

Licence (Land Only)

Lot 12 Brockman Highway, East Nannup

Water Corporation (Licensor)

Shire of Nannup (Licensee)

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Licence (Land Only)

Reference table

1	Date licence is made	The _____ day of _____ 20__.
2	Licensor	Water Corporation , ABN 28 003 434 917 a body corporate established under the <i>Water Corporations Act 1995</i> (WA) of John Tonkin Water Centre, 629 Newcastle Street, Leederville, Western Australia 6000. Address for service: PO Box 100, Leederville, Western Australia 6902 Attention: Manager, Property Management 629 Newcastle Street Leederville WA 6007
3	Licensee	Shire of Nannup ABN 43 038 160 786 Address for service: PO Box 11, Nannup WA 6275 Email address for service: nannup@nannup.wa.gov.au
4	Land	Lot 12 Brockman Highway, East Nannup, Western Australia, being more particularly described as Lot 12 on Plan 23519 and being the whole of the land in Certificate of Title Volume 2163 Folio 904.
5	Premises	Those parts of the Land as shown (for identification purposes only) outlined and hatched in orange and blue on the Plan attached at Schedule 2.
6	Term (clause 2.1)	The period commencing on the Commencing Date and ending on the Expiry Date.
7	Commencing Date (clause 2.1)	11 May 2023
8	Expiry Date (clause 2.1)	10 May 2028
9	Further Term (clause 15.1)	One (1) Further Term of five (5) years.
10	Commencing Date of Further Term (clause 15.1)	11 May 2028
11	Licence Fee (clause 3(a))	\$1,000.00 (plus GST) per annum

<p>12 Review of Licence Fee (clause 3(c))</p>	<p>(a) CPI Review Dates Not applicable.</p> <p>(b) Fixed Review Dates and Fixed Percentage Not applicable.</p> <p>(c) Market Review Dates Not applicable.</p>
<p>13 Manner of payment of Licence Fee (clause 3(a))</p>	<p>How Licence Fee is paid: Annually in advance</p> <p>When Licence Fee is paid: On the Commencing Date and on each successive anniversary of the Commencing Date during the Term and any Further Term.</p>
<p>14 Permitted Use (clause 6.1)</p>	<p>(a) As to the area hatched in blue on the Plan: the construction, operation, maintenance and use of an emergency helipad; and</p> <p>(b) As to the area hatched in orange on the Plan: overflow car park.</p>
<p>15 Public liability insurance amount (clause 9(a))</p>	<p>\$20,000,000.00.</p>
<p>16 Additional Terms</p>	<p>1. Restriction on Permitted Use The Licensee agrees with the Licensor that:</p> <p>(a) that part of the Premises outlined and hatched in blue on the Plan (the Helipad) must only be used for emergencies and not for tourism or general aviation; and</p> <p>(b) the Licensee must ensure that the Licensee and the Licensee's Visitors must not at any time enter onto the blue gum area and plantation forming part of the Land.</p> <p>2. Encumbrances</p> <p>(a) The Licensee acknowledges that the Land is subject to Profit a Prendre J318554 and Easement J318553 (Encumbrances), and the grantees under those documents have non-exclusive rights of access to the Land.</p> <p>(b) The Licensee's rights under this licence are subject to the Encumbrances and the Licensee must not do or permit to be done anything which will cause the Licensor to breach any provision of the Encumbrances.</p> <p>3. Special conditions</p>

- (a) This licence is subject to the special conditions set out in Schedule 3 to this licence.
- (b) If there is any inconsistency between the terms of any special conditions in Schedule 3 to this licence and any other provision of this licence, the special conditions shall prevail.

Licence conditions

1 Meaning of words

In this licence:

Term	Meaning
Authorisation	includes: <ol style="list-style-type: none">1 any consent, registration, filing, agreement, notice of non-objection, notarisation, certificate, licence, approval, permit, authority or exemption from, by or with an Authority; and2 in relation to anything which an Authority may prohibit or restrict within a specific period, the expiry of that period without intervention or action or notice of intended intervention or action.
Authority	any government or governmental, semi-governmental, statutory, municipal, local, administrative, fiscal, judicial, native title, native heritage or planning, body, department, commission, authority, tribunal, agency or entity or other public body, local authority or other authority of any kind.
Business Day	a day which is not a Saturday, Sunday or public holiday in Perth.
Commencing Date	the date in Item 7.
Contaminant	a noxious or hazardous substance which, having regard to the quantity and location of the substance and other substances in conjunction with which it is stored or used, is capable of contaminating the Environment and Contaminate and Contamination have a corresponding meaning.
CPI Review Date	the dates, if any, set out in Item 12(a).
Environment	has the same meaning as under the <i>Environmental Protection Act 1986</i> (WA).
Environmental Law	<ol style="list-style-type: none">1 all Laws concerning environmental matters including the Environmental Protection Act 1986 (WA), the Rights in Water

Term	Meaning
	<p>and Irrigation Act 1914 (WA), the Dangerous Goods Safety Act 2004 (WA) and the Contaminated Sites Act 2003 (WA); and</p> <p>2 any common law relating to the Environment.</p>
Environmental Liability	<p>any obligation, cost, expense, fee and all other Loss or harm, howsoever occasioned, incurred or suffered by the Licensor under an Environmental Law (including without limitation any cost to the Licensor in connection with the carrying out of work by its employees or others and the administration of the carrying out of the work) in connection with or arising from the Licensee's or any of the Licensee's Visitors' use, control or occupation of the Premises or any breaches by the Licensee or any of the Licensee's Visitors of any Environmental Law.</p>
Expiry Date	the date in Item 8.
Facility	<p>a lavatory, sink, drain, main, pipe or other water, sewerage or plumbing facility, and a gas or electrical fitting or appliance in or on the Land.</p>
Fixed Percentage	the relevant percentage for a Fixed Review Date (if any) in Item 12(b).
Fixed Review Dates	the dates (if any) in Item 12(b)
Further Term	the option to renew for a further term (if any) in Item 9.
Insolvent	<p>the happening of any of the following events in relation to the Licensee:</p> <ol style="list-style-type: none"> 1 an application is made to a court for it to be wound up or for the appointment of a provisional liquidator; 2 a meeting is convened to place it in voluntary liquidation or to appoint an official manager or an administrator or a controller of any of its assets; 3 the appointment of a liquidator, provisional liquidator, or administrator, receiver or receiver and manager of any of its assets, or a controller of any of its assets; 4 it is wound up or dissolved; 5 it proposes to enter into or enters into any form of arrangement (formal or informal) with its creditors or any of them;

Term	Meaning
	<p>6 it is, or is to be regarded as being under section 585 of the <i>Corporations Act 2001</i> (Cth) unable to pay its debts;</p> <p>7 it becomes an insolvent under administration as defined in section 9 of the <i>Corporations Act 2001</i>(Cth); or</p> <p>8 it commits an act of bankruptcy or the Licensee's estate comes within the operation of any Law relating to bankruptcy.</p>
Item	an item in the reference table at the front of this licence.
Land	the land in Item 4.
Law	any legislation, statute, regulations, rule, proclamation, ordinance, by-law, code or local law.
Licence Fee	the amount set out in Item 11 as reviewed under this licence.
Licensee	the person named in Item 3.
Licensee's Property	everything in or on the Premises that does not belong to the Licensor, and includes all the Licensee's fixtures, fittings, signs, equipment and goods.
Licensee's Rights	the rights granted by the Licensor to the Licensee in respect of the Premises under this licence.
Licensee's Visitors	each of the Licensee's employees, agents, contractors, service suppliers, sub-contractors, customers and other visitors and any other person who at any time is on the Premises with or without the consent of the Licensee.
Licensor	the person named in Item 2 and its successors in whom the Land is vested.
Loss	includes any loss, claim, liability, damage, cost or expense (whether in the nature of economic loss, loss of profits or otherwise).

Term	Meaning
Market Review Date	the dates (if any) in Item 12(c)
Permitted Use	the use specified in Item 14.
Plan	the plan of the Premises attached to, and forming part of, the Licence.
Power	includes a right, power, authority, discretion, remedy or privilege.
Premises	the premises described in Item 5.
Rates	any rates, levies and other charges imposed by an Authority in relation to the Premises or the Land or any property which includes the Premises or the Land.
Reserve	where the Premises is a reserve (as defined in the <i>Land Administration Act 1997 (WA)</i>) or portion of such a reserve which has been placed under the care, control and management of the Licensor pursuant to the <i>Land Administration Act 1997</i> , that reserve.
Review Date	each date specified in Item 12.
Services	all or any services running through, or servicing, the Premises, including but not limited to, electricity, gas, oil, fuel, water telecommunications or other like commodity, Facility or service, and also any air-conditioning equipment, power, water, sewerage, gas and fire sprinkler services.
Taxes	state land tax, metropolitan region improvement tax and every tax, charge or duty imposed by an Authority in relation to this licence, the Land or the Premises or any property which includes the Land or the Premises.
Term	the term described in Item 6 and includes any extension of the Term or period of holding over.

Term	Meaning
Valuer	<p>a valuer who:</p> <ol style="list-style-type: none"> 1 is licensed under the <i>Land Valuers Licensing Act 1978</i> (WA); 2 is a <i>fellow</i> or associate of the Australian Property Institute Limited (WA office) of not less than 5 years standing; and 3 has had not less than 5 years practical experience in Western Australia in the valuation of properties of the same general classification as the Premises.

2 Grant of licence

2.1 Grant

The Licensor grants to the Licensee a non-exclusive licence to use the Premises on the conditions in this licence for the Term commencing on the Commencing Date and terminating on the earlier of:

- (a) the Expiry Date; or
- (b) the earlier termination of this Licence.

2.2 Holding Over

- (a) If the Licensee continues to occupy the Premises with the consent of the Licensor after the Expiry Date, the Licensee occupies the Premises as a monthly licensee.
- (b) The terms of the monthly licence are the terms of this Licence which apply on the Expiry Date modified so as to apply to a monthly licence, except that:
 - (1) the Licence Fee is increased by 5%; and
 - (2) either party may terminate the monthly licence on any day by giving not less than 10 Business Days' notice to the other.

2.3 Licence only

The rights given by this Licence are contractual only and nothing in this Licence creates or gives to the Licensee any estate or interest in the Land on which the Premises are located nor any right of exclusive occupation of the Premises.

2.4 No caveats

The Licensee must not lodge or attempt to lodge any caveat over the Land or the Premises to protect any interest or purported interest of the Licensee under or relating to this licence.

3 Paying Licence Fee

- (a) The Licensee must pay to the Licensor the Licence Fee in the manner and at the times specified in Item 13.
- (b) If necessary, the Licensor and Licensee must apportion the first and last instalments of the Licence Fee on a daily basis.
- (c) The Licence Fee is to be reviewed on the Review Dates in the manner specified in Item 12 and in accordance with Schedule 1.

4 GST

- (a) Any reference in this clause to a term defined or used in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* is, unless the context indicates otherwise, a reference to that term as defined or used in that Act.
- (b) Any consideration payable or to be provided under or in connection with this document is exclusive of any GST unless indicated otherwise.
- (c) If GST is payable on a supply made under or in connection with this licence then the recipient of the supply, or the party providing the consideration for the supply, must pay to the supplier an amount equal to the GST payable on the supply. The GST amount is payable at the same time and in the same manner as the consideration to which it relates.
- (d) The supplier must issue a tax invoice or adjustment note to the recipient of the supply before the supplier is entitled to payment of the GST amount or at such other time as the parties agree.
- (e) If one of the parties to this licence is entitled to be reimbursed for an expense or outgoing incurred in connection with this licence, then the amount of the reimbursement will be reduced by the amount of any input tax credit which may be claimed by the party being reimbursed in relation to that expense or outgoing.

5 What other money must Licensee pay?

5.1 Rates and Taxes

- (a) The Licensee must bear and pay all Rates and Taxes whether directly or indirectly assessed or levied on or in respect of the Land or the Premises or on both and notwithstanding that the Premises may form only part of the Land.
- (b) The Licensee must pay the amounts under this clause 5.1 direct to the assessing Authority on time or to the Licensor within 10 Business Days after the Licensor requests payment.

5.2 Reimbursing other costs

The Licensee must pay or reimburse to the Licensor within 10 Business Days after the Licensor requests payment the following costs allocated or apportioned by the Licensor as it reasonably determines:

- (a) all premiums payable by the Licensor for insurance relating to the Premises;
- (b) strata levies or other strata company fees or charges relating to the Premises; and
- (c) costs of management and administration of the Premises.

5.3 Licensor's costs and transfer duty

The Licensee must pay:

- (a) the Licensor's reasonable costs of and incidental to the instructions for and the preparation, execution and duty endorsement of this licence and all usual copies of it;
- (b) duty on this licence and any other document arising from this licence;
- (c) the Licensor's reasonable legal and other costs arising from the Licensee's breach of this licence; and
- (d) the Licensor's reasonable costs of considering the Licensee's request for the Licensor's consent (even if consent is not given).

5.4 Adjustments

If the Licensor has to calculate the money the Licensee owes by using a time period, if necessary, the Licensor and Licensee must apportion the first and last payments on a daily basis according to the number of days during the time period.

6 What are Licensee's obligations concerning Premises?

6.1 Using Premises

- (a) The Licensee:
 - (1) must satisfy itself that the Premises are capable of being lawfully used for the Permitted Use; and
 - (2) acknowledges that the Licensor makes no representation and gives no warranty regarding the use to which the Premises may lawfully be put.
- (b) The Licensee must, and must ensure that the Licensee's Visitors must:
 - (1) only use the Premises for the Permitted Use, or any other use to which the Licensor consents;
 - (2) obtain, maintain and obey all Authorisations required to carry on the Permitted Use in the Premises, including those required for environmental matters and matters concerning trade waste and dangerous goods;
 - (3) comply with the requirements of all Laws and relevant Authorities from time to time in respect of, or which affect the use of, the Premises or which impose any duty or obligations on the owner, occupier or user of the Premises;
 - (4) notify and provide full details to the Licensor as soon as the Licensee knows of any:

- (A) injury, death in, or loss or damage to, the Premises or Land (including any fencing or gates); or
 - (B) likely cause of danger or risk to any person in the Premises or Land;
- (5) obey any Law (including, but not limited to, Environmental Laws) or proper notice from any Authority requiring the Licensee to do anything concerning:
 - (A) the Premises;
 - (B) the Permitted Use;
 - (C) the health and safety of people using the Premises; or
 - (D) this licence.
- (c) The Licensee must not, and must ensure that the Licensee's Visitors must not:
 - (1) put any sign or advertisement outside the Premises unless the Licensee gets the Licensor's consent;
 - (2) use the Premises in a way that interferes with the usual operation of Services which the Licensor supplies to the Premises or interferes with other users or occupiers of the Land;
 - (3) cause (whether by act or omission) any damage to the Premises or Land, or any danger or injury to, or death of, any person in or on the Premises or Land;
 - (4) store dangerous substances (for example: hazardous chemicals, flammable liquids, acetylene, gas, volatile or explosive oils, compounds or substances) on the Premises unless the storage of such substances is reasonably incidental to the Permitted Use and unless details have been provided to the Licensor and such storage or use complies in every respect with the requirements of any applicable Laws or any relevant Authority;
 - (5) do anything that is or may reasonably be considered to be dangerous, offensive or a nuisance to, or that may interfere with, anyone; or
 - (6) create a nuisance, obstruct, disturb or interfere with the Licensor or any of the Licensor's employees, agents, contractors, service suppliers, sub-contractors, customers and other visitors and any other person who at any time is on the Premises or the Land with the Licensor's consent, whether in respect of any operations or business that the Licensor may from time to time conduct on the Land or otherwise.

6.2 Letting others into Premises

- (a) The Licensee is responsible for the conduct of all people the Licensee allows in the Premises (for example: the Licensee's customers, employees, contractors and agents).
- (b) The Licensee is not responsible for the conduct of people the Licensor requires to be on the Premises (for example: the Licensor's employees and agents).

6.3 Maintaining Premises and Licensee's Property

The Licensee must:

- (a) maintain and repair the Premises and keep the Premises free of rubbish, clean and tidy and in the same condition as they were in at the Commencing Date, except for fair wear and tear;
- (b) keep all the Licensee's Property in good and safe working order, repair and condition and free from damage;
- (c) keep all vegetation on the Premises and land adjoining the Premises trim, well-watered and in good condition; and
- (d) maintain all firebreaks and comply with all fire and emergency management requirements within the Premises in accordance with all Laws and otherwise to the satisfaction of the Licensor.

6.4 Fences

The Licensee is responsible for:

- (a) all fences (if any) now or hereafter permitted to be erected or constructed on the boundaries of the Premises included but not limited to, compliance with the requirements under the *Dividing Fences Act 1961* (WA);
- (b) the maintenance of those fences in good order and condition; and
- (c) any required relocation or re-establishment of such fences at the termination of the term of this licence or any renewed term or early termination of this licence.

6.5 Changes to the Premises

The Licensee may not make nor permit or allow to be made any alteration or addition to the Premises unless the Licensor gives its prior written consent to any such alteration or addition which consent the Licensor may:

- (a) grant or refuse; or
- (b) grant subject to any conditions,
as the Licensor determines.

6.6 Licensee not to Contaminate Land

The Licensee must:

- (a) not, and must ensure that the Licensee's Visitors do not:
 - (1) do anything on the Land or the Premises; or
 - (2) bring anything onto the Land or the Premises,
which will or might Contaminate the Land; and
- (b) if such Contamination of the Land or the Premises occurs, immediately remediate, remove, abate, neutralise and treat that Contamination to the Licensor's satisfaction.

6.7 Environmental Liability indemnity

The Licensee indemnifies the Licenser against:

- (a) all Loss the Licenser may suffer or incur in respect of any matter referred to in clause 6.6; and
- (b) any Environmental Liability.

6.8 Licensee and Licensee's Visitors must comply with Rules and Regulations

- (a) The Licensee must, and must ensure that each of the Licensee's Visitors must promptly and fully comply with any rules, regulations, guidelines or directions that the Licenser may from time to time notify to the Licensee in writing relating to the use or occupation of the Premises or the Land, including any requirements as to any of the following:
 - (1) management, and control of the Licenser's operations;
 - (2) access or security; or
 - (3) health or safety (**Rules and Regulations**).
- (b) The Licenser is not liable for any Loss arising out of non-enforcement of the Rules and Regulations.

7 What are Licensee's obligations when this licence ends?

7.1 Licensee's general obligations

- (a) When this licence ends, the Licensee must:
 - (1) give back the Premises to the Licenser in:
 - (A) the same layout and condition as they were in at the Commencing Date, except for fair wear and tear;
 - (B) free from Contaminants taking into account the state of the Premises at the Commencing Date; and
 - (C) in a neat and tidy state, clean and free of rubbish;
 - (2) remove;
 - (A) any sign or advertisement installed inside or outside the Premises; and
 - (B) the Licensee's Property,and repair any damage caused by their removal;
- (b) If the Licensee fails to give back the Premises to the Licenser in accordance with clause 7.1(a):
 - (1) the Licenser may undertake any necessary works;
 - (2) the Licensee must pay the Licenser's costs of doing so; and
 - (3) the Licensee must continue to pay the Licence Fee (increased by 5%) and other monies payable by the Licensee immediately before the Expiry Date or earlier termination of this Licence, calculated on a daily

basis until the date the Licensor has completed any necessary works under clause 7.1(b)(1).

- (c) Anything left in the Premises becomes the Licensor's property and the Licensor may keep, sell or give it away. The Licensee must pay the Licensor's costs of dealing with anything left in the Premises (for example: removing the property, storing the property and restoring the Premises to the required condition).

8 Prohibition on dealing with Premises and this licence

- (a) This Licence is personal to the Licensee, and the Licensee must not deal with the Premises or the Licensee's interest in the Premises (for example: assigning, sharing or licensing them).
- (b) Sections 80 and 82 of the *Property Law Act 1969 (WA)* do not apply to this licence.

9 Licensee's insurance

- (a) During the Term, the Licensee must have current insurance policies with an insurer of good repute which conducts business in Australia covering public liability arising from the use or occupation of the Premises for not less than:
 - (1) the amount set out in Item 15 in respect of any one claim; and
 - (2) unlimited in the aggregate,or any higher amount the Licensor may from time to time require, which policy must be in the name of the Licensee noting the interest of the Licensor.
- (b) The Licensee must give the Licensor evidence of the Licensee's insurance and a copy of the current insurance policy issued by the insurer, if the Licensor asks for it.
- (c) The Licensee must not do anything that may:
 - (1) cancel or make invalid any insurance of the Premises taken out by the Licensor or the Licensee; or
 - (2) increase the Licensor's insurance premiums.
- (d) The Licensee must pay the cost of any extra premiums which the Licensor pays because of the Licensee's particular use of the Premises.

10 Licensee's risk; release and indemnity to Licensor

10.1 Risk

- (a) The Licensee enters the Premises and Land and occupies and uses the Premises at the Licensee's own risk.
- (b) The Licensee has satisfied itself that the Premises are sufficient for the Licensee's purpose.

10.2 Release

The Licensee releases the Licensor from liability for any damage, Loss, injury or death occurring in the Premises or on the Land, except to the extent that this was caused or contributed to by the Licensor's negligence.

10.3 Indemnity

- (a) The Licensee indemnifies the Licensor against any action, demand, cost or liability arising from any damage to the Premises, the Land or other property, Loss, injury or death caused or contributed to by the Licensee's or any of the Licensee's Visitors':
 - (1) act, omission, default or negligence;
 - (2) use or occupation of the Premises and the Land; or
 - (3) failure by the Licensee to observe and perform the Licensee's obligations under the Licence.
- (b) The Licensee's indemnity does not apply to the extent that the Licensor caused or contributed to the damage, Loss, injury or death by its negligence.
- (c) It is not necessary for the Licensor to incur any expense or make any payment before enforcing this right of indemnity.

11 What are Licensor's rights and obligations?

11.1 Licensor may enter Premises

- (a) The Licensor may at any time:
 - (1) inspect the Premises;
 - (2) install, maintain, repair or alter the Services, the Facilities or the Premises;
 - (3) inspect the Premises for compliance with the Licensee's obligations under the Licence;
 - (4) carry out repairs, maintenance or alterations to the Licensor's infrastructure or any item of property belonging to the Licensor on the Premises or the Land;
 - (5) remove harmful substances;
 - (6) stop any actual or potential damage to the Premises or the Land from occurring;
 - (7) comply with Laws, Authorisations or the requirements of any Authority that are not the Licensee's responsibility under the Licence; and
 - (8) at the cost of the Licensee, do anything which the Licensee should have done under this Licence but which the Licensee has not done or which the Licensor reasonably considers that the Licensee has not done properly.

without affecting the Licensee's obligations under the Licence.

- (b) Whenever possible, the Licensor will, as a matter of courtesy, provide the Licensee with reasonable notice of the Licensor's requirement to carry out any of the matters listed in clause 11.1. However, the Licensee acknowledges the Licensor is under no obligation to give any notice of those matters as the Licensee has no exclusive right to possession of the Premises.

11.2 Licensor's consent or approval

If the Licensor's consent is required, the Licensor must consider the request promptly, and must be fair and reasonable in giving or withholding it. The Licensor may also require the Licensee to obey any reasonable conditions before the Licensor gives its consent or approval.

12 What happens if Licensee cannot use or access the Premises?

If the Licensee cannot use or access the Premises or its use or access to the Premises is materially affected then either party may terminate this licence by notice to the other without any liability to compensate the other.

13 What happens if Licensee breaches this licence?

13.1 Licensee breaches

The Licensee breaches this licence if the Licensee:

- (a) repudiates this Licence;
- (b) is Insolvent; or
- (c) fails to comply with a Licensee's obligation under this Licence.

13.2 Notice of breach

- (a) Where, in the Licensor's reasonable opinion, the breach:
 - (1) can be remedied; or
 - (2) cannot be remedied, but the Licensor can be compensated,the Licensor must give the Licensee a notice describing the breach and requiring the Licensee either to remedy the breach (if it can be remedied) or to make reasonable monetary compensation to the Licensor. For the avoidance of doubt, a breach under clauses 13.1(a) and 13.1(b) cannot be remedied and no notice is required.
- (b) The Licensor must give the Licensee at least 5 Business Days to obey the Licensor's notice.

13.3 Licensor's rights if Licensee breaches this licence

If the Licensee:

- (a) breaches this licence; and

- (b) does not comply with the Licensor's notice to remedy or to compensate within the time required by the Licensor's notice, or no notice is required, the Licensor may do one or more of the following:
 - (c) re-enter and take possession of the Premises and end this licence;
 - (d) give written notice to the Licence and end this licence;
 - (e) recover from the Licensee any Loss the Licensor suffers due to the Licensee's breach;
 - (f) carry out the Licensee's obligations on the Licensee's behalf (see clause 11.1(a)(8)); and
 - (g) exercise any of the Licensor's other legal rights.

13.4 What else may Licensor do?

If the Licensor ends this licence under clause 13.3, it does not affect the Licensor's right to enforce:

- (a) payment of any Licence Fee or other money which was payable by the Licensee to the Licensor before this licence was ended; or
- (b) any other right arising from a breach by the Licensee of the Licensee's obligations before this licence was ended.

14 Can the Licensor terminate this licence before the Term ends?

14.1 Licensor may terminate by giving written notice

Subject to clause 14.2 and despite any other provision of this licence, the Licensor may terminate this licence before the end of the Term by giving the Licensee not less than 3 months written notice, with termination to take effect on the date specified in the notice.

14.2 When may the Licensor give written notice?

The Licensor may only terminate this licence under clause 14.1 for the purposes of:

- (a) installing, operating, repairing, servicing or maintaining any of the Services or the Facilities; or
- (b) complying with any Law, Authorisation, requirement, notification or order of any Authority having jurisdiction or authority over or in respect of the Land or Premises, and
- (c) if the only reasonable way the Licensor can comply with and complete works under clauses 14.2(a) or 14.2(b) is to terminate this licence.

14.3 What are the Licensee's obligations on termination

In addition to any other obligations in this licence that the Licensee must comply with on any termination:

- (a) on the termination date, this licence will terminate and the Licensee, and any sub-licensee, user or occupier of the Premises, is to give up vacant possession of the Premises to the Licensor;

- (b) the Licensee remains liable for the payment of Licence Fee and to comply with its other obligations under this licence until the termination date, and in the case of obligations which are expressed to survive the termination of the Licence, until they have been met; and
- (c) the Licensee must comply with clause 7.

14.4 What liability has the Licensor for any Loss occasioned by that termination?

The Licensor will not, in any circumstances, be liable for any Loss sustained by the Licensee or any person claiming under, or through, the Licensee as a result of, or arising directly or indirectly in any way from, the termination of this licence under this clause 14 except in relation to any liability for misrepresentation or fraud.

15 Option to extend the licence

15.1 Option

If Item 9 gives the Licensee the option to extend this licence for the Further Term, the option is exercisable by the Licensee giving notice to the Licensor not earlier than 6 months and not later than 3 months before the end of the term of this licence.

15.2 Loss of option

If, when the Licensee notifies the Licensor or at the end of the term of this licence, a breach described in clause 13.1 has occurred and it has not been remedied, compensated or waived, the option to extend this licence ceases to have effect and the Licensee ceases to be entitled to the Further Term.

15.3 Terms of extension

The extension of this licence is to be on the same terms as this licence except that:

- (a) the Licence Fee applicable at the commencement date of the Further Term is to be the same as the Licence Fee payable under this licence immediately before the Expiry Date unless the commencement date of the Further Term is also a Review Date, in which case, the Licence Fee is subject to review on that date by the method set out in this licence; and
- (b) any option to extend this licence included in this licence but which has been exercised does not apply.

15.4 Documentation

- (a) If the licence is extended for the Further Term, the Licensee is to promptly sign a deed of extension of licence or new licence, to be prepared by the Licensor or its solicitors, when requested by the Licensor.]
- (b) Clause 5.3 relating to costs, expenses, duties and fees applies in relation to that document.

16 Notices

16.1 Form and address

A notice or other communication given by a party under this Licence:

- (a) must be in writing;
- (b) may be given by the relevant party or any authorised officer of that party or its solicitor or agent; and
- (c) is sufficiently served on a party if:
 - (1) left at the address of the addressee;
 - (2) sent by regular or priority post, or by express post, or by registered post to the address of the addressee; or
 - (3) in the case of service on the Licensee, sent by email to the Licensee's email address,

in each case as set out in Item 2 or 3 or to any other postal or Licensee's email address previously notified to the sender.

16.2 When notice is taken as received

A notice is taken to be received:

- (a) if left at the address of the addressee, at the time it is left;
- (b) if sent by regular or priority post, or by express post, or by registered post, on the third day after posting; and
- (c) if sent by email to the Licensee, at the time the email was sent, unless:
 - (1) the sender is aware that the transmission is impaired; or
 - (2) it is sent:
 - (A) on a day which is not a Business Day; or
 - (B) after 5.00pm,

in the place of receipt, in which case it is taken as given at 9.00am on the next Business Day in the place of receipt.

17 Licensor's statutory Powers and functions

17.1 Statutory Powers add to express Powers

The Powers conferred on the Licensor by or under any Law, are in addition to the Powers conferred on the Licensor by this licence.

17.2 Laws that alter agreement of parties

If at any time and for so long as:

- (a) any Law applies to this licence;
- (b) under that Law the conflicting provision of that Law prevails,

each conflicting provision of this licence is deemed to be amended to the extent necessary to resolve the conflict with that Law.

17.3 Licensor's statutory functions

Nothing contained in or implied by this licence has the effect of constraining the Licensor in respect of, placing any fetter on, or otherwise prejudicing or affecting any of, the Licensor's statutory Powers, duties, protections and functions, including those contained or referred to in any Law.

18 Other matters

18.1 Individual and joint liability

If 2 or more people are named in Item 3, each person named in the Item is liable for their obligations individually and together with each other person in the Item.

18.2 Western Australian law applies

This licence is governed by Western Australian law.

18.3 Saturdays, Sundays and public holidays

Anything to be done on a Saturday, Sunday or public holiday in Perth must be done by the next Business Day.

18.4 Payments under this licence

Unless otherwise provided for by this licence, all payments under this licence must be made:

- (a) to the Licensor or any other person the Licensor nominates;
- (b) in the place the Licensor nominates;
- (c) if the Licensor directs, by order on the Licensee's bank for payment to the credit of the account, at the bank and branch that the Licensor nominates; and
- (d) without any deduction or set-off.

18.5 Civil liability

Part 1F of the *Civil Liability Act 2002* (WA) does not apply to this licence.

18.6 Variation of this licence

A variation of this licence must be in writing and signed by the parties.

18.7 Whole agreement

This licence replaces any previous agreement, representation, warranty or understanding between the parties concerning its subject matter and contains the whole agreement between the parties.

18.8 Counterparts

- (a) This document may consist of a number of counterparts and, if so, the counterparts taken together constitute one document.
- (b) The parties agree that a copy of a counterpart sent by either facsimile machine or electronic mail:
 - (1) must be treated as an original counterpart;
 - (2) is sufficient evidence of the execution of the original; and
 - (3) may be produced as evidence in the place of the original executed counterpart.

18.9 Authority to complete

If not known or available as at the Commencing Date, the Licensee irrevocably authorises the Licensor and the Licensor's solicitors to complete this Licence after the Commencing Date by:

- (a) inserting the Plan;
- (b) inserting the Commencing Date in the Reference Table;
- (c) inserting the Expiry Date in in the Reference Table; and
- (d) making any other changes reasonably necessary to complete this Licence.

18.10 Reserve

- (a) This clause applies if the Premises is a Reserve or part of a Reserve.
- (b) The Licensee acknowledges that the provisions of section 18 of the *Land Administration Act 1997* (WA) apply.
- (c) Without limiting clause 8 of this document, the Licensee must not:
 - (1) sell, transfer or otherwise dispose of the Licence;
 - (2) mortgage the Licence;
 - (3) grant a sublicense; or
 - (4) otherwise create or grant an interest in the Premises,
 without the prior approval in writing of the Minister for Lands under the *Land Administration Act 1997* (WA).
- (d) The Licensee indemnifies the Minister for Lands for all Loss paid, suffered or incurred by the Minister for Lands to the extent due to or arising out of any of the matters specified in clauses 6.7 and 10.3.
- (e) The Minister for Lands has the benefit of this clause 18.10 under section 11 of the *Property Law Act 1969* (WA).

18.11 Interpretation

- (a) In this licence, where the context allows:
 - (1) when a party is required not to do something, this includes not allowing the thing to be done;

- (2) a word or expression in the singular includes the plural and the plural includes the singular;
 - (3) words of one gender include any gender;
 - (4) a reference to a person includes an individual and a body corporate;
 - (5) a reference to a right includes a remedy, power or discretion;
 - (6) a reference to a clause or a schedule is a reference to a clause in or a schedule to this licence; and
 - (7) a reference to this licence includes the reference table and the schedules.
- (b) Examples in this licence are descriptive only and not exhaustive.
 - (c) A heading in this licence may be used to help interpretation, but is not legally binding.
 - (d) A provision of this licence must not be construed against a party solely because that party was responsible for preparing this licence or that provision.

Schedule 1

Licence Fee Review Method

(a) CPI Review Method

- (1) On each CPI Review Date, the Licence Fee is adjusted in accordance with the following formula:

$$R = \frac{CR \times CCPI}{PCPI}$$

Where:

R = the adjusted Licence Fee payable from and including the relevant CPI Review Date

CR = the Licence Fee payable (or which but for any Licence Fee free or Licence Fee reduced period would have been payable) for the review period immediately preceding the CPI Review Date in question;

CCPI = the CPI as last published prior to the relevant CPI Review Date;

PCPI = the CPI as last published prior to the immediately preceding Review Date (or, in the case of the first review, as last published prior to the Commencing Date).

- (2) In Schedule 1(a)(1), **CPI** means the Consumer Price Index (All Groups) for Perth, published by the Australian Bureau of Statistics. If the CPI no longer exists, it means an index that the Licensor decides reflects the changes in the cost of living in Perth.

(b) Market Review Method

- (1) On each Market Review Date, the Licensor is to notify the Licensee in writing (**Licensor's Notice**) of the amount which the Licensor considers to be the Current Market Licence Fee for the Premises.
- (2) The amount specified in the Licensor's Notice will be the Licence Fee to apply from the relevant Market Review Date unless the Licensee notifies the Licensor in writing (**Licensee's Notice**) within 10 Business Days after the Licensor serves the Licensor's Notice on the Licensee that the Licensee disputes the amount specified in the Licensor's Notice.
- (3) If the Licensee serves a Licensee's Notice on the Licensor, the parties must attempt to resolve the dispute about the amount within 10 Business Days after service of the Licensee's Notice on the Licensor.
- (4) If the Licensor and the Licensee have not agreed upon the Current Market Licence Fee to apply from the relevant Market Review Date within the period specified in Schedule 1(b)(3), the Current Market Licence Fee to apply from the relevant Market Review Date is to be determined in the manner specified in Schedule 1(b)(5) to (11) inclusive below.

- (5) The Licensor and the Licensee must confer in good faith with a view to agreeing on and appointing a Valuer within 15 Business Days after service of the Licensee's Notice on the Licensor.
- (6) If the Licensor and the Licensee fail to agree on and appoint a Valuer within the period specified in Schedule 1(b)(5), either party may request the current Chair of the Australian Property Institute Limited (WA office) to appoint, within 10 Business Days, a Valuer to determine the Current Market Licence Fee to apply from the relevant Market Review Date.
- (7) The Valuer appointed under this clause will act as an expert and not as an arbitrator.
- (8) The cost of the Valuer is to be borne and paid by the parties in equal shares.
- (9) Either party may make submissions to the Valuer not later than 10 Business Days after the Valuer accepts the appointment to act.
- (10) The Valuer's determination is final and binding on the Licensor and the Licensee.
- (11) The Valuer must:
 - (A) determine the Current Market Licence Fee within one month of accepting the appointment to act; and
 - (B) give written detailed reasons for the determination and specify the matters to which the Valuer had regard for the purposes of making the determination (for example: submissions of the parties).
- (12) Until the Current Market Licence Fee is agreed or determined under this Schedule 1(b), the Licensee must continue to pay the Licence Fee payable immediately before the relevant Market Review Date.
- (13) On or before the next date an instalment of the Licence Fee is due following agreement or determination of the Current Market Licence Fee under this Schedule 1(b), the Licensee must pay to the Licensor the difference between:
 - (A) what the Licensee has paid on account of the Licence Fee; and
 - (B) the Licence Fee payable,for the period from and including the relevant Market Review Date to (but excluding) that day.
- (14) Despite anything to the contrary expressed in or implied by this licence:
 - (A) time is not of the essence in the giving of the Licensor's Notice; in particular, the Licensor is not, by reason of its failure to give a Licensor's Notice upon or within any time period after a Market Review Date, to forfeit its right to have the Licence Fee reviewed as at that Market Review Date.
 - (B) time is of the essence for the giving of the Licensee's Notice and the implementation by the Licensee of any of the subsequent review procedures contemplated by these provisions.

(15) In Schedule 1(b), **Current Market Licence Fee** means the best annual Licence Fee that can reasonably be obtained for the Premises.

(c) Fixed review

On each Fixed Review Date, the Licence Fee will vary to an amount represented by A in the formula:

$$A = (B \times C) + B$$

Where:

B = is the Licence Fee payable for the year immediately preceding the relevant Fixed Review Date; and

C = is the Fixed Percentage.

(d) Licence Fee not less after review

Despite anything in the previous provisions, the Licence Fee payable after a Review Date shall not be less than the Licence Fee payable immediately prior to the Review Date.

Schedule 2

Premises Plan



Schedule 3

Special conditions

1. Licensee's Works

(a) The Licensor and the Licensee agree that the Licensee may at its cost (and subject to complying with the requirements of this special condition 1):

- (1) undertake works to construct the Helipad, but only with materials of those qualities and to those standards as are first approved of by the Licensor in writing; and
- (2) construct any infrastructure on the Helipad required for the operation of this site as an emergency helipad,

(Licensee's Works).

(b) Prior to the Licensee commencing any Licensee's Works, the Licensee must:

- (1) submit to the Licensor any plans and specifications for the Licensee's Works in such form and with such details as the Licensor may require **(Plans and Specifications)**;
- (2) obtain the Licensor's written approval (not to be unreasonably withheld) to any Plans and Specifications;
- (3) comply with all clearances, approvals, Authorisations and requirements from the Licensor including but not limited to all approvals to work near the Licensor's assets before any works are to be commenced under this licence; and
- (4) obtain the approval or certification of the Plans and Specifications and the Licensee's Works by the local council and any applicable Authority and all other Authorisations that may be required to undertake the Licensee's Works and must consult with and obtain all Authorisations and approvals, including but not limited to environmental, Civil Aviation Safety Authority and Forest Products Commission approvals and provide copies of those Authorisations and approvals to the Licensor if requested by the Licensor.

(c) The Licensee must not make or permit to be made any changes to the Plans and Specifications or to the Licensee's Works as described in the Plans and Specifications except with the Licensor's prior written consent.

(d) Once the Licensee has complied with the provisions of special conditions 1(a) to 1(c) inclusive, the Licensee may proceed with and complete the Licensee's Works, but the Licensee must undertake the Licensee's Works;

- (1) with all due diligence and expedition, in a proper and workmanlike manner and in accordance with Good Industry Practice;

- (2) strictly in compliance with the Plans and Specifications, and the requirements of all Authorisations and Authorities and applicable laws;
 - (3) in accordance with the Licensor's reasonable requirements (if any); and
 - (4) at the Licensee's sole risk and responsibility in all respects.
- (e) The Licensee must indemnify and keep indemnified the Licensor and the Licensor's officers, employees, agents, contractors and invitees from and against all claims, demands, Loss, damage, costs and expenses of every description which the Licensor may suffer or incur in connection with or arising (directly or indirectly) from the Licensee's and the Licensee's Visitors entry upon and occupation of the Premises or the construction, installation or carrying out of any of the Licensee's Works (whether undertaken by the Licensee or any contractor on behalf of or at the direction of the Licensee).
- (f) The Licensee must:
- (1) insure against and ensure that all of its contractors engaged in carrying out the Licensee's Works, insure against any liability, Loss, claim or proceeding whatsoever arising by virtue of any statute relating to workers' compensation or employer's liability, by any person employed in or about the execution of the Licensee's Works and must also insure for the Licensee's and its contractors' common law liability to all such persons for such amount as may be nominated by the Licensor; and
 - (2) on request, produce to the Licensor true copies of all certificates of currency or other evidence of compliance as the Licensor may reasonably require.
- (g) The Licensee's Works (whether undertaken by the Licensee or any contractor on behalf of or at the direction of the Licensee) will be at the risk of the Licensee in all respects and the Licensee hereby releases and discharges the Licensor from all claims for loss of or damage to the Licensee's Property.
- (h) The Licensee must not install in or on the Premises any material which at the time of installation could reasonably be regarded as having the potential to harm the health or safety of persons in or on the Premises for the Licensee's Works.
- (i) At all times during the period of this licence, including any Further Term, the Licensee must duly and diligently keep and maintain, making those replacements as may from time to time be necessary, the Licensee's Works in good and safe operating, repair, order and condition in accordance with Good Industry Practice.
- (j) At the expiry or sooner termination of this licence, the provisions of clause 7 will apply to the Licensee's Works.
- (k) In this special condition 1:

Good Industry Practice means the exercise of that degree of skill, diligence, prudence and foresight that would be reasonably expected from a reputable and prudent person in conducting works similar to Licensee's Works and under conditions comparable to those applicable the Licensee's Works and complying with all applicable:

- (1) standards and codes as would ordinarily apply in the circumstances; and

(2) Laws, Authorisations and requirements of any relevant Authority.

2. **Reinstatement obligations**

- (a) The Licensee agrees that any works required to reinstate the Premises or any part of the Premises and the Land (including any part of the Licensee's Works installed or constructed on the Premises) are the responsibility of and must be completed by the Licensee at its own cost.
- (b) The Licensee must comply with clause 6.5 before commencing any reinstatement works under this special condition 2.

Executed as a deed

Licensors

Executed by **Colm Lawrence Stanley** the **Manager, Property Management of Water Corporation (a Level 1 Attorney)** and by **Domenico Papalia** the **Lead, Property Acquisitions of Water Corporation (a Level 1 Attorney)** as the attorneys for Water Corporation who state that they have no notice of revocation of the **Power of Attorney No N704556 dated 22 August 2017** under which they sign in the presence of:

<i>sign here</i> ▶	_____	_____
	Attorney	Attorney
<i>print name</i>	Colm Lawrence Stanley	Domenico Papalia
<i>Designated post</i>	Manager, Property Management of Water Corporation	Lead, Property Acquisitions of Water Corporation

in the presence of

<i>sign here</i> ▶	_____	_____
	Witness	Witness
<i>print name</i>	_____	_____
<i>address</i>	_____	_____
<i>Occupation</i>	_____	_____

Licensee

Executed for and on behalf of the **SHIRE OF NANNUP** pursuant to section 9.49A of the *Local Government Act 1995*

_____	_____
Signed	Position

Print Full Name

The Common Seal of Shire of Nannup ABN
43 038 160 786 was hereunto affixed by
authority of the Council in the presence of:

Chief Executive Officer (signature)

Mayor (signature)

Chief Executive Officer (print full name)

Mayor (print full name)