

Annexure A – Licence