



Eye in the Sky Pty Ltd

ASSET LEASE EQUIPMENT SCHEDULE & ASSET LEASE AGREEMENT

page 1 of 12 pages

Type of lease – ASSET LEASE AGREEMENT \*terms and conditions apply

As per items of reference in schedule below

The leasing of equipment .....GPS Tracking Units.

Lease period agreed - ..... months

Commencing date of lease term is scheduled on the date of GPS network activations

Expiry date of the lease term is.....months from the date of activation

Approximate activation date ...../...../.....

Payment method – electronic invoice issued on monthly bases

Payment terms 7 days on receipt of invoice

Preferred payment method - Electronic funds transfer

Monthly payment of instalments for equipment & Service for each GPS Unit is \$.....00 unit

units instalment - \$.....00 + gst per month

Third party manufacturers warranty period -12 months

Early termination fees apply subject to the remaining lease period to \* terms and conditions apply

Residual payment amount terms for purchase of the goods is \*optional at the end of contract expiry date above as per schedule.

This schedule forms part the contract \*agreement pages 1 to 12 effective

## TERMS AND CONDITIONS

Eye In The Sky may accept your offer by signing the Memorandum of Acceptance, drawing a cheque or otherwise arranging for payment for purchase of the goods in the schedule.. If Eye In The Sky accepts your offer, you Smart Skip Pty Ltd agree to the schedule attached and the following \*terms and conditions:

1. This Agreement
- 1.1 Subject to clause 1.4:
  - (a) If this agreement is a Lease, Eye In The Sky will lease the goods and you will take the goods on lease for the lease term for the total rental payable; or
  - (b) If this agreement is an Asset Purchase Agreement, Eye In The Sky will hire the goods and you will take the goods on hire for the term of this agreement for the total hiring amount, on the terms and subject to the conditions set out in this document and in the schedule.
- 1.2 If this agreement is a Lease, nothing in this agreement confers any right or property or interest in or to the goods on you. Title to the goods will always be and remain with Eye In The Sky and you will be a liable for the goods only. You acknowledge that neither the supplier nor Eye In The Sky is willing to negotiate the sale of the goods to you during the lease term or at the expiry of the lease term.
- 1.3 If this agreement is an Asset Purchase Agreement, title to the goods will always be and remain with Eye In The Sky and you will be a liable for the goods only except where any right, property or interest in the goods accrues to you as a result of the operation of clause 15.
- 1.4 Eye In The Sky obligation to lease or hire the goods to you or do anything else under this agreement is subject to and conditional upon Eye In The Sky being satisfied that:
  - (a) This agreement complies with all legal requirements relating to it;
  - (b) You have received all statements and information required by law to be given to you;
  - (c) Any guarantee required by Eye In The Sky has been given and is valid and binding on the guarantor; and
  - (d) No event of default has occurred and is continuing

Eye In The Sky may at its option terminate this agreement if the conditions in this clause 1.4 have not been satisfied within two months from date, Eye In The Sky accepts this agreement whereupon Eye In The Sky's obligation under this agreement will cease.

- 1.5 The term of this agreement commences on the commencement date.

### 2. Other Terms and Conditions

You agree with, and declare to, Eye In The Sky that, subject to any conditions and warranties implied by the Trade Practices Act 1974 (Cth). The Australian Securities and Investments Commission Act 2001 (Cth) and any applicable statute of any State or Territory which implies conditions or warranties which cannot be excluded:

- (a) This agreement contains all of the terms and conditions of the transaction between you and Eye In The Sky.
- (b) Without limiting paragraph (a), no other condition, warranty or representation, express or implied is or has been given by Eye In The Sky, its servants or agents, whether in relation to:
  - (i) The condition or sustainability of the goods, date of delivery of the goods or otherwise; or
  - (ii) The disposal of the goods upon expiry of the term of this agreement; or
  - (iii) Taxation
- (c) All conditions and warranties by or on behalf of Eye In The Sky as to merchantable quality, fitness for purpose roadworthiness, placing or maintaining the goods in good order and repair or otherwise with respect to the goods prior to, or at any time during the term are excluded;
- (d) All conditions and warranties as to the level of care and skill with which any services will be rendered by or on behalf of Eye In The Sky or as to the fitness for purpose (whether or not the purpose is made known to Eye In The Sky) of the services or any materials supplied in connection with those services are excluded.
- (e) To the extent that liability for any condition or warranty referred to in this clause 2 cannot be excluded and the goods or services under this agreement are not of a kind ordinarily acquired for personal, domestic or household use of consumption, the liability of Eye In The Sky in respect of the breach of such condition and warranty is limited, at the option of Eye In The Sky:
  - (i) Where the breach relates to the goods, to a liability to:
    - (A) Replace the goods or supply equivalent goods;
    - (B) Repair the goods
    - (C) Pay the cost of replacing the goods or of acquiring equivalent goods;

- (D) Pay the cost of repairing goods;
- (ii) Where the breach relates to services, to a liability to:
  - (A) Supply the services again for a period of corresponding to the period of the breach; or
  - (B) Pay the cost of having the services supplied again for that period

### 3. Supplier Negotiations and Possession of the Goods

3.1 You acknowledge that previous negotiations about this agreement were conducted with you by, or on behalf of, the supplier and broker (if any) by that, except as provided by law, Eye In The Sky is not responsible for any representation or promise made to you as part of, or during those negotiations. Similarly, you acknowledge Eye In The Sky is not responsible for any representation or promise made to you by any other person who may have introduced this transaction to Eye In The Sky or who may have otherwise been involved in this agreement.

3.2 You acknowledge that you understand that Eye In The Sky is not a dealer in goods of the description of the goods and that the supplier (if any) has supplied the goods, or will supply or cause the goods to be supplied, to Eye In The Sky or to you on Eye In The Sky's behalf as a consequence of your negotiations with the supplier. You agree that you will take delivery of the goods without Eye In The Sky's having first taken physical possession of them and you acknowledge that, accordingly, Eye In The Sky has not seen the goods or had physical possession of them.

### 4. Payments prior to delivery

4.1 If this agreement is an Asset Purchase Agreement and any deposit is payable, you warrant that you have on or before the date you signed this agreement handed to the supplier cash and/or goods at least equal in value to the deposit with instructions to the supplier to account as you agent to Eye In The Sky in cash for the amount of the deposit.

4.2 You agree to pay to Eye In The Sky or, where another payee is indicated in the schedule, to the indicated payee each amount set out in the schedule which is to be paid or provided by you prior to delivery of the goods.

### 5. Instalments, Stamp Duties and GST

5.1 You agree to pay Eye In The Sky:

- (a) The total rental payable if this agreement is a Lease, or the total hiring amount if this agreement is an Asset Purchase Agreement, by the instalments set out in the schedule at the times specified in the schedule;
- (b) At the same time as each instalment, the stamp duty on that instalment and any amount in respect of GST payable on or in respect of the supply relevant to the instalment (which at the date of this agreement is the amount set out in the schedule)

5.2 Payment of instalments and other amounts due to the Eye In The Sky under this agreement may only be made:

- (a) To Eye In The Sky by cheque at its address in the State or Territory in which this agreement is signed or such other place as Eye In The Sky may direct in writing;
- (b) To Eye In The Sky by means of a direct debit request; or
- (c) By any other means advised by an acceptable to Eye In The Sky.

Any payments made to any person to be forwarded to Eye In The Sky will constitute the person your agent for the purposes of making payment to Eye In The Sky. A payment will not be considered to have been made by you if the cheque, direct debit or other method or instrument for payment (electronic or otherwise) is dishonoured or otherwise not completed.

5.3 Payments of instalments and other amounts due under this agreement which are received by Eye In The Sky after the close of business will be taken to be received on the next business day.

5.4 Where Eye In The Sky makes any supply of anything to you under this agreement or in connection with the goods, and the consideration for the supply is exclusive of GST, you agree to pay to Eye In The Sky an additional amount equal to the GST payable by Eye In The Sky in relation to that supply at the same time that the consideration for the supply is required to be paid by you.

5.5 Where you are required to pay or reimburse an expense or outgoing of Eye In The Sky, the amount to be paid or reimbursed by you will be the sum of:

- (a) The amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which Eye In The Sky is entitled; and
- (b) If the payment or reimbursement is subject to GST, an additional amount to equal to that GST.

### 6. Payment of Other Amounts

In addition to your obligation to pay amounts under clause 4 and 5, you agree to:

- (a) Pay to the relevant person immediately it becomes due and payable each amount required by this agreement to be paid by you during the term of this agreement (for example, the cost of insurance, repair and maintenance of the goods under clause 11);
- (b) Indemnify Eye In The Sky (except to the extent prohibited by law) against, and pay to Eye In The Sky immediately on demand the amount of, any stamp duty, GST and other government charges in addition to the amounts set out in the schedule which become payable during the term under, or in connection with this agreement, any payment under this agreement or the supply of services under this agreement.

- (c) Indemnify Eye In The Sky against, and pay to Eye In The Sky immediately on demand the amount of any costs, losses, expenses or liabilities (including any applicable GST to the extent that Eye In The Sky is not entitled to an input tax credit):
  - (i) Which Eye In The Sky incurs or sees fit to pay as a result of any breach by you of any obligation under this agreement;
  - (ii) Which Eye In The Sky incurs following a voluntary early termination of this agreement under clause 1, including without limitation, all costs of and associated with disposing of the goods pursuant to clause 20;
  - (iii) Which Eye In The Sky otherwise incurs in enforcing this agreement or protecting its rights in the goods or under the agreement (including, without limitation, any legal costs on a solicitor- own client basis, any costs incurred in registering its security interest in the goods, renewing any insurance releasing any lien claimed, justifiably or not, over the goods and in taking or attempting to take possession of the goods, storing the goods or servicing any notice or demand);
  - (iv) Which Eye In The Sky incurs due to any claim of any kind being made against Eye In The Sky relating to the goods or their use including all claims arising out of the injury or damage to person or property or liability arising under any law relating to the protection of the environment’;
- (d) Pay to Eye In The Sky interest at the rate of 8% per annum on any money payable under this agreement which is overdue by way of liquidated damages. This interest is payable from the time the amount is due to be paid until it is actually paid; and
- (e) Pay to Eye In The Sky any fees or charges set out in the schedule.

7. Commission

Commission relating to this agreement, the referral of your offer to Eye In The Sky, the goods or products and services (including insurance) offered in connection with this agreement or the goods may be payable by Eye In The Sky to, or payable to Eye In The Sky by;

- (a) The supplier or the suppliers owner
- (b) The manufacturer of the goods
- (c) A provider of products or services offered in connection with this agreement or the goods
- (d) An insurer or its representative, distributor or administrator
- (e) A broker, introducer, or originator; or
- (f) Any employee, agent or related corporation of these people, of Eye In The Sky or its related corporations. You consent to the payment of this commission and any other commission specifically disclosed in the schedule.

8. Delivery

It will be your obligation to find out from the supplier when the goods will be available for delivery to you and for you to then obtain delivery of them at your cost and risk. If the goods are available for delivery when you are notified that Eye In The Sky has accepted your offer, you must take delivery of them immediately after that notification. If not, you must take delivery of them within seven days of them becoming available for delivery to you.

9. Failure to take Delivery

9.1 If there is any delay or refusal of delivery of the goods, Eye In The Sky will not be liable for any losses suffered and the agreement will not be affected by that delay or refusal, unless it is caused by wilful and unreasonable refusal by Eye In The Sky to pay the supplier for the goods or to permit the goods to be delivered or both.

9.2 Eye In The Sky may, at its option, elect to treat this agreement as repudiated if you refuse or fail to take delivery of the goods as required by this agreement. If this agreement is repudiated by you for your refusal or failure to take delivery of the goods, you must pay to Eye In The Sky:

- (a) The amount determined under clause 20 if Eye In The Sky has paid or is liable to pay for the goods; or
- (b) If Eye In The Sky has not acquired or has not paid for, or incurred a liability to pay for, the goods, an amount equal to the aggregate of any amount payable by Eye In The Sky to the supplier under any contract between Eye In The Sky and the supplier including any damages payable to the supplier and any amount to the supplier to cancel such a contract and/or to compromise any claim by the supplier under such contract and any expense incurred by Eye In The Sky (including legal costs on a solicitor-own client basis) relating to and in connection with the termination of this agreement including negotiations with the supplier.

10. Your insurance Obligations

10.1 You must:

- (a) Insure the goods at our own risk & expenses, including any applicable GST payable on the insurance premium with an insurance company and keep them insured with such a company during the term of this agreement on the following basis:

- (i) The policy must contain such terms, conditions, exclusions and expectations as Eye In The Sky approves, must be taken out in your name and Eye In The Sky's interest as the owner of the goods must be noted on the policy;
  - (ii) The goods must be insured for not less than their full insurable value or any other amount agreed by Eye In The Sky against fire, accident, theft and any other usual risks and, in addition, against third party and all risks required by law and such other risks as Eye In The Sky may reasonably require if it were arranging and paying for the insurance itself
  - (iii) The policy must be enforceable and current and you must ensure that it is not avoided by reason of any non-disclosure, misrepresentation or breach of warranty;
- (b) Pay all insurance premiums, stamp duties, GST and other amounts payable to maintain or effect the policy or policies required under this clause immediately they fall due for payment and, when requested, immediately hand to Eye In The Sky all insurance policies and proof of payment of the premiums and currency of the cover;
  - (c) Not do or fail to do anything which might allow the insurer to cancel, or refuse a claim under, any insurance policy relating to the goods; and
  - (d) Notify Eye In The Sky in writing immediately if the goods are lost, damaged or destroyed and of the occurrence of any event which gives rise to a claim under any insurance policy and of any cancellation, change or rejection of any insurance policy or cover.
- 10.2 If the schedule indicates that the cost of any insurance premium is financed by Eye In The Sky for any period:
- (a) Despite clause 10.1 (a), the cost of that insurance for the period has been included in your payment obligations under this agreement and you do not have pay it separately;
  - (b) Eye In The Sky will be entitled at its discretion to cancel that insurance if this agreement is terminated for any reason; and
  - (c) The amount of any rebate or refund of the premium allowed by the insurer upon any early termination including, without limitation, any total or substantial loss or destruction of the goods, may be retained by Eye In The Sky.
- 10.3 If you fail to pay any insurance premium required by this clause 10, Eye In The Sky may pay the amount and recover it from you in accordance with clause 6 of this agreement.
- 10.4 If there is any damage to, or loss of, the goods, Eye In The Sky is entitled to retrieve all money payable both under the policy and by any other person in respect of that damage or loss. You hereby irrevocably appoint under the policy and by any other person in respect of that damage or loss. You hereby irrevocably appoint Eye In The Sky your attorney (with the power to appoint substitutes and remove those substitutes and appoint other substitutes), first, to compromise and/or recover payment for any claim for loss or damage under the policy or otherwise in your name and Eye In The Sky's name and, secondly, to give releases and receipts for any such claim, including without limitation any GST payable by Eye In The Sky either directly or on your behalf in undertaking the activities contemplated by this agreement. You irrevocably authorise Eye In The Sky to appropriate any insurance proceeds or other money received by it at its option towards repair or reinstatement of the goods or towards any money due or payable by you under this agreement or on any other account.
- 10.5 If an amount for insurance (which provides cover against the difference between the amounts outstanding under this agreement and the amount paid by the comprehensive insurer of the goods where the goods are stolen or destroyed) is included in the schedule, you acknowledge that the insurance is for the benefit of Eye In The Sky and Eye In The Sky is entitled to receive all money payable under the policy.
- 10.6 If the schedule specifies that an agreement for maintenance and service of the goods is financed under this agreement, you agree to assign your rights under such maintenance and service agreement to Eye In The Sky upon Eye In The Sky's request.

## 11. Looking after the Goods

You agree:

- (a) At your expense, inclusive of any GST payable (both as to materials and labour), to keep the goods in good order and repair and to keep the goods regularly serviced in accordance with the manufacturer's instructions and recommendations;
- (b) To use the care of a cautious and prudent owner to prevent damage to the goods or their loss or destruction and to indemnify Eye In The Sky in respect of any loss or damage to the goods (however it is caused) and, except to the extent prohibited by law, against all claims and costs (however they arise) resulting from the use, operation and keeping of the goods including any GST except to the extent that Eye In The Sky is entitled to an input tax credit;
- (c) If the goods are damaged or require repair, maintenance or servicing, to have the goods repaired, maintained or serviced on terms which do not create a lien over the goods and to pay for all repair, maintenance and servicing to the goods promptly;
- (d) To keep the goods properly stored when not in use and, on request, to notify Eye In The Sky of the location of the goods and to produce the goods for inspection;
- (e) Not in use, or permit the use of, the goods for any illegal purpose or in breach of any Act relating to their use or keeping;

- (f) Not to conceal the goods or part with possession of the goods or to create any lien, charge or mortgage over the goods or purport to do so and not to pledge, sub-let assign, sell or part with the goods or any interest or benefit under this agreement or attempt or purport to do so;
- (g) Not to permanently remove the goods from the State or Territory where they are registered on the commencement date (or if they are not then registered, where they are first registered) or to re-register the goods in any State or Territory without first obtaining Eye In The Sky's written consent and procuring registration of Eye In The Sky's security interest in the goods under any legislation in force in that State or Territory permitting or requiring registration of security interests in goods;
- (h) Not to detach the goods or any part of them from any vehicle or other machine of which they form part or to which they are ancillary unless you first obtain Eye In The Sky's consent in writing and where Eye In The Sky's consent is given, it may be subject to whatever conditions Eye In The Sky sees fit to impose;
- (i) Not to alter the goods in any way, including without limitation, by tampering with any identifying number, device or mark or by adding or removing any accessories without the prior written consent of Eye In The Sky; and
- (j) Not to cause or permit the goods to be affixed to any land without the prior written consent of Eye In The Sky and where Eye In The Sky's consent is given, you:
  - (i) Permit Eye In The Sky to enter onto the land or into the building to which the goods are affixed;
  - (ii) Acknowledge that the land is charged, to the extent that you have capacity to give such a charge, in favour of Eye In The Sky by way of security in respect of any obligations you have under this agreement and you authorise Eye In The Sky, to the extent that you are able to do so, to lodge a caveat over the land recognising such charge; and
  - (iii) Indemnify Eye In The Sky in respect of any liability it may have to third parties for entering upon any land to which the goods are affixed

Where at any time the goods are affixed to any land or building, you will be responsible for any damage caused for the land or building by the affixing or removal of the goods.

#### 12. Your other Obligations

You must:

- (a) Notify Eye In The Sky in writing advance of any change to your or any guarantor's residential or employment address or of the address of the premises where the goods are stored
- (b) Notify Eye In The Sky in writing in advance of any change to your employment details or the employment details of the guarantors or if after this agreement begins your sole or principal business becomes a farming business;
- (c) Notify, Eye In The Sky in writing immediately if the goods are stolen, destroyed, damaged or lost or if the goods registration number or identification number is changed;
- (d) If Eye In The Sky asks you in writing to do so, inform Eye In The Sky within 7 days where the goods are and, if they are not in your possession, give Eye In The Sky all information in your possession that might assist Eye In The Sky to trace the goods;
- (e) If this agreement is a Lease and the goods are not returned to Eye In The Sky as required by clause 13, pay to Eye In The Sky by way of liquidated damages for detention a sum equal to the second last rental payment divided by the number of days in the second last payment period, per day, for each day the goods are not in Eye In The Sky's possession after the lease expiry date or any earlier termination of the agreement

#### 13. Return of goods at end of lease

If this agreement is a Lease, at the lease expiry date you must return the goods at your expense to Eye In The Sky at any time agreed with Eye In The Sky.

#### 14. Voluntary Early Termination if this agreement is a Lease

If this agreement is a Lease, you may, at any time before the lease expiry date, end of this agreement by returning the goods to Eye In The Sky and paying the amount calculated in accordance with clause 20.2. You must return the goods to Eye In The Sky on a business day or at another time agreed with Eye In The Sky, to Eye In The Sky at its address in this agreement or such other place as Eye In The Sky may advise you for the purposes of this clause. You must pay that amount calculated in accordance with clause 20.2 to Eye In The Sky on the return of the goods or immediately on demand by Eye In The Sky.

#### 15. Passing of title to Goods if this agreement is an Asset Purchase Agreement

If this agreement is an Asset Purchase Agreement and the schedule specifies a purchase payment due on the expiry term, then subject to you not being in default under any provision of this agreement, you have an option to purchase the goods by paying the purchase payment on its due date and all moneys otherwise due under this agreement. After payment by you to Eye In The Sky of the total hiring amount, the purchase payment and all moneys due under this agreement, property in and title to the goods shall vest in you. If no purchase payment is specified in the schedule, property in and title to the goods shall vest in you on expiry of the term of this agreement subject to you paying to Eye In The Sky the total hiring amount and all moneys due under this agreement. You may at any time during the term of this agreement exercise the option to become the owner of the

goods by paying Eye In The Sky the recoverable amount, provided that you are not in default under any provision of this agreement and you have provided Eye In The Sky with written notice of your intention to exercise the option.

#### 16. Loss or Destruction

If the goods are totally or substantially lost or destroyed, Eye In The Sky may by notice in writing to you, terminate this agreement. You must then pay to Eye In The Sky any amount, including GST payable except to the extent that Eye In The Sky is entitled to an input tax credit, by which the greater of the recoverable amount and the value of the goods immediately prior to their loss or destruction exceeds any net proceeds of disposal or insurance money (net of any applicable GST in relation to the supply for which that insurance money was received) received by Eye In The Sky. You must pay that amount immediately on demand by Eye In The Sky.

#### 17. Events of Default

The recoverable amount will become immediately due and payable by you to Eye In The Sky if during this agreement Eye In The Sky ascertains that any of the following events occur:

- (a) You repudiate this agreement
- (b) You do not pay an instalment or any other amount by the due date (for any reason)
- (c) You breach any other obligation under this agreement
- (d) You are in default under any other contract between you and Eye In The Sky
- (e) In Eye In The Sky's opinion, you or any guarantor or both made any false representation which affected Eye In The Sky's decision to accept your offer and to enter into this agreement
- (f) A trustee in bankruptcy, guardian, controller, administrator, receiver, receiver and manager, liquidator or provisional liquidator is appointed to you or to any guarantor or both to administer your affairs or any guarantor's affairs or both or proceedings are commenced or a resolution proposed or passed to do so;
- (g) You or any guarantor or both die or become unsound mind or are arrested and charged with any offence carrying a maximum period of imprisonment exceeding 3 months;
- (h) You are a partnership or company and a change occurs in the constitution of the partnership or company without Eye In The Sky's consent.
- (i) You are a trustee of a trust and you, without Eye In The Sky's written consent, cease to be the sole trustee, you do or omit to do anything in breach of the terms of the trust, any capital of the trust is distributed, the trust is wound up or terminated or steps are taken to do so or an application is made to, or an order sought from, any court concerning the trust assets or administration of the trust; or
- (j) The goods are used for the commission of any offence which might result in their confiscation or forfeiture to the Crown or attachment, execution or distress is levied against the goods, you or any of your goods or property.

#### 18. Repudiation

Without limiting any other act or event which may amount to your repudiation of this agreement, you will repudiate this agreement if:

- (a) You inform Eye In The Sky in writing or indicate by your conduct, that you are not, or no longer intend to be, bound by this agreement;
- (b) You purport to sell the goods or do any other act inconsistent with Eye In The Sky's unencumbered ownership of the goods;
- (c) This agreement is void or voidable against you official receiver, trustee in bankruptcy, receiver and manager, liquidator, provisional liquidator, controller or administrator; or
- (d) You return the goods to Eye In The Sky or after the goods have been repossessed by Eye In The Sky, you fail within 14 days after Eye In The Sky takes possession to exercise your right to resume possession in accordance with 19.3

#### 19. Repossession of Goods

19.1 Eye In The Sky may repossess the goods if the recoverable amount becomes due and payable by you to Eye In The Sky under clause 17

19.2 You agree that Eye In The Sky repossesses the goods, you may, if you have not repudiated this agreement, resume possession of the goods if within 14 days from the date of repossession if you pay all moneys owing to Eye In The Sky under this agreement, remedy all other breaches of this agreement and secure to Eye In The Sky's satisfaction the payment of any money which may become payable under clause 20.2 or clause 21.

#### 20. Disposal of the Goods

20.1 If Eye In The Sky repossesses the goods pursuant to clause 19, you return them to Eye In The Sky pursuant to clause 14, you do not exercise an option to purchase them available to you under clause 15 or you fail to take delivery of them as contemplated by clause 9, Eye In The Sky will dispose of the goods as soon as reasonably practicable. If this agreement is a Lease for which the schedule specifies a residual value or it is an Asset Purchase Agreement, Eye In The Sky will do so by any method it considers appropriate.

- 20.2 If the net proceeds of disposal exceed the recoverable amount, the net proceeds of disposal will be set off against the recoverable amount (but only to the extent that the amount set off does not exceed the recoverable amount). If the net proceeds of disposal are less than the recoverable amount, you agree to pay Eye In The Sky on demand (in addition to any other money payable by you) the amount of the deficiency.
21. Sale of the Goods on expiration of the Lease Term  
If this agreement is a lease for which the schedule specifies a residual value and Eye In The Sky disposes of the goods after the lease expiry date or the expiry of any extension of the lease term and the net proceeds of disposal are less than residual value, you agree to pay to Eye In The Sky immediately on demand (in addition to any rent or other money payable by you including any amount referred to in clause 6) the amount of the deficiency.
22. Miscellaneous
- 22.1 It is an essential term of this agreement that you perform your obligations on time
- 22.2 Where the description of the goods in the schedule is incomplete at the time of the signing by you, Eye In The Sky is authorised to complete the schedule with the description of the goods delivered to you and Eye In The Sky is authorised to complete the date of this agreement by inserting the date Eye In The Sky believes you signed this agreement.
- 22.3 Nothing in this agreement limits Eye In The Sky's rights to recover damages for any breach of this agreement by you. Where you breach is a failure to pay any amount due and payable under this agreement by its due date, Eye In The Sky may agree to defer payment of that amount, but is not obligated to do so. Eye In The Sky may waive any breach by you of any of your obligations under this agreement but no such waiver will constitute a waiver of any continuing, recurring or subsequent breach.
- 22.4 Eye In The Sky may at any time assign this agreement, or any interest or right it has under it free from any equity, set-off or counterclaim
- 22.5 Eye In The Sky is irrevocably authorised to use your name and to act on your behalf in exercising any rights or instituting or carrying on any legal proceedings or enforcing any court order or judgment which it thinks desirable to protect its rights in the goods.
- 22.6 If you are a trustee of any trust, you shall be liable to pay all amounts payable under this agreement in your own right and in your right as a trustee.
- 22.7 Eye In The Sky may at its discretion appropriate any moneys it receives or has received from you from any source for you account or in respect of the goods and any moneys payable by Eye In The Sky to you, towards any indebtedness or liability (including contingent indebtedness or liability) you have to Eye In The Sky and Eye In The Sky may set off all or any of the same against such indebtedness or liability or Eye In The Sky may appropriate all or any of the moneys towards repair or reinstatement of the goods.
- 22.8 A certificate signed by the secretary or any manager, accountant or authorised officer of Eye In The Sky stating the amount of net proceeds of disposal goods, the extent of Eye In The Sky's entitlement to any input tax credit for GST paid in respect of any matter contemplated by this agreement or any amount recoverable under this agreement will be prima facie evidence of the amount of entitlement as at the date or dates stated in such certificate
- 22.9 If the goods are provisionally delivered to you, your obligations as to insurance, care and use of the goods and otherwise (except as to payment of rent) under this agreement bind you from the time of your execution of this agreement and you will be a tenant at will of the goods at a daily rent equal to first instalment divided by the number of days in the first instalment period, which if your offer is accepted by Eye In The Sky, will be applied by Eye In The Sky in reduction of the total rental payable or total hiring amount set out in the schedule
- 22.10 The acceptance of your offer on behalf of Eye In The Sky will of itself and without notice of acceptance of your offer to you, create a contract governed by the law of the State or Territory you live in at the time of signing.
- 22.11 Eye In The Sky may vary or change the terms of this agreement at any time provided always Eye In The Sky has given you at least 30 days written notice of the imposition of the change. Eye In The Sky will only vary or change the terms of this agreement to the extent of the permitted law
- 22.12 Any provisions in this agreement which are prohibited or are void or invalid by law will be ineffective to the extent they are prohibited, void or invalid without invalidating the remaining provisions of this agreement. This agreement must be construed as intended to operate in all respects to the maximum extent to which it can validly apply
- 22.13 To the extent permitted by law, Eye In The Sky may give or serve any notice or document on you by giving it to you in person, by sending it to you at an appropriate address (including your place of residence or business last known to Eye In The Sky or, if you are a body corporate, your registered office) by post, by facsimile transmission or by transmitting it to you by any form of electronic communication which you indicate gives you the capability to receive communications (for example, by providing an email address to Eye In The Sky).  
You may give or serve any notice or document on Eye In The Sky by sending it by:
- (a) Prepaid post to Eye In The Sky's principal office in the State or Territory where you live or to Eye In The Sky's registered office;
  - (b) Sending it by any form of electronic communication which Eye In The Sky indicates it has the technical capability of receiving, subject to the notice conforming with any information technology requirements Eye In The Sky imposes; or
  - (c) Delivering it in person to the place where you are required to make payment

- 22.14 You authorise Eye In The Sky to rectify any error made in processing or calculating any payment, GST or debit or credit made, paid or payable under this agreement
- 22.15 To the extent that Eye In The Sky releases you from any obligations under this agreement, including a release following payment by you under an indemnity, you shall pay Eye In The Sky an amount that includes the GST payable by Eye In The Sky in relation to the supply connected with the release from your obligations.
- 22.16 You must do all things, including providing invoices or other documentation in such form and detail as may be necessary to enable or assist Eye In The Sky to claim or verify any GST input tax credit, set-off, rebate or refund in relation to the amount attributed to any GST included in any amount payable under this agreement, or which is related to this agreement
- 22.17 All payments by you under this agreement may be applied by Eye In The Sky at its discretion to any amounts due but unpaid by you under this agreement.

LEASE AGREEMENT AND ASSET PURCHASE AGREEMENT GUARENTEE AND INDEMNITY  
Terms And Conditions

Note: These terms and Conditions of Guarantee and Indemnity only apply if a Guarantee has been given in respect of the Lease or Asset Purchase Agreement.

1. Guarantee  
In consideration of Eye In The Sky ABN:..... trading as Eye In The Sky agreeing to enter into the lease or asset purchase agreement ("the agreement") with the customer, the guarantors jointly and each guarantor severally guarantee performance of all of the customer's obligations under the agreement including obligations to pay money currently and in the future owing to Eye In The Sky.
2. Indemnity  
In consideration of Eye In The Sky agreeing to enter into the agreement with the customer, each of the guarantors indemnifies Eye In The Sky against any loss cause by the guarantee in clause 1 being ineffective, void or unenforceable against a guarantor because of the customer's death, insolvency or incapacity.
3. Amount guarantors are required to pay  
If the customer does not pay any money due to Eye In The Sky under the agreement at any time and from time to time, the guarantors will pay to Eye In The Sky the amount which the customer is liable to pay Eye In The Sky under the agreement together with the reasonable expenses reasonably incurred by Eye In The Sky in enforcing this guarantee ("the guaranteed amount")
4. Continuing guarantee  
This guarantee is a continuing guarantee and the indemnity is a continuing indemnity.
5. When the guarantors must pay  
If the customer is in default under the agreement, the guarantors will pay the guaranteed amount immediately upon demand by Eye In The Sky.
6. Guarantors not released  
The liability of each of the guarantors will not be affected or discharged by reason of any of the following:
  - (a) Any other guarantee or security Eye In The Sky holds in relation to the agreement.
  - (b) Whether the goods were delivered to the customer before or after this guarantee was signed;
  - (c) Any time or indulgence given to the customer to pay;
  - (d) Eye In The Sky not exercising, delaying in the exercise of, or only partially exercising any right under this guarantee;
  - (e) The guarantors making any payment to Eye In The Sky other than paying the guaranteed amount;
  - (f) Any variation or replacement of the agreement which is permitted by law. Where any variation increases the customer's obligations under the agreement, the guarantors are liable in respect of such variation only to the extent of the liability existing prior to the variation unless the guarantors have;
    - (i) Been notified by Eye In The Sky in writing of the variation; and
    - (ii) The guarantors have subsequently agreed in writing to the extension of the guarantors' obligations under this guarantee;
  - (g) Any of the guarantors being released or discharged under this guarantee or other security of this guarantee being enforceable against any of the guarantors;
  - (h) Eye In The Sky losing the benefit of, or failing to obtain, any other security;
  - (i) Eye In The Sky not registering any security which could be registered;
  - (j) Eye In The Sky not exercising any of its rights against any customer under the agreement or releasing any customer from the agreement;
  - (k) Any prospective guarantor failing to execute this guarantee;

- (l) The assignment of rights in connection with the agreement;
- (m) The customer being under 18 years of age; or
- (n) The death, insolvency or incapacity of any other person, including the customer or any of the guarantors.

7. Rights under guarantee same as deed

All rights able to be exercised under a guarantee by deed may be exercised by Eye In The Sky under this guarantee.

8. Bankruptcy

The liability of each of the guarantors is not extinguished or reduced in relation to money received from the customer or any of the guarantors which Eye In The Sky may have to repay to any trustee in bankruptcy, administrator or liquidator or any other person

9. Notices

Any demand or notice may be executed by Eye In The Sky by any authorised officer or attorney. Any demand or notice may be served on a guarantor who is a natural person:

- (a) By delivering it to the guarantor personally; or
- (b) By leaving it at, or sending it to:
  - (i) An address which the guarantor nominates in writing; or
  - (ii) If the guarantor does not nominate an address in writing, the guarantor's residential address last known to Eye In The Sky.

By post, facsimile transmission or any other electronic means including, without limitation, by email or by the internet.

Any demand or notice may be served on a guarantor who is a body corporate:

- (a) By leaving it at the registered office of the body corporate; or
- (b) By sending it to the registered office of the body corporate by post, facsimile transmission or any other electronic means including, without limitation, by email or by the internet.

The guarantors may give or serve any notice or document on Eye In The Sky by leaving it at Eye In The Sky's registered office with an officer of Eye In The Sky or by sending it by post or facsimile transmission to its registered office.

10. Costs

The guarantors shall pay Eye In The Sky's reasonable costs of and incidental to the enforcing of this guarantee.

11. Subrogation of rights

On payment to Eye In The Sky by the guarantors of 100% of the guaranteed amount, Eye In The Sky's rights against the customer will pass to the guarantors.

12. Eye In The Sky may assign its rights

Eye In The Sky may assign its rights under this guarantee free from any equity, set-off or counterclaim

13. Consent to Eye In The Sky giving information

Without limiting any other consent the guarantors may have given Eye In The Sky in respect of privacy, the guarantors, agree that Eye In The Sky may give information about the guarantors, this guarantee and the guarantors' performance of their obligations under his guarantee to any supplier of the goods and any related corporation of Eye In The Sky or anyone who is an assignee of Eye In The Sky's rights under this guarantee, or who is considering becoming one.

14. Consent of guarantors to receive information

Without limiting any other consent the guarantor may have given Eye In The Sky in respect of privacy, the guarantors agree that Eye In The Sky, any related corporation of Eye In The Sky, any supplier of the goods, any agent of Eye In The Sky, any agent of a related corporation of Eye In The Sky or any agent of the supplier of the goods may send the guarantors direct marketing material from time to time and the guarantors agree to the delivery of that material.

15. Trusts

The guarantor declares that the guarantor does not enter into this guarantee as a trustee unless Eye In The Sky has been advised in writing of that fact by the guarantor in which case, the guarantor also declares that:

- (a) The guarantor has the power as trustee of the trust to unconditionally enter into this guarantee and perform the guarantor's obligations under it;
- (b) By entering into this guarantee and performing obligations under it, the guarantor is properly performing the guarantor's obligations to the beneficiaries of the trust;

- (c) The guarantor has taken all steps necessary to allow the guarantor to enter into and perform the guarantor's obligations under this guarantee;
- (d) The guarantor is the sole trustee of the trust
- (e) No action has been taken to remove the guarantor as trustee or to appoint an additional trustee;
- (f) The guarantor is entitled to be fully indemnified from the property of the trust for the guarantor's obligations under this guarantee (including the obligation to pay money) and the trust property is sufficient to satisfy this right of indemnity;
- (g) The guarantor has not breached the guarantor's obligations as trustee;
- (h) The trust is duly constituted and no action has been taken to terminate the trust
- (i) The guarantor has given Eye In The Sky full particulars of the trust including a copy of the signed and stamped trust deed containing all the terms of the trust certified by the guarantor (or , if the guarantor is a company, one of the guarantor's directors or secretaries as being true and up-to-date); and
- (j) The rights of the beneficiaries to the trust properly rank after Eye In The Sky's rights to the trust property.

16. Severance

If any provision or any part of any provision of this guarantee would be invalid, void, or unenforceable, it shall be severed and the validity and enforceability of the remainder of the guarantee shall not be affected.

**Memorandum of Acceptance** pages 12<sup>th</sup> of 12

Eye in the Sky Pty Ltd  
Abn :

**Company** .....  
Abn:

Add : 950 fifteenth ave  
Rossmore NSW 2557

Add : .....  
.....

Authorised Company Director

Authorised Company Director

print name .....

print name .....

Signed \_\_\_\_\_

Signed \_\_\_\_\_

Date .....

Date .....

Authorised Witness .....( print name )

Address : \_\_\_\_\_

Signed \_\_\_\_\_