

DATED

2008

GROUND LEASE

BETWEEN

ANANGU PITJANTJATJARA YANKUNYTJATJARA

("the Lessor")

-AND-

MINISTER FOR HOUSING

("the Lessee")



**Government
of South Australia**

CROWN SOLICITOR

Level 9, 45 Pirie Street, Adelaide SA 5000

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THIS LEASE made the _____ day of _____ 2008

BETWEEN:

ANANGU PITJANTJATJARA YANKUNYTJATJARA (ABN: 77 261 612 162) a body corporate pursuant to the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981* (SA) of PMB 227 Umuwa via Alice Springs 0872 Northern Territory ("**the Lessor**")

AND

MINISTER FOR HOUSING a body corporate established by virtue of the *Administrative Arrangements Act 1994* (SA) whose office is situated at level 4, 45 Pirie Street, Adelaide 5000 in the State of South Australia (“**the Lessee**”).

RECITALS:

- A. Pursuant to the APY Act, the Governor issued a land grant to Anangu Pitjantjatjara Yankunytjatjara for the whole of the lands comprised and described in Land Grant Register Book Volume 4183 Folio 627 in South Australia.
- B. Pursuant to the APY Act, Anangu Pitjantjatjara Yankunytjatjara as the Lessor is responsible for the management, use and control of the lands and provides approval for the management, use and control of the lands in consultation with Traditional Owners.
- C. The Lessor has consulted the Traditional Owners of the Site and the Common Area and has had regard to their interests, and is satisfied that the Traditional Owners of the Site and the Common Area concerned understand the nature and purpose of this Lease and consent to it.
- D. For the purposes of section 6(4) of the APY Act, the Executive Board has made a resolution to grant this Lease.

1. **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

In this Lease, the following words and expressions shall have the following meanings, unless the context otherwise requires:

- 1.1.1 **"Anangu"** is a person who is:
 - (a) Anangu as defined in the APY Act; or
 - (b) a member of the Pitjantjatjara, Yankunytjatjara or Ngaanyatjarra people; or
 - (c) Aboriginal and a resident on the lands;
- 1.1.2 **"the Anangu Housing Model"** means the Minister for Housing's model for the provision of public housing accommodation on the Site, to Anangu, as amended from time to time which model shall form part of a memorandum of understanding between the parties as amended from time to time;
- 1.1.3 **"the APY Act"** means the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*;
- 1.1.4 **"Claim"** means any claim, demand, action, cause of action, proceedings, judgment, order, relief, remedy, right, entitlement, damage, loss, compensation, reimbursement, cost, expense or liability incurred, suffered, brought, made or recovered of whatever nature, howsoever arising and whether presently ascertained, immediate, future or contingent or whether arising at law or in equity or whether of a contractual, proprietary or tortious nature (whether in negligence, other breach of duty, of a strict liability or otherwise);
- 1.1.5 **"the Commencement Date"** means the date on which the Minister receives the Lease, duly executed by both parties, from the Lessor in accordance with clause 6.4;
- 1.1.6 **"the Common Area"** means those parts of the lands excluding the Site provided by the Lessor from time to time for common use by tenants and occupiers of the lands including access ways, access to and from public roads to and from the Site and other facilities designated by the Lessor as common areas;
- 1.1.7 **"the Executive Board"** has the same meaning as found in the APY Act;
- 1.1.8 **"General Manager"** has the same meaning as found in the APY Act;

- 1.1.9 **“Insurable Risk”** means any of the following risks, namely, fire, storm, tempest, earthquake, lightning, rain, water and other water damage including flood, aircraft and other aerial devices and articles dropped from them, explosion, malicious damage whether caused by tenants or not, riot, strikes, impact by vehicles, sprinkler leakage and other usual and necessary risks (including but not limited to public liability and workers compensation) against which a prudent building owner can and does ordinarily insure;
- 1.1.10 **“the lands”** has the same meaning as found in the APY Act, being the lands comprised in Land Grant Register Book Volume 4183 Folio 627;
- 1.1.11 **“the Lessee”** means the Minister for Housing and includes the Lessee’s successors and where appropriate the Lessee’s permitted assigns or subtenants and the Lessee’s Representative;
- 1.1.12 **“the Lessee’s Representative”** means a public servant or other mutually agreed person as nominated in writing from time to time to the Lessor by the Lessee as the Lessee’s Representative;
- 1.1.13 **“the Lessor”** means Anangu Pitjantjatjara Yankunytjatjara a body corporate pursuant to the APY Act;
- 1.1.14 **“Permitted Use”** means construction, renovation or rebuilding of public housing accommodation by the Lessee in accordance with the Anangu Housing Model and use of the same for the benefit of Anangu;
- 1.1.15 **“Rent”** means \$1.00 for the Term (which rent is exclusive of GST);
- 1.1.16 **“the Services”** means any sewerage, gas, light, power and electricity services situated on the lands that service the Site;
- 1.1.17 **“the Site”** means those unimproved portions of the lands bounded in red as identified in Annexure A, with all fixtures, fittings, plant and equipment and any alterations being improvements made by the Lessee during the Term;
- 1.1.18 **“the Term”** means FIFTY (50) years from the Commencement Date;
- 1.1.19 **“Traditional Owner”** has the same meaning as that in the APY Act.

1.2 **Interpretation**

- 1.2.1 Words importing the singular shall include the plural and vice versa and words importing a gender shall include every other gender;

- 1.2.2 Where two or more persons are included as "Lessor", the Lessor's obligations set out in this Lease refer to and shall bind such persons and any two or greater number of them jointly and each of them severally;
- 1.2.3 Any reference to a person shall include a body corporate and vice versa;
- 1.2.4 Reference to a statute includes all statutes amending, consolidating or replacing the statutes referred to;
- 1.2.5 Headings and clause numbers have been inserted for the purpose of convenient reference only and shall not affect the construction or interpretation of this Lease;
- 1.2.6 Where the words "Not Applicable" appear opposite any Item of the Schedule, then each and every clause in this Lease in which specific reference is made to such part of the relevant Item of the Schedule shall be of no effect;
- 1.2.7 A reference to writing shall be construed as including a reference to any mode of representing or reproducing words, figures or symbols in a visible form;
- 1.2.8 A reference to the Site includes, where appropriate, any part or parts of the Site.

2. **LESSOR'S OBLIGATIONS**

2.1 **Grant of Lease**

The Lessor grants the Lessee a lease of the Site for the Term.

2.2 **Quiet Enjoyment**

The Lessee may peaceably possess and enjoy the Site without interruptions or disturbance from the Lessor or from any person claiming under or from the Lessor, except for any interruption or disturbance which may be permitted by the terms of this Lease.

2.3 **Provide and Maintain the Common Areas and Services**

The Lessor will at all times throughout the Term:

- 2.3.1 [Deleted Intentionally]; and
- 2.3.2 not hinder the Services.

3. LESSEE'S OBLIGATIONS

3.1 Pay Rent

The Lessee shall pay the Rent to the Lessor if demanded by the Lessor, upon provision of a tax invoice.

3.2 GST

3.2.1 Definitions

In the provisions of this Lease dealing with GST:

“**GST**” means the tax imposed by the GST Law;

“**GST Law**” has the meaning attributed in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

“**Tax Invoice**” has the meaning attributed in the GST Law;

“**Taxable Supply**” has the meaning attributed in the GST Law.

3.2.2 Liability for GST

(a) The amount payable by the Lessee to the Lessor for, or in connection with a Taxable Supply under this Lease does not include any GST.

(b) The Lessee must pay the Lessor an additional amount on account of GST equal to the amount payable by the Lessee for the relevant supply multiplied by the prevailing GST rate.

3.2.3 Timing

(a) Subject to subclause 3.2.3(b) the additional amount is payable at the same time as when the amount for the relevant Taxable Supply is required to be paid by the Lessee to the Lessor.

(b) Notwithstanding subclause 3.2.3(a) the Lessee is not required to pay the additional amount on account of GST until the Lessor provides the Lessee with a Tax Invoice which is in an approved form for GST purposes.

3.2.4 Reimbursement

To the extent that the amount for a Taxable Supply consists of the reimbursement of costs and expenses incurred by the Lessor, in this Lease those costs and expenses are deemed to be exclusive of the amount of any refund or input tax credit of GST to which the Lessor is entitled as a result of incurring the cost or expense.

3.3 Keep in tidy condition and maintain improvements

The Lessee having regard to the Permitted Use shall at her expense use her reasonable endeavours:

3.3.1 to keep the Site in a tidy condition at all times; and

3.3.2 to keep and maintain the improvements to the Site in good repair and condition, fair wear and tear excepted during the Term.

3.4 Permitted Use

The Lessee shall not without the prior written consent of the Lessor use the Site for any purpose other than for the Permitted Use.

3.5 Comply with statutes etc.

The Lessee shall at all times during the Term promptly comply with:

3.5.1 all statutes, regulations, by-laws, ordinances, rules and other forms of statutory instruments or delegated legislation applicable to the Site or to the use of the Site by the Lessee; and

3.5.2 all notices, orders or requirements lawfully given or made by an authority or any other person in respect of the Site;

PROVIDED ALWAYS that nothing in this clause shall oblige or be construed as obliging the Lessee to effect any structural alterations or additions unless such structural alterations or additions are required as a direct result of the Lessee's use and occupation of the Site.

3.6 Obligations at end of Lease

Subject to this Lease and upon the expiration or earlier termination of this Lease, the Lessee shall vacate the Site and may elect to remove all of its improvements, equipment and goods from the Site and will deliver up possession of the improvements, if any, situated on the Site in the condition required by clauses 3.3 and 3.4.

3.7 Assignment and Subletting

3.7.1 The Lessee may assign transfer sublet or otherwise part with possession of the Site to any Minister, instrumentality or agency of the Crown in the right of the State of South Australia that is responsible for public housing accommodation for Anangu.

3.7.2 the Lessee may sublet the Site to Anangu in accordance with clause 1.1.14.

3.8 **Lessor's Inspection**

Subject to the rights of public housing tenants under the *Residential Tenancies Act 1995* or other relevant law pertaining to public housing the Lessee shall permit the Lessor and any officer, employee, agent or contractor of the Lessor at all reasonable times upon reasonable notice to the Lessee (except in an emergency when no notice shall be required), to enter upon the Site to examine and view the state and condition of the Site.

3.9 **Insurance**

The Lessee warrants that the Lessee will fully insure, against all Insurable Risks, any improvements made by the Lessee to the Site.

3.10 **Release**

The Lessee shall occupy the Site at the risk in all things of the Lessee and the Lessee releases to the full extent permitted by law the Lessor, its officers, employees, contractors and agents, in the absence of any default, neglect or omission on their part, from all Claims resulting from any accident, personal injury or loss of or damage to property occurring in, on or in the vicinity of the Site (including any loss or damage to any personal property of the Lessee), except where such action, suit, claim, demand or cost arises out of the negligence or wilful misconduct of the Lessor or its officers, employees, agents or contractors.

3.11 **Indemnity**

The Lessee shall indemnify and keep indemnified the Lessor, its officers, employees, contractors and agents from and against all Claims which the Lessor may incur or incurs in connection with any loss of life, personal injury or loss of or damage to property arising from or out of or in connection with the use and occupation of the Site by the Lessee but only to the extent that such loss of life, personal injury or loss of or damage to property is caused by any neglect, default or omission by the Lessee or its officers, employees, agents or contractors.

4. **MUTUAL COVENANTS**

4.1 **Damage and Destruction**

If the Site is damaged or destroyed so as to be unfit for use by the Lessee, then:

- 4.1.1 The Lessee may reinstate the Site (in whole or in part) entirely at her own cost; or
- 4.1.2 If the Lessee does not elect to reinstate the Site the Lessee will use such insurance proceeds received for the Permitted Use; or
- 4.1.3 If the Lessee does not elect to reinstate the Site (in whole or in part) and within three months of such damage or destruction gives written notice to the Lessor of her intention not to reinstate, either party may terminate this Lease (in whole or in part) by written notice to the other party and the Lessee must make good or remediate the relevant portion of the Site.

Neither party shall have any claim against the other party in respect of such termination except for claims for antecedent breaches (if any) by the other party.

4.2 **Termination**

- 4.2.1 If the Lessee breaches any of its obligations set out in this Lease and, following the giving by the Lessor of written notice of such breach, the Lessee fails to rectify such breach within THREE (3) calendar months (if such breach is capable of being rectified within such time) or fails to make diligent progress towards rectifying any such breach (if such breach is incapable of rectification within such time), then the parties must resolve the breach using the process set out in clause 4.14.1.
- 4.2.2 If resolution of the dispute has been reached under clause 4.14.1 and the subject matter of the breach/dispute continues for a further THREE (3) calendar months the Lessor may terminate this Lease as it relates to the relevant portion of the Site by giving the Lessee at least TWENTY EIGHT (28) days prior written notice of the Lessor's intention to re-enter that portion of the Site. Before the Lessor can exercise the right to terminate this Lease in whole or in part and re-enter the relevant portion of the Site the Lessor must either:
 - (a) reimburse the Lessee any payment she is liable to repay to the Commonwealth of Australia; or
 - (b) pay directly to the Commonwealth of Australia

any grant funds paid to the Lessee which have been used to construct or maintain the buildings on the relevant portion of the Site over the Term if demanded by the Commonwealth of Australia.

4.2.3 The Lessor may upon giving THREE (3) months written notice to the Lessee terminate the Lease in part as it relates to the relevant portion of the Site where that portion of the Site has not been used by the Lessee for the Permitted Use for a continuous period of FIVE (5) years.

4.3 **Severance**

If any term or condition of this Lease shall be for any reason unlawful, void or invalid or unenforceable, then the offending term or condition shall be severed from this Lease without affecting the validity or enforceability of the remainder of this Lease.

4.4 **Entire Agreement**

This Lease constitutes the entire agreement of the parties in respect of the subject matter of this Lease and the parties agree that this Lease supersedes all prior arrangements, understandings and negotiations in respect of the matters dealt with in this Lease. Further, no agreement whether collateral or otherwise, shall be taken to have been formed between the parties by reason of any promise, representation, inducement or undertaking (if any) given or made by one party to the other party prior to the date of execution of this Lease.

4.5 **Modification**

Subject to clause 4.16, no variation, addition to or modification of any provision of this Lease shall be binding upon the parties unless such variation, addition or modification is made in writing, signed by each party and expressed to be either supplemental to, in variation of or in substitution for the whole or a part of this Lease.

4.6 **Waiver**

4.6.1 A waiver of any provision of this Lease must both be in writing and be signed by the parties or by a person duly authorised to sign such a document on a party's part.

4.6.2 No waiver by a party of a breach of a term or condition contained in this Lease shall operate as a waiver of any breach of the same or any other term or condition contained in this Lease.

4.6.3 No forbearance, delay or indulgence by any party in enforcing the provisions of this Lease shall prejudice or restrict the rights of that party.

4.7 **Notices**

4.7.1 Notices may be served by delivering the same personally, by mail or facsimile transmission and shall be:

- (a) in writing addressed to the other party at its respective address as set out in this Lease;
- (b) signed by or on behalf of the sender or by a person duly authorised in that regard by the sender;
- (c) deemed to be duly served or made in the following circumstances:
 - (i) if delivered, upon delivery;
 - (ii) if sending by mail, upon posting;
 - (iii) if sent by facsimile transmission, upon the sender's facsimile producing a transmission report that the facsimile was satisfactorily sent in its entirety to the addressee's facsimile number;

but if delivery is not made before 5.00 pm on any day it shall be deemed to be received at 9.00 am on the next day in that place.

4.7.2 A party may vary either its address or facsimile number from time to time by written notice served on the other party.

4.8 **Costs**

Subject to clause 4.16, each party shall bear its own legal costs in relation to this Lease. The Lessee shall bear any stamp duty and registration fees payable in relation to this Lease.

4.9 **Delegation**

Any consent, notice, any consultation or any other thing which is, pursuant to the terms of this Lease, either required to be given, done or performed or which may be given, done or performed by the Lessee may be given, done or performed by the Lessee's Representative.

4.10 **Auditor-General**

Nothing in this lease derogates from the powers of the Auditor-General under the *Public Finance and Audit Act 1987* (SA) and the APY Act.

4.11 **Disclosure of Lease**

The Lessor agrees to disclosure of this Lease in accordance with Premier and Cabinet Circular 27 as amended from time to time (a copy of which is available at www.premcab.sa.gov.au/dpc/publications_circulars.html). Nothing in this clause derogates from:

- (a) the Lessor's obligations under any other provision of this Lease; or
- (b) the provisions of the *Freedom of Information Act 1991*.

4.12 **Construction of Buildings**

The Lessor agrees that the Lessee may construct, renovate or rebuild housing on the Site from time to time, for the Permitted Use, provided the Lessee obtains at its expense, all relevant development, building and other approvals required by law.

4.13 **Access to Anangu Pitjantjatjara Yankunytjatjara Lands Roads**

Subject to the requirement to obtain permission to enter the lands under section 19 of the APY Act or any permit issued by the Lessor:

- 4.13.1 throughout the Term, the Lessor licenses the Lessee to travel on roads within the lands to obtain access to the Site, using the most direct route available from outside the lands;
- 4.13.2 the parties acknowledge that the Site is remote from public roads and isolated from regional service centres and thus to facilitate the Lessor's compliance with clause 2.2, the Lessor shall permit the Lessee and the Lessee's visitors and invitees to use the Common Areas in common with the Lessor and other lessees, tenants and occupiers of the lands and all other persons whomsoever authorised or permitted by the Lessor; and
- 4.13.3 If the General Manager has concerns about any person who has the benefit of this provision the Lessor may raise these concerns with the Lessee, who must consider those concerns and determine whether another person should perform the function of that person in their place. The Lessor shall be promptly informed of the Lessee's determination.

4.14 **Dispute Resolution**

If a dispute arises between the parties as to the terms of or operation of this Lease or as to the rights and obligations of the parties under this Lease, then;

4.14.1 the dispute may be referred on FOURTEEN (14) days prior written notice to the Chief Executive, Department for Families and Communities (or her delegate) and the General Manager for the lands who must meet as soon as practicable to make a joint recommendation to the parties for the purpose of resolving the dispute; and

4.14.2 failing resolution of the dispute within TWENTY-EIGHT (28) days in accordance with clause 4.14.1, the dispute will be referred to an independent expert agreed upon by the parties or, failing agreement, to an independent expert, appointed by the President or Acting President of the Law Society of South Australia for resolution. The expert shall act as an expert and not an arbitrator in a summary fashion with no right of appeal and shall have power to control all aspects of the reference including the limitation of examination or cross examination of witnesses. The expert shall produce written reasons for the determination and shall conduct the reference as quickly and cost effectively as possible and will aim to conclude the reference within 30 days of its commencement. The findings of the relevant expert shall be final and binding on both the Lessee and the Lessor and the fees and expenses of the relevant expert shall in any event be borne and paid by the Lessor and the Lessee in equal shares. Any hearing will be conducted on the lands unless determined by the expert.

4.14.3 Nothing in clause 4.14 prevents the parties from performing their obligations under the Lease and in particular the Lessee in delivering the services in accordance with the Permitted Use.

4.15 **Remoteness of Site**

4.15.1 The State acknowledges that the Site is remote from public roads and isolated from regional service centres and that this may impact on the Lessee's ability to reasonably perform her obligations under the Lease and in light of this will use reasonable efforts to do so.

4.15.2 Notwithstanding anything contained in this Lease, in the event that there is an inconsistency between the Lessor's rights under this Lease and the Lessee's obligations under the *Residential Tenancies Act 1995* (or such relevant law pertaining to public housing) arising

from the Permitted Use, the Lessee's obligations shall prevail to the extent of that inconsistency.

4.16 **Process to Vary the Site**

4.16.1 Subject to such funding to be made available by the Commonwealth of Australia or the State of South Australia for the Permitted Use, the parties may vary the Site from time to time to:

- (a) add parcels of land to the Site; or
- (b) excise parcels of land from the Site

provided that the Lessee gives reasonable notice of such addition or excision to the Lessor and the addition or excision is mutually agreed by the parties. Any approved addition will form part of the Site for the purposes of this Lease.

4.16.2 The parties agree to record any variation to the Lease under this clause using the process set out in clause 6 and perform such acts as necessary to register the variation to the Lease with the Lands Titles Office.

4.16.3 Notwithstanding clause 6.6, any excision of land from the Lease will become effective once the Lessee has discharged its obligations for that land under this Lease and the excision is registered with the Lands Titles Office.

4.16.4 Each party shall bear its own costs in the doing of such acts required under this clause except for stamp duty or any registration fees due and payable which shall be the responsibility of the Lessee.

4.16.5 Any dispute under this clause will be resolved in accordance with clause 4.14.

4.17 **Recitals**

The Parties acknowledge the Recitals are true and correct.

5. **OWNERSHIP OF IMPROVEMENTS**

5.1 During the Term the Lessee retains ownership of all the improvements on the Site.

5.2 At the expiration of the Term, all improvements on the Site, if any, shall vest in the Lessor on an "as is" basis and for no consideration.

6. **SURVEY AND REGISTRATION OF LEASE**

- 6.1 The parties acknowledge that the Site is as identified in Annexure A.
- 6.2 The parties shall use their best endeavours to register this Lease or any variation to the Lease pursuant to clause 4.16 (the "**Lease Variation**") in the Lands Titles Office as soon as practicable.
- 6.3 Upon receiving FOUR (4) executed copies of the Lease (or the Lease Variation) in registrable form from the Lessee, the Lessor shall promptly execute the Lease and any Lease Variation.
- 6.4 Upon execution of the Lease or the relevant Lease Variation, the Lessor shall arrange for ONE (1) copy of the executed Lease or the Lease Variation to be provided to the Lessee as soon as practicable.
- 6.5 The Lessor shall then arrange for the stamping and lodgement of the THREE (3) remaining executed Leases (or the relevant Lease Variations) in the Lands Titles Office for registration. Following registration of the Lease or the Lease Variation in the Lands Titles Office, the Lessor shall cause the Lessee's Copy of the registered Lease and the Lease Variation to be delivered to the Lessee.
- 6.6 To remove all doubt, pending registration of the Lease, the executed copy of the Lease provided to the Minister under clause 6.4 shall be binding on the parties.

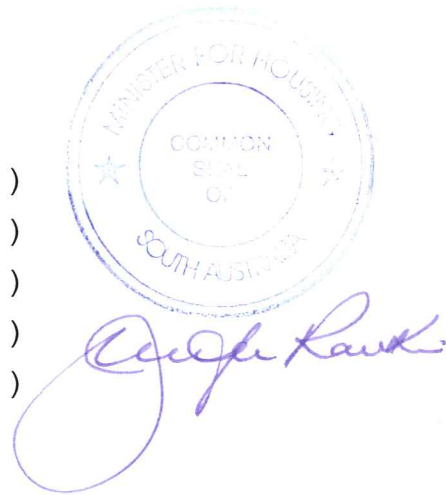
7. **REPRESENTATION AND WARRANTY**

- 7.1 The Lessor represents and warrants to the Lessee that:-
 - 7.1.1 it has the power to enter into and observe its obligations under this Lease;
 - 7.1.2 it has the requisite authorisations and consents or resolutions required under the APY Act that are necessary to enter into and give effect to this Lease;
 - 7.1.3 its obligations under this Lease are valid and binding and are enforceable against it;
 - 7.1.4 this Lease and the transactions obligations covenants and agreements contemplated under the Lease do not contravene any law, regulation, consent, approval, authorisation, official directive or contractual restriction or any of its obligations or undertakings by which it or any of its assets are bound or cause a limitation on its powers.

- 7.2 The Lessee represents and warrants to the Lessor that:-
- 7.2.1 the Lessee has been duly incorporated and has the power to enter into and observe its obligations under this Lease;
 - 7.2.2 the Lessee has in full force and effect the authorisations necessary to enter into this Lease;
 - 7.2.3 the Lessee's obligations under this Lease are valid and binding and are enforceable against the Lessee; and
 - 7.2.4 this Lease and the transactions obligations covenants and agreements contemplated under this Lease do not contravene any law, regulation, consent, approval, authorisation, official directive or contractual restriction or any of its obligations or undertakings by which the Lessee or any of the Lessee's assets are bound or cause a limitation on the Lessee's powers.
- 7.3 Each of the above representations and warranties in clause 7.1 and clause 7.2 shall survive the execution of this Lease.

EXECUTED AS A LEASE

THE COMMON SEAL of
MINISTER FOR HOUSING
was affixed hereto by the
authority of the Minister
in the presence of



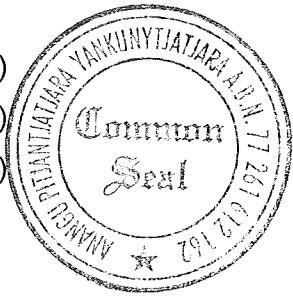
Angela Duigan

[Print name: *Angela Duigan*]

THE COMMON SEAL of ANANGU

PITJANTJATJARA YANKUNYTJARA was

hereunto affixed in the presence of:



Bruce Sean Williamson
[signature and insert name under signature]
Bruce Sean Williamson

Tony Campbell
[signature and insert name under signature]
Tony Campbell

Charles Antjipalga
[signature and insert name under signature]
Charles Antjipalga

Punch Kowaki Thompson
[signature and insert name under signature]
Punch Kowaki Thompson

Bernard Singer
[signature and insert name under signature]
Bernard Singer

Anton Baker
[signature and insert name under signature]
Anton Baker

Leonard Burton
[signature and insert name under signature]
Leonard Burton

[signature and insert name under signature]

[signature and insert name under signature]

or

THE COMMON SEAL of ANANGU

PITJANTJATJARA YANKUNYTJARA was

hereunto affixed in the presence of:

Bernard Singer, Chairperson

Ken Newman General Manager

Rex Tjami Director of Administration

ANNEXURE A

SITE PLANS

Two Plans being sheet 3/4 and 4/4 titled "Amata Community Lease Parcel Identification Drawing Number A3/2349 CH ver 1" being the 11 sites at Amata.

DATED

2008

DEED TO VARY GROUND LEASE

BETWEEN

AN^UANGU PITJANTJATJARA YANKUNYTJATJARA

("the Lessor")

-AND-

MINISTER FOR HOUSING

("the Lessee")



Government
of South Australia

CROWN SOLICITOR

Level 9, 45 Pirie Street, Adelaide SA 5000

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DEED TO VARY GROUND LEASE dated

2008

BETWEEN:

ANANGU PITJANTJATJARA YANKUNYTJATJARA (ABN: 77 261 612 162) a body corporate pursuant to the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981* (SA) of PMB 227 Umuwa via Alice Springs 0872 Northern Territory ("**the Lessor**")

AND

MINISTER FOR HOUSING a body corporate established by virtue of the *Administrative Arrangements Act 1994* (SA) whose office is situated at level 4, 45 Pirie Street, Adelaide 5000 in the State of South Australia ("**the Lessee**").

RECITALS:

The parties have agreed to vary the terms of the Ground Lease as a result of negotiations and to the satisfaction of the parties as set out in this Deed.

IT IS AGREED:

1. **THE COMMENCEMENT DATE OF THE DEED**

This Deed shall take effect from 29 August 2008 and is supplementary to and shall be read in conjunction with the Ground Lease.

2. **INTERPRETATION AND DEFINITIONS**

2.1 The recitals are correct and form part of this Deed.

2.2 The words and expressions as defined in the Ground Lease shall have the same respective meanings in this Deed.

3. **VARIATIONS**

The Ground Lease shall be varied by inserting the following new clauses:

3.1 "Clause 3.12 **Building Start Date for the First Houses at Amata**

The Lessee will, within twelve months of and in any event within two years from the commencement of this Deed, use her best endeavours (subject to any delays due to weather or other

agreed event) to start construction works programmed for the first 11 houses at Amata on the Site as identified in the Annexure A of the Ground Lease."

3.2 "Clause 3.13 **Management of the Anangu Housing Model**

"3.13.1 The Lessee shall at her expense manage the houses constructed or subject to the Anangu Housing Model forming part of the Site (and includes allocation, repairs and maintenance and rent collection) and shall not:

- (a) assign the overall management obligation of the Anangu Housing Model; or
- (b) subcontract the core elements of the Anangu Housing Model being:
 - (i) strategic asset planning;
 - (ii) tenancy allocation policy and application of that policy;
 - (iii) rent policy (and includes rent setting, and the receipt and expenditure of that rent)

without the Lessor's consent which shall not be unreasonably withheld.

3.13.2 The restrictions on assignment and subcontracting in clause 3.13.1 shall not preclude or inhibit the Lessee, subject to the terms of this Lease, letting subcontracts for construction, trades or other things required in relation to construction and maintenance of the housing or the prudent appointment of agents to collect rent and other functions commonly performed by residential letting agents for lessors, so long as this occurs by way of a standard and accountable public sector procurement process. The Lessor may raise any concerns relating to any subcontractor or letting agent with the Lessee, who must promptly consider and deal with those concerns pursuant to clause 4.13.3.

3.13.3 The parties acknowledge that the restrictions on assignment and subcontracting in clause 3.13.1 relates

to the Lessee's ongoing responsibility for the performance of the management function of the Anangu Housing Model to the intent that there shall be no change to the public sector management of that model without the relevant Lessor's consent."

4. CONFIRMATION OF GROUND LEASE AND DEED

The parties confirm the terms and conditions of the Ground Lease in all other respects.

5. EFFECT OF THIS DEED

This Deed supersedes all prior agreements, understandings and negotiations in respect of the matters dealt with in this Deed.

EXECUTED AS A DEED by

THE COMMON SEAL of
MINISTER FOR HOUSING
was affixed hereto by the authority of the
Minister in the presence of

Angela Dugan
.....
Angela Dugan



THE COMMON SEAL of ANANGU)
PITJANTJATJARA YANKUNYTJARA was)
hereunto affixed in the presence of:)



Bruce Sean Williamson
[signature and insert name under signature]
Bruce Sean Williamson
Tony Campbell
[signature and insert name under signature]
Tony Campbell
Charles Antjipayi
[signature and insert name under signature]
Charles Antjipayi
Rhonda Thompson
[signature and insert name under signature]
Rhonda Thompson
Bernard Singer
[signature and insert name under signature]
Bernard Singer
ANTON BAKER
[signature and insert name under signature]
Anton Baker
Leonard Burton
[signature and insert name under signature]
Leonard Burton

.....
[signature and insert name under signature]
.....
[signature and insert name under signature]

or
THE COMMON SEAL of ANANGU)
PITJANTJATJARA YANKUNYTJARA was)
hereunto affixed in the presence of:)

.....
Bernard Singer, Chairperson
.....
Ken Newman General Manager
.....
Rex Tjami Director of Administration