City of West Torrens

The Minister for Energy and Mining

Lease

EmPowering SA Community Battery Project

DRAFT

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Background

A City of West Torrens came to a resolution on [insert date] to grant a ground Lease to the Department for Energy and Mining for a term of 20 years at $1 per annum (peppercorn rent) for the purpose of a Facility over a portion of 11-13 Kingston Avenue, Richmond, South Australia.

Details

Item 1	**Landlord** City of West Torrens Address: 165 Sir Donald Bradman Drive, Hilton, SA, 5033 Email: info@wtcc.sa.gov.au Attention: Manager City Property
Item 2	**Tenant** THE MINISTER FOR ENERGY AND MINING ACTING AS A BODY CORPORATE INCORPORATED PURSUANT TO SECTION 7 OF THE ADMINISTRATIVE ARRANGEMENTS ACT 1994 (SA), REPRESENTED BY THE DEPARTMENT FOR ENERGY AND MINING Address: Level 4, 11 Waymouth Street, Adelaide, South Australia 5000 Email: Scott.Oster@sa.gov.au Attention: Scott Oster, Director
Item 3	**Premises** That part of the Land shaded in yellow on the plan in Annexure A.
Item 4	**Land** 11-13 Kingston Avenue, Richmond, South Australia
Item 5	**Term** 20 years
Item 6	**Commencement Date** As determined in accordance with clause 2.2.
Item 7	**Expiry Date** The date that is 20 years after the Commencement Date.
Item 8 (clause 3)	**Rent** $1.00 (if demanded)
Item 9 (clause 5)	**Public liability insurance** $20 million

Item 10	**Permitted Use** Construction, installation, operation, repair, maintenance and decommissioning of the Facility on the Premises and use of the Facility to export electricity to the electricity distribution network.

1 Definitions and interpretation

1.1 Definitions

Unless the contrary intention appears, these meanings apply:

Approval means any permit, licence, authority, consent, certificate or approval required under any Law.

ARENA means the Australian Renewable Energy Agency.

ARENA Funding Agreement means the agreement between the Tenant and ARENA titled Community Batteries Round 1 Funding Agreement and dated 19 February 2025 under which ARENA has agreed to provide a part of the funding for the supply and installation of the Facility.

Business Day means a day on which banks are open for general banking business in Adelaide (not being a Saturday, Sunday or public holiday in that place).

Commencement Date means the date specified in Item 6.

Consequential Loss means any special, indirect or consequential loss, including:

(a) any loss of profit, loss of production, or loss of revenue suffered by the other party;

(b) any loss of use, loss of contract (other than in relation to this lease), loss of opportunity, loss of reputation, loss of goodwill or wasted expenses or overheads; or

(c) losses or costs which would have been avoided by the other party had it acted in accordance with the common law duty to mitigate loss.

Details means the section of this lease headed “Details”.

Expiry Date means the date specified in Item 7.

Facility means a community battery energy storage system.

Government Agency means:

(a) a government (whether federal, state, territorial or local);

(b) a governmental, semi-governmental or judicial entity or authority, including a department, office or minister of a government acting in that capacity; or

(c) a utility or Services provider.

Land means the land described in Item 4 and includes any part of the Land.

Landlord means the person specified in Item 1.

Landlord’s Associates means each of the Landlord’s employees, officers, agents, contractors, suppliers, consultants and other persons who enter the Premises or the Land with the consent (express or implied) or at the invitation of the Landlord.

Landlord’s Property means all plant, equipment, fixtures, fittings and other property the Landlord provides on the Premises but excludes the Tenant’s Property.

Law includes any rule, statute, proclamation, regulation, ordinance or by-law, and any Approval or legally binding direction or requirement issued thereunder, whether present or future and whether state, federal or otherwise, and the common law and principles of equity.

Notice of Intent means a notice issued by the Tenant to the Landlord in accordance with clause 2.2 that provides:

(a) the date when works are planned to commence at the Premises;

(b) the contact details of the Tenant's contractor engaged to carry out the works;

(c) the contact details of the Tenant's contractor's subcontractors (to the extent those contact details are known by the Tenant at the time of issuing the notice);

(d) the Tenant's project lead; and

(e) an overview of the works schedule.

Permitted Use means the use specified in Item 10.

Premises means the premises specified in Item 3 and includes any part of the Premises.

Rent means the yearly amount in Item 8 if demanded by the Landlord.

Services means the services (including water, sewerage, drainage, gas, electricity, communications, fire and emergency services and garbage) provided to or available for use from time to time at the Premises and includes all pipes, conduits, drains, cables, wires, plant and equipment in connection with those services.

State means the State of South Australia.

Tenant means the party specified in Item 2.

Tenant's Associates means each of the Tenant's employees, officers, agents, contractors, subcontractors of the Tenant's contractor, suppliers, consultants and other persons who enter the Premises or the Land with the consent (express or implied) or at the invitation of the Tenant and includes employees and officers of the Tenant's contractor and the Tenant's contractor's subcontractors.

Tenant's Property means all property on the Premises which is not Landlord's Property or Services and includes the Facility.

Term means the period referred to in Item 5 from and including the Commencement Date to and including the Expiry Date.

1.2 Interpretation

In this lease the following rules of interpretation apply unless a contrary intention appears:

(a) Any heading, index, table of contents or marginal note is for convenience only and does not affect the interpretation of this lease.

(b) The singular includes the plural and vice versa and a reference to a gender includes all other genders.

(c) A person includes an individual, body corporate, firm, partnership, joint venture, unincorporated body and Government Agency.

(d) A reference to:

(i) a person includes that person's successors, permitted substitutes and permitted assigns;

(ii) a clause, schedule, attachment, annexure or exhibit is to a clause of, or a schedule, attachment, annexure or exhibit to, this lease;

(iii) this lease or another document includes that document as amended, varied, supplemented, novated or replaced from time to time and any schedule, attachment, annexure or exhibit to that document;

(iv) "agreement" includes an undertaking, deed, contract or other legally enforceable arrangement, whether or not in writing, and a reference to "document" includes an agreement (as so defined) in writing or any certificate, notice, instrument or other document of any kind;

(v) legislation or a provision of legislation includes all regulations, orders or instruments issued under that legislation or provision and any modification, consolidation, amendment, re-enactment, replacement or codification of such legislation or provision;

(vi) "include", "including" and "for example", and similar expressions, when introducing a list of items, does not limit the meaning of the words to which the list relates to those items or to items of a similar kind;

(vii) dollars or $ is to Australian dollars;

(viii) time is to the time in the State;

(ix) a document "in the agreed form" is to the document in the form which has been agreed between the parties on or before the date of this lease as evidenced by communications between their respective legal counsel;

(x) a day, month, quarter or year means a calendar day, month, quarter or year respectively; and

(xi) writing includes any mode of representing or reproducing words in tangible and permanently visible form.

(e) Where a word or expression is defined or given meaning, another grammatical form has a corresponding meaning.

(f) A provision of this lease must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this lease or the inclusion of the provision in this lease.

(g) Where an act would be required to be done (including the payment of any money), or a time limit or period would expire, on a day that is not a Business Day, the act must be done or the time limit or period will expire, on the following Business Day.

(h) A period of time expressed to commence:

(i) before or after a given day, or before or after the day of an act or event, is to be calculated exclusive of that day; and

(ii) on a given day, or on the day of an act or event, is to be calculated inclusive of that day.

2 Grant of Lease

2.1 Lease

The Landlord leases the Premises to the Tenant for the Term:

(a) on and subject to the provisions of this lease; and

(b) subject to any prior encumbrances noted on the title to the Land or in the Details.

2.2 Commencement Date

(a) The Commencement Date is the date that is 10 Business Days after the last to occur of:

(i) development approval under the *Planning Development and Infrastructure Act 2016* (SA) is obtained for the use of the Premises for the Permitted Use;

(ii) the Landlord notifies the Tenant that the Landlord approves the use of the Premises for the Permitted Use with all community consultation required to be undertaken by Law completed; and

(iii) the Tenant issues the Landlord with the Notice of Intent.

(b) The Tenant will keep the Landlord reasonably informed of its progress in obtaining the development approval.

2.3 Holding over

(a) If the Tenant continues to occupy the Premises with the Landlord's consent after the end of this lease, then the Tenant is a monthly tenant and occupies the Premises on the same terms as this lease with any changes necessary to make the terms appropriate for a monthly tenancy and the monthly Rent is the amount equal to one twelfth of the annual Rent payable as at the end of the lease.

(b) Either the Landlord or the Tenant may terminate the monthly tenancy by giving the other at least one month's notice, ending on any day.

2.4 Right of way

(a) For the Term and any holding over of this Lease, the Landlord grants to the Tenant in common with others a free and unrestricted right of way over the portion of the Land as shown in the plan at Annexure B (**Right of Way Area**).

(b) The Tenant and the Tenant's Associates may enter upon the Right of Way Area for the purposes of entering and exiting the Premises with or without vehicles, plant, equipment and other things as deemed necessary or appropriate by the Tenant or the Tenant's Associates at any time of the day or night.

2.5 Early termination right

(a) The Tenant may at any time, at the Tenant's absolute discretion and for any reason, terminate this lease for convenience by 10 Business Days' notice to the Landlord and the provisions of clause 12 apply.

(b) Termination of the lease by the Tenant under this clause 2.5 does not create any liability and neither party has any claim against the other party in relation to the termination other than in relation to any antecedent breach.

3 Rent

The Tenant agrees to pay the Rent annually, on each anniversary of the Commencement Date.

4 Payments

4.1 Manner of payment

The Tenant agrees to make payments under this lease (including the payment of the Rent) to the Landlord, or to a person nominated by the Landlord in a notice to the Tenant, by the method the Landlord reasonably requires without set-off, counterclaim, deduction or abatement.

4.2 Obligations not affected

The expiry or ending of this lease does not affect the Tenant's obligations to make payments under this lease for or in respect of periods before then.

5 Tenant obligations

5.1 Use of Premises

(a) The Tenant must:

(i) not use the Premises or permit the Premises to be used for any purpose other than for the Permitted Use; and

(ii) obtain and comply with all Approvals for the Tenant's use and occupation of the Premises and, if requested by the Landlord, promptly give the Landlord copies of such Approvals.

(b) The Landlord acknowledges that the Approvals may be obtained by a Tenant's Associate.

5.2 General prohibitions

The Tenant must not and must ensure the Tenant's Associates do not:

(a) do or permit to be done anything which might be or become unlawful, immoral or an annoyance, nuisance or damage to the Landlord or any other person in the vicinity of the Premises;

(b) bring or allow to be brought on to the Premises any dangerous, noxious, toxic, volatile or inflammable substances other than substances normally used for carrying on the Permitted Use or for cleaning the Premises; and

(c) at any time do or permit anything in on or about the Land whereby any insurance in respect of the Land may be or become void or voidable or whereby the rate of premium for any insurance may or will be liable to be increased.

5.3 Compliance with Laws and other requirements

The Tenant must:

(a) at all times comply with all Laws and the requirements of all Government Agencies in respect of the Tenant's particular use and occupation of the Premises, whether such compliance is imposed on the Landlord or the Tenant; and

(b) pay to the Landlord the cost of any alterations or additions to the Premises or the Services which the Landlord may be required to make due to the non-compliance by the Tenant with any Laws or requirements of Government Agencies.

5.4 Security

The Tenant must use best endeavours to protect and keep safe from theft and vandalism the Premises and any property contained in it.

5.5 Notice of hazards

The Tenant must promptly notify the Landlord of:

(a) any damage or defect in the Premises, the Facility or any Service which is likely to cause any danger or risk to the Premises or any person in the Premises; and

(b) any significant pest infestation,

of which the Tenant is or should reasonably be aware.

5.6 No contamination

(a) The Tenant must not do or permit or suffer to be done anything that does or is likely to cause, and must do all things necessary to prevent, any contamination, pollution or degradation of the Premises or the Land or any ground water in, on, under or in the vicinity of the Premises or the Land.

(b) If the Tenant becomes aware of any contamination, pollution or degradation occurs in contravention of clause 5.6(a), then the Tenant must immediately notify the Landlord and promptly remediate to the satisfaction of the Landlord and any relevant Government Agencies in accordance with all relevant Laws and standards.

5.7 Inspection of Premises

(a) Subject to clause 14.7, the Tenant must permit the Landlord, and any person authorised by the Landlord, at all reasonable times on reasonable notice (being not less than 10 Business Days' notice) to enter the Premises and view its state of repair and if there is any defect or damage which the Tenant is obliged to repair under this lease the Landlord may notify the Tenant of the defect or damage and require the Tenant to repair it within a reasonable time.

(b) In any entry to the Premises, the Landlord must and ensure that the Landlord's Associates must comply with the Tenant's and the Tenant's Associates' security and safety requirements for the Premises.

5.8 Passage of services

The Tenant must allow the Landlord and other occupiers of the Land free and uninterrupted passage of water, electricity, sewerage, gas, communications and other services situated under, in, on or about the Premises.

5.9 Tenant's Associates

The Tenant must ensure that the Tenant's Associates comply with the Tenant's obligations under this lease.

5.10 Separately metered Services

The Tenant must pay all charges for Services which are separately metered to the Premises on or before their due date for payment.

6 Repairs and maintenance

6.1 Tenant's obligations

(a) Except to the extent the Landlord is required to do so under clause 6.2, the Tenant must keep the Premises, the Facility and the Tenant's Property clean and tidy and in good and substantial repair, maintenance and condition (subject to fair wear and tear, but including the removal of any graffiti on the Facility from time to time).

(b) The Tenant must make good any damage to the Premises and the Land caused or contributed to by the Tenant or any of the Tenant's Associates.

6.2 Landlord's obligations

The Landlord must keep the area around the Facility on the Premises and the Land clean and tidy, including regularly mowing the grass, controlling and removing weeds and removing litter.

7 Alterations to Premises

7.1 Landlord's consent

(a) The Tenant must not carry out any works, including any installation, alteration or addition, in, on or to the Premises (other than as reasonably required for the Permitted Use) without the Landlord's consent, which must not be unreasonably withheld, conditioned or delayed.

(b) Subject to clause 7.1(c), the Landlord may require that specified works be reinstated or not reinstated and specified items of the Tenant's Property be removed or not removed at the end of this lease and the Tenant must comply with such requirements.

(c) The Landlord acknowledges and agrees that the Facility constructed and installed by or on behalf of the Tenant on the Premises, and all improvements on the Premises, are and will remain the Tenant's Property, will not constitute a fixture to the Premises or Landlord's Property and may, notwithstanding any requirement of the Landlord under clause 7.1(b), be removed at the end of this lease.

7.2 Tenant's other obligations

In carrying out the works, the Tenant must:

(a) minimise disturbance and inconvenience to any other occupants of the Land;

(b) comply with all Laws and the requirements of Government Agencies;

(c) accept full responsibility for the conduct and safety of the Tenant's Associates;

(d) remove from the Land all rubbish and residual materials which result from the works;

(e) take all reasonable measures to protect the Premises and the Land and, at the option of the Landlord, the Tenant must either:

(i) repair and make good to the reasonable satisfaction of the Landlord any damage caused to the Premises or the Land by the Tenant or the Tenant's Associates; or

(ii) reimburse the Landlord for the proper costs incurred by the Landlord in having that damage made good by the Landlord's contractors; and

(f) comply with the reasonable requirements of the Landlord.

8 Insurance and indemnities

8.1 Public liability insurance

The Tenant must or cause a Tenant's Associate to for the Term effect and keep current in respect of the Premises a public liability insurance policy:

(a) with a limit of at least the amount specified in Item 9 per claim or occurrence (or such other amount as the Landlord may reasonably require and notify the Tenant);

(b) which contains all provisions that are normally contained in public liability policies and any other provisions reasonably required by the Landlord; and

(c) which expressly refers to and covers all of the Tenant's obligations under this lease, including the obligation to indemnify the Landlord.

8.2 Other insurances

The Tenant must or cause a Tenant's Associate to for the Term effect and keep current an insurance policy for:

(a) the Tenant's Property for its full insurable value or replacement value against damage and destruction;

(b) each person employed by the Tenant in the business conducted on the Premises for the full amount of the Tenant's liability under any applicable workers' compensation legislation and the Tenant's potential legal liability independently of that legislation (if any); and

(c) any other risk the Tenant is required to insure against by Law.

8.3 Policies and certificates

(a) Each insurance policy required to be taken out by the Tenant under this lease must:

(i) be with a solvent and reputable insurer; and

(ii) contain a requirement that the insurer will not cancel or change the insurance without first giving the Landlord at least 10 Business Days' notice.

(b) The Tenant must give the Landlord (if requested) a copy of the current certificates of currency of insurances for the insurance policies that the Tenant is required to take out under this clause 8.

8.4 Self-insurance

The Landlord acknowledges and agrees that despite any other provisions in clauses 8.1 to 8.3:

(a) the Tenant may effect and maintain insurance by way of a global insurance policy; and

(b) the Tenant may elect to self-insure in relation to the risks to be insured.

8.5 Tenant's risk

The Tenant occupies and uses the Premises and the Land, at its own risk. If the Tenant is obliged to do anything under this lease, then it does so at its cost and at its own risk.

8.6 Indemnities

The Tenant indemnifies and keeps indemnified the Landlord and its agents, employees, officers and contractors for and against all actions, claims, demands, losses, damages, costs and expenses (but excluding any amounts for Consequential Loss), which the Landlord suffers, incurs or is liable for arising from or in connection with:

(a) any loss, damage or injury to property or person to the extent caused or contributed to by the act, omission, negligence or default of the Tenant or the Tenant's Associates;

(b) any default by the Tenant or the Tenant's Associates under this lease;

(c) the use or occupation of the Premises or the Land by the Tenant or the Tenant's Associates;

(d) any Service not working properly, being unavailable or being interrupted, or the misuse of any Service provided to the Premises; and

(e) the overflow or leakage of water, including rain water, in, on or from the Premises either originating within the Premises which is caused or contributed to by any act or omission by the Tenant or any of the Tenant's Associates,

except to the extent caused by the negligence or default of the Landlord or the Landlord's Associates.

8.7 Release of Landlord

The Tenant releases the Landlord from all liability and from any actions, claims, demands, losses, damages, costs and expenses directly or indirectly arising from or in connection with:

(a) loss of or damage to the Tenant's Property or the Tenant's loss of profits;

(b) claims, demands and damages resulting from or contributed to by any accident incident, damage, death or injury occurring in, on or about the Premises or the Land; and

(c) loss or damage caused or contributed to by:

(i) flooding of the Premises or blockage of any sewers, waste, drains, gutters or pipes; or

(ii) any malfunction, failure to function or interruption of or to the Services, computers, management systems and other systems and services situated in or serving the Premises or any other part of the Land,

except to the extent caused by the negligence or default of the Landlord or the Landlord's Associates.

8.8 Cap

The indemnities provided by the Tenant in this lease are limited to a maximum aggregate amount of $20,000,000 in respect of any and all claims arising out of any one or more events during the Term of this lease.

9 Assignment, subletting and other dealings

9.1 No dealings

The Tenant must not do any of the following unless it obtains the Landlord's consent (which consent is not to be unreasonably withheld or delayed or given on unreasonable conditions):

(a) assign or transfer this lease other than to another department, office or minister of the government of the State or the Commonwealth of Australia or any person nominated by any of them;

(b) grant a sublease or any licence of the Premises;

(c) mortgage, charge or encumber this lease or the Premises; or

(d) deal with its rights under this lease in any other way,

and the Landlord acknowledges and agrees that any rights to access or use the Premises given by the Tenant to a Tenant's Associate for purposes associated with carrying out the Permitted Use or other obligations of the Tenant under this lease does not trigger this clause.

9.2 General requirements

If the Tenant requests the Landlord's consent to a proposed dealing under clause 9.1, then promptly on demand from the Landlord (irrespective of whether the Landlord consents to such dealing) the Tenant must:

(a) pay all arrears of Rent and other money owing under this lease and remedy all outstanding breaches and defaults; and

(b) pay the Landlord's reasonable estimate of costs and expenses in relation to the Landlord's enquiries concerning the proposed dealing or the persons concerned in such dealing and of the perusal, preparation and stamping of any documents required by the Landlord.

9.3 Assignment requirements

If the Landlord consents to an assignment or transfer of this lease or if an assignment or transfer of this lease is otherwise permitted under this lease, then in addition to the requirements under clause 9.2:

(a) the Tenant and assignee must enter into a deed in the form reasonably required by the Landlord under which (among other things):

(i) the assignee agrees to perform all of the Tenant's express and implied obligations under this lease, including the obligation to indemnify the Landlord; and

(ii) the Tenant releases the Landlord from all its obligations under this lease; and

(b) if this lease is registered, the Tenant must give the Landlord a signed, stamped (if applicable) and registrable transfer in the form required by the land titles office in the State and the registration fees.

10 Default

10.1 Events of default

(a) Subject to clause 10.1(b), each of the following is a default by the Tenant under this lease:

(i) the Tenant does not comply with any obligation of this lease and:

(A) if the failure to comply can be remedied, the Landlord gives the Tenant notice of the breach with 30 Business Days to remedy and the Tenant does not remedy the breach within the time specified in the Landlord's notice; or

(B) if the failure to comply cannot be remedied but the Landlord can be compensated, the Tenant does not pay the Landlord compensation within 30 Business Days after the Landlord gives the Tenant notice asking the Tenant to pay it; or

(ii) the Tenant repudiates this lease; or

(iii) the Tenant vacates or abandons the Premises during the Term.

(b) The Landlord agrees the time the Tenant has to either:

(i) remedy a breach under clause 10.1(a)(i)(A); or

(ii) compensate the Landlord under clause 10.1(a)(i)(B),

may be extended by notice from the Tenant to the Landlord (which notice may be provided on more than one occasion) provided that the total period to remedy is no more than 120 days.

10.2 Landlord's right to terminate

(a) If the Tenant defaults under clause 10.1, then the Landlord may without any prior notice or demand (unless prior demand or notice is required by Law or under this lease) re-enter and take possession of the Premises and eject the Tenant and all other persons and repossess the Premises and/or terminate this lease without prejudice to any other right or remedy of the Landlord for breach of any term of this lease.

(b) If the Landlord exercises any right under clause 10.2(a), then the Tenant:

(i) releases and discharges the Landlord from any action, claim or demand by or obligation to the Tenant under or in respect of this lease; and

(ii) is not entitled to claim or receive from the Landlord any compensation or damages in respect of such termination and/or re-entry and repossession.

10.3 Costs and remedies on default

All costs incurred by the Landlord in respect of the recovery of Rent and other money payable by the Tenant to the Landlord under this lease are deemed to be additional Rent falling due and payable on the date on which the Landlord incurs such costs.

11 Destruction or damage

If the Premises are:

(a) wholly or substantially damaged or destroyed, then the Landlord may terminate this lease by giving the Tenant at least 30 Business Days' notice to that effect; or

(b) damaged or destroyed so as to render the Premises wholly or substantially unfit for use or inaccessible by the Tenant and the Landlord gives the Tenant notice that the Landlord considers that it is impracticable or undesirable to effect repairs, then either the Landlord or the Tenant may terminate this lease by giving the other at least 30 Business Days' notice to that effect.

12 End of Lease

Before the end of the lease, the Tenant must at its cost:

(a) peaceably surrender and yield up possession of the Premises in a safe, clean and tidy condition;

(b) subject to clause 7.1(b), remove all of the Tenant's Property from the Premises and all the alterations and additions in, to on and about the Premises and the Land effected by or on behalf of or at the request of the Tenant;

(c) remove all rubbish and leave the Premises and the Land in a clean and safe condition;

(d) minimise the damage to the Premises and the Land in carrying out its obligations under this clause 12 and immediately make good any resulting damage; and

(e) comply with the Landlord's reasonable requirements in respect of complying with this clause 12.

13 ARENA Funding Agreement

13.1 Overview

(a) The Landlord acknowledges the establishment of the Facility is part of a South Australian government project, funded in part by ARENA, for the establishment of suite of community batteries (to be owned by the Tenant and operated on its behalf by the AGL group of companies) (**Project**). The Project must, amongst other things, be undertaken in accordance with ARENA's requirements.

(b) ARENA's requirements relevant to the Landlord are set out in this clause 13.

(c) To the extent relevant to the Landlord's role as owner of the Premises, the Landlord must otherwise co-operate with the Tenant to assist successful implementation of the Project in a manner consistent with ARENA's requirements.

13.2 Public disclosures and announcements by the Landlord

(a) All public disclosures and announcements by the Landlord relating to this Lease, the Facility, the Project or the Premises must be approved by the Tenant, other than where the Landlord reasonably believes that such disclosure or announcement is required by any Law. The Landlord acknowledges that before the Tenant may consent to a public disclosure or announcement it may need to obtain the consent of ARENA.

(b) Without limiting clause 13.1(a), all public disclosures and announcements by the Landlord relating to the Facility or the Project must include the following statements (or as otherwise updated by the Tenant):

(i) "The views expressed herein are not necessarily the views of the Australian Government, and the Australian Government does not accept responsibility for any information or advice contained herein."; and

(ii) "This Project received funding from the Australian Renewable Energy Agency (ARENA) as part of the Community Battery Round 1 under ARENA's Advancing Renewables Program."

(c) Where the Landlord makes a disclosure or announcement relating to this Lease, the Facility, the Project or the Premises that the Landlord reasonably believes is required by any Law, the Landlord must notify the Tenant of that disclosure or announcement as soon as is practicable.

(d) The Landlord acknowledges the Tenant will install a sign at the Premises acknowledging ARENA's contribution to the Facility which includes the following statement:

"The South Australian Government has received support from the Australian Renewable Energy Agency (ARENA) for the empowering South Australia Project as part of ARENA's Community Batteries: Round 1".

13.3 ARENA Confidential Information

If the Tenant discloses information to the Landlord which the Tenant notifies the Landlord is 'ARENA Confidential Information' under the ARENA Funding Agreement, the Landlord must keep that information strictly confidential. The Landlord may only disclose that ARENA Confidential Information to third parties if required by Law and, in such case, must notify the Tenant as soon as practicable before the ARENA Confidential Information is disclosed.

13.4 Public disclosures and announcements by ARENA

The Landlord acknowledges and agrees that public disclosures or announcements made by ARENA relating to the Project may include references to the Landlord or the Land.

13.5 Work Health and Safety Laws

The Landlord must ensure the Landlord's Associates in accessing the Premises comply with all applicable requirements of work health and safety Laws.

13.6 Notification of injuries and incidents

If in the course of a Landlord's Associate accessing the Premises any of the following occur:

(a) death;

(b) personal injury;

(c) damage to property; or

(d) notifiable incident (being an incident which is required to be notified to a Governmental Agency under any Law relating to occupational health and safety),

the Landlord must immediately notify the Tenant and co-operate with ARENA in respect of any investigation ARENA wishes to undertake in respect of the incident (including providing an investigation report on the causes and effects of, and corrective and preventative actions arising from, the incident and, providing updates on the status of any such actions as reasonably required by ARENA).

14 Landlord's rights and obligations

14.1 Quiet possession

Subject to the Landlord's rights under this lease, the Tenant may peaceably possess the Premises for the Term without any interruption or disturbance from the Landlord.

14.2 Rates, taxes and outgoings

The Landlord must pay all rates, taxes and other outgoings imposed on or payable in respect of the Land, excluding amounts payable by the Tenant under any other clause in this lease.

14.3 Consent

(a) Unless otherwise provided in this lease, where the Landlord's consent or approval is required, then such consent or approval:

(i) means prior written consent or prior written approval (as the case may be);

(ii) may be given or withheld in the reasonable discretion of the Landlord;

(iii) must be given or withheld within 10 Business Days of receipt of a request by the Tenant and, if not given or withheld within that timeframe, will be deemed to have been given; and

(iv) if given, may be made unconditional or subject to reasonable conditions,

and the Tenant must pay and reimburse the Landlord any reasonable costs and fees paid or payable by the Landlord to any agents, consultants, contractors, solicitors or any other person to examine or advise on any application for such consent or approval and all incidental documents and any other money expended in respect of such application for consent or approval.

(b) If any Law or requirement of any Government Agency requires the Tenant's consent for any process, step or dealing by the Landlord with its interest in the Land, then the Tenant must give its written consent to such proposed process, step or dealing within 10 Business Days after receiving a written request from the Landlord to do so, provided that such proposed process, step or dealing does not materially detrimentally affect the Tenant's use or occupation of the Premises and the Landlord pays the Tenant's reasonable costs.

14.4 Landlord's right to enter Premises

(a) Subject to clause 14.7, the Landlord may at all reasonable times and on giving the Tenant prior reasonable notice (being not less than 10 Business Days' notice) (except in the case of an emergency when no notice is required) enter the Premises to:

(i) determine the condition of the Premises or whether the Tenant is complying with this lease;

(ii) exercise its rights under this lease;

(iii) subject to the Tenant's prior consent in writing carry out any work to the Premises or the Land or to any adjacent property of the Landlord;

(iv) subject to the Tenant's prior consent in writing enable it to comply with any Law or any notice from any Government Agency; and/or

(v) ensure that the Premises are secure.

(b) When exercising its rights under clause 14.4(a) the Landlord must take reasonable steps to minimise any disruption to the Tenant (except in the case of an emergency).

14.5 Resumption

The Landlord may terminate this lease by notice to the Tenant if the Land or any part of it is resumed by any Government Agency. The Landlord is not liable to the Tenant in respect of the termination and the Tenant must not make any claim or commence any action against the Landlord in connection with the termination of this lease under this clause 14.5.

14.6 Appointment of agent

(a) The Landlord may appoint or authorise an agent or other person to do anything it may or must do under this lease, including to manage the Premises and/or the Land, and any such agent will represent the Landlord in all matters relating to this lease, except where the Landlord otherwise notifies the Tenant.

(b) If there is any inconsistency between any communication from the Landlord to the Tenant and any communication from the managing agent to the Tenant, then the communication from the Landlord prevails to the extent of that inconsistency.

14.7 Restricted access to Premises

The Tenant may exclude any person (including the Landlord) from the Premises or the Land if required by Law, or a Government Agency or for safety or security reasons.

15 GST

15.1 Definitions

(a) In this clause 15, expressions which are not defined, but which have a defined meaning in the GST Law, have the same meaning.

(b) The term “consideration” takes its ordinary meaning, rather than its defined meaning in the GST Law.

(c) If a supply is treated as a periodic or progressive supply under the GST Law, each periodic or progressive component of the supply will be treated as if it is a separate supply.

15.2 Consideration is exclusive of GST

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided in accordance with this lease are exclusive of GST.

15.3 Recipient to pay additional amount

If GST is imposed on any supply made under or in connection with this lease, the recipient of the taxable supply must pay an additional amount equal to the GST payable on or for the taxable supply in accordance with clause 15.5.

15.4 Tax invoice

If an additional amount is payable on a taxable supply under clause 15.3, then the supplier (or the representative member of any GST group to which it belongs) must give the recipient a tax invoice for the supply.

15.5 Payment of the additional amount

If an additional amount is payable in relation to a supply under clause 15.3, then the recipient must:

(a) if required by the GST Law to do so, pay the Commissioner of Taxation so much of the additional amount as required on or before the day specified by the GST Law; and

(b) pay the supplier so much of the additional amount which is not required to be paid to the Commissioner of Taxation:

(i) if any monetary consideration is payable for the supply and a tax invoice has been given under clause 15.4, at the same time and in the same manner as that monetary consideration; or

(ii) in any other case, within 14 days after the day on which the tax invoice is given.

15.6 Reimbursement

If this lease requires a party to pay for, reimburse or contribute to any expense, Loss or outgoing (**Reimbursable Expense**) suffered or incurred by another party, the amount required to be paid, reimbursed or contributed by the first party will be the amount of the Reimbursable Expense net of input tax credits (if any) to which the other party (or the representative member of any GST group to which it belongs) is entitled in respect of the Reimbursable Expense plus any amount under clause 15.3.

15.7 Adjustment events

If at any time an adjustment event arises in respect of any supply made by a party under this lease, a corresponding adjustment must be made between the parties in respect of any amount paid by the recipient pursuant to clause 15.3 and payments to give effect to the adjustment must be made and the supplier (or the representative member of any GST group to which it belongs) must issue an adjustment note.

15.8 Effect of GST on the calculation of amounts

In this lease, other than this clause 15, if an amount is required to be calculated by reference to a loss or outgoing or income or revenue (**Calculated Amount**), the Calculated Amount must be determined:

(a) in the case of a loss or outgoing, excluding:

(i) the input tax credits (if any) which a party (or the representative member of any GST group to which it belongs) is entitled in respect of the acquisition related to the amount paid or payable; and

(ii) any decreasing adjustment (if any) related to that amount; or

(b) in the case of income or revenue, excluding:

(i) the GST (if any) (including any additional amount paid calculated pursuant to clause 15.3) payable on a taxable supply to which the income or revenue relates; and

(ii) any increasing adjustment relating to that amount.

16 Notices

16.1 How to give notices

Any notice or other communication of a party contemplated by this lease (including any agreement, request, demand, direction, consent, waiver or approval) must be:

(a) in writing in English, legible and signed by the party or its agent; and

(b) sent by express or registered post (with delivery confirmation) or email, or delivered, to the recipient, attention the recipient's contact, in each case using the relevant details set out in the Details or any new details later notified by the recipient.

If a party sends a communication contemplated by this lease other than by email, it must use all reasonable endeavours to also send a copy of the communication promptly by email.

16.2 Time of receipt

A communication contemplated by this lease is taken to be received:

(a) if hand-delivered, at the time of delivery;

(b) if sent by express or registered post (with delivery confirmation), on the last day of the delivery period published by the relevant postal authority for delivery by that method to the recipient's location; and

(c) if sent by email, the earlier of:

(i) when the sender receives a delivery confirmation report that records the time that the email was delivered to the recipient's email address (unless the sender receives a delivery failure notification indicating that the email has not been delivered to the recipient's email address, or the sender knows or reasonably ought to know that the email was not delivered to the recipient's email address or the recipient could not open the communication due to its format);

(ii) the time the email becomes capable of being retrieved by the recipient's email address; and

(iii) the time it is otherwise established that the email (including any attachment) came to the attention of the recipient.

If due to this clause 16.2 a communication would be taken to be received on a day that is not, or after 5.00 pm on, a Business Day in the place of receipt, the communication is taken to have been received at 9.00 am on the first Business Day in the place of receipt after that day. The place of receipt of an email is the address of the recipient contemplated by clause 16.1(b)

17 Governing law and jurisdiction

17.1 Governing law

This document is governed by the laws of the State.

17.2 Submission to jurisdiction

Each party irrevocably submits to the non-exclusive jurisdiction of the courts of, and Commonwealth courts having jurisdiction in, the State and waives any right to object to proceedings being brought in those courts on the basis that proceedings have been brought in an inconvenient forum.

18 General

18.1 Costs

(a) Each party is responsible for its own legal costs in relation to the preparation, negotiations and execution of this lease.

(b) The Tenant must pay the registration fees and the cost of preparing and registering any lease plan required to register this lease and any stamp duty (if applicable) in relation to this lease.

(c) The Tenant must pay to the Landlord on demand the amount of all costs and expenses paid or payable by the Landlord in relation to:

(i) the actual enforcement of or the actual exercise or preservation of any rights and powers under this lease;

(ii) any default by the Tenant under this lease;

(iii) any assignment, transfer, sublease, licence, mortgage, charge or other encumbrance contemplated by clause 9; and

(iv) any amendment or variation to, or waiver of or under, or surrender of, this lease otherwise than by effluxion of time and if requested by the Tenant.

18.2 Entire agreement

This lease between the parties embodies the entire agreement between the parties in respect of its subject matter.

18.3 Variation

This lease can only be varied by a document signed by all of the parties.

18.4 Further acts

Each party must, at its own expense, do all things (including the execution and delivery of documents) required by Law or reasonably requested by another party to give effect to this lease and the transactions contemplated by it.

18.5 Exercise of rights

A party may exercise a right or a remedy, or give or withhold a consent, waiver or approval, in its absolute discretion (including by imposing conditions), unless this lease expressly provides otherwise.

18.6 Waiver

A party is only bound by a waiver that it gives or confirms in writing. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given. No other conduct of a party (including a failure to exercise, or delay in exercising, a right) operates as a waiver of a right or otherwise prevents the exercise of a right.

18.7 Indemnities

Unless this lease provides otherwise:

(a) each indemnity in this lease is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, settlement or expiration of this lease;

(b) it is not necessary for a party to incur expense or make any payment before enforcing a right of indemnity conferred by this lease; and

(c) the making of a claim by a party under an indemnity contained in this lease in respect of a particular event does not preclude that party from subsequently making further claims under that indemnity in respect of the same event.

18.8 No merger

The warranties, undertakings and indemnities in this lease do not merge on settlement of any transaction under or contemplated by this lease.

18.9 Severance

If a provision of this lease would, but for this clause 18.9, be void, unenforceable or illegal in a jurisdiction:

(a) the provision is read down to the extent necessary to avoid that result; and

(b) if the provision cannot be read down, to that extent, it is severed in that jurisdiction,

without affecting the validity and enforceability of that provision in any other jurisdiction or any other provisions of this lease. This clause 18.9 has no effect if its operation alters the basic nature of this lease or is contrary to public policy.

18.10 Remedies cumulative

The rights and remedies provided in this lease are in addition to other rights and remedies given by Law independently of this lease, unless this lease expressly provides otherwise.

18.11 Accrued rights

Termination or expiry of this lease for any reason does not affect the accrued rights of the parties under it.

18.12 Statutory provisions

No covenants and powers in sections 124 and 125 of the *Real Property Act 1886* (SA) are implied in this lease.

18.13 Clauses surviving termination

Clauses that are by their nature intended to survive the termination or expiry of this lease, survive the termination or expiry of this lease.

18.14 Counterparts

This lease may be executed in counterparts which together constitute one instrument but is not effective until each party has executed at least one counterpart and the counterparts have been exchanged. Each party consents to the exchange of counterparts by email or other electronic means.

Execution

SIGNED by the Chief Executive Officer of the Department for Energy and Mining for and on behalf of **THE MINISTER FOR ENERGY AND MINING** in the presence of:)

_____

Witness signature

_____

Witness name

_____

Chief Executive Officer of the Department for Energy and Mining signature

_____

Chief Executive Officer of the Department for Energy and Mining name

EXECUTED by an authorised representative of **THE CITY OF WEST TORRENS** under delegation pursuant to section 44 of the Local Government Act 1999:

_____

Signature of Authorised Representative

_____

Name of Authorised Representative (print)

_____

Position of Authorised Representative (print)

_____

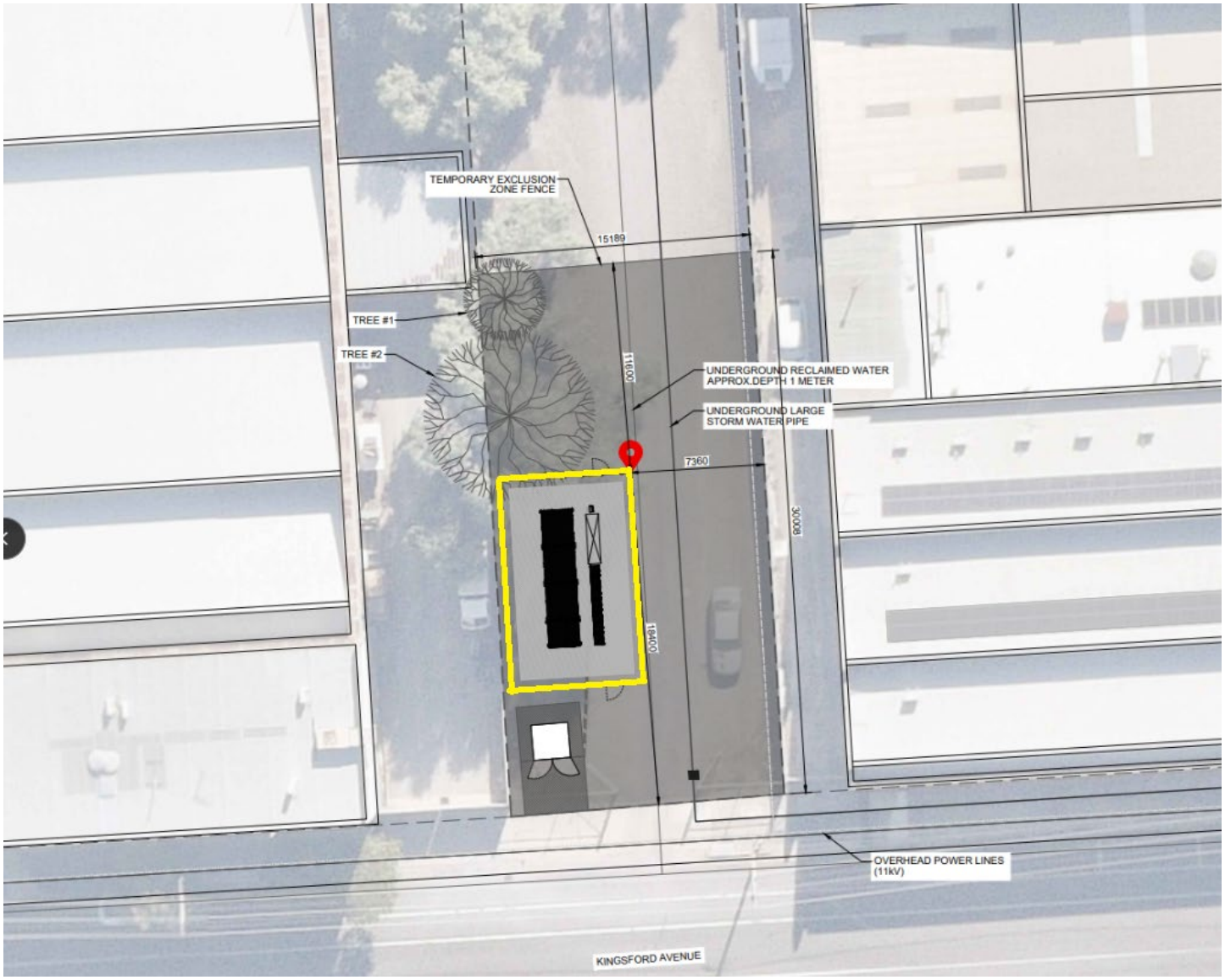
Signature of Witness

_____

Name of Witness (print)

Annexure A – Premises Plan

Leased area is a portion of 11-13 Kingston Avenue, Richmond, South Australia, approximately delineated in yellow on the below plan.



Annexure B– Right of Way Area

Right of way is provided over a portion of 11-13 Kingston Avenue, Richmond, South Australia, approximately delineated in red on the below plan.

