|  |  |  |
| --- | --- | --- |
|  |  | BBP Leasing Standard Memorandum of Understanding Template |
|  |  | [#description of premises#] |
|  |  |  |
|  |  | [#] (**Landlord**)  [#] (**Tenant**) |





BBP Leasing Standard   
Memorandum of Understanding Template

[#description of premises#]

|  |
| --- |
| ~\*~ |

**Information table 3**

**1.** **Defined terms & interpretation 3**

1.1 Defined terms 3

1.2 Interpretation 3

**2.** **Sustainability commitments 4**

2.1 General 4

2.2 Environmental initiatives 5

2.3 Enabling upgrade works 5

2.4 Energy Management 7

2.5 Information sharing 7

2.6 Performance Rating 9

**3.** **Additional Sustainability Clauses 13**

3.1 Works 13

3.2 Resource management 14

3.3 Information sharing 14

3.4 Social initiatives 14

**3** **Limitation of liability 15**

**4** **Miscellaneous 15**

4.1 Notices 15

4.2 Costs 15

4.3 No assignment 15

4.4 Prohibitions 15

4.5 Waiver and variation 15

4.6 Set off 15

4.7 No merger 15

**Signing page 16**

|  |
| --- |
|  |

Information table

|  |  |
| --- | --- |
| Date |  |

Parties

|  |  |
| --- | --- |
| Name | **#Name of Landlord and ABN** |
| Short form name | **Landlord** |
| Notice details | #Address  Facsimile: # |
|  | Attention: # |

|  |  |
| --- | --- |
| Name | **#Name of Tenant and ABN** |
| Short form name | **Tenant** |
| Notice details | #Address  Facsimile: # |
|  | Attention: # |

Background

Under the Lease, the Landlord has agreed to lease the Premises to the Tenant.

The parties would like to facilitate a more collaborative landlord – tenant relationship through leasing and would like to make the commitments to sustainability as set out in this document.

Agreed terms

Defined terms & interpretation

**Defined terms**

In this document, unless the contrary intention appears:

**Lease** means the lease of the Premises from the Landlord to the Tenant for a term of [# years] and commencing on [# insert commencement date#].

**Premises** means [#insert description of Premises#]

**Term** means the term of the Lease.

**Interpretation**

DRAFTING NOTE: This section can be deleted if the MOU is not intended to be binding.

Unless the contrary intention appears:

the singular includes the plural and vice versa;

the word 'person' includes a firm, a body corporate, an unincorporated association or an authority;

an agreement, representation or warranty:

in favour of two or more persons is for the benefit of them jointly and severally; and

on the part of two or more persons binds them jointly and severally; and

a reference to:

a person includes the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;

a document includes any variation or replacement of it;

a law includes regulations and other instruments under it and amendments or replacements of any of them;

a thing includes the whole and each part of it;

a group of persons includes all of them collectively, any two or more of them collectively and each of them individually;

the president of a body or authority includes any person acting in that capacity; and

this 'document' includes the schedules and annexures to it;

'including' 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; and

where any word or phrase is not defined in clause 1.1 but is defined in the Lease, that word or phrase will have the same meaning in this document as given in the Lease.

Sustainability commitments

**General**

The parties make the commitments in relation to sustainability contained in this document. The provisions contained in this document are intended to apply in addition to the provisions of the Lease, from the date of this document [#choose an option:

#for the balance Term

#for the balance of the Term and in respect of the future lease between the parties for the Premises

#Use where the commitments are being agreed for a lease that will be negotiated in the future eg an option lease: in respect of the lease between the parties commencing on or about [#insert commencement date#].

DRAFTING NOTE: You have a choice about which paragraph (b) you choose. The first paragraph refers the matter to dispute resolution and the second provides that a breach of this document is not a breach of the Lease.

If a party does not comply with its obligations under this document, then the parties will address the non-compliance under clause [#refer to dispute resolution clause. It can be either discussion between senior members of the parties/mediation/expert determination#].

(b) The parties will use their reasonable endeavours to comply with the provisions of this document, however, a breach of this document will not be a breach of the Lease.

DRAFTING NOTE: The clauses below have been selected as they address the five key areas which must be included in a lease for it to be able to be described as a ‘Green Lease’ under the BBP Leasing Standard. If one clause for each of the options below is selected and the document is binding, the entry into this document will allow the Lease to be described as a ‘Green Lease’ under the BBP Leasing Standard.

**Environmental initiatives**

DRAFTING NOTE: This section requires the parties to acknowledge a commitment to environmental sustainability and to include at least one form of initiative in the lease that is intended to achieve such a positive environmental outcome. The parties can choose the form of initiative. This could be any type of initiative relating to environmental sustainability (such as recycling, green cleaning or land use ecology).

The parties:

are each committed to managing and operating the Building and the Premises to promote energy efficiency and to minimise the environmental impact of the use and occupation of the Building; and

will use their reasonable endeavours to promote and implement environmental initiatives.

[Level 1 commitment]

The Landlord will [#describe the environmental initiative#] (‘**Environmental Initiative**’).

The Tenant will [#use its reasonable endeavours to comply/will comply#] with the Environmental Initiative and will pay the reasonable cost of doing so.

[Level 2 commitment]

**Enabling upgrade works**

DRAFTING NOTE: This section requires the lease encourage, facilitate or require the parties to upgrade the building or premises to improve the efficiency or environmental performance of the building during the term.

**2.3.1 Ability to carry out capital upgrade works**

The Landlord may carry out capital upgrades to the Building designed to improve the efficiency or environmental sustainability of the building or premises (**Capital Upgrades**).

[Level 1 commitment if clause 2.3 (c) is also included]

If the Landlord carries out Capital Upgrades:

the Landlord [#must not/must use its reasonable endeavours not to] interfere with the Tenant’s business and quiet enjoyment of the Premises when carrying out the Capital Upgrades; and

subject to the Landlord complying with clause 2.3(b)(i), the Tenant will not make any claim or demand any compensation for interference with the Tenant’s business and quiet enjoyment of the Premises as a result of the Capital Upgrades.

[Level 2 commitment if clause 2.3 (c) is also included]

The Tenant may carry out capital upgrades to the Premises designed to improve the efficiency or environmental sustainability of the premises (**Premises Upgrade**) provided that it complies with the provisions of the Lease when doing so. The Landlord will not unreasonably withhold approval to a request by the Tenant to carry out a Premises Upgrade.

DRAFTING NOTE: The next paragraph is optional and, if all five areas are addressed and the next paragraph is not included, then the lease will still be eligible to be a ‘Green lease’ under the BBP Leasing Standard. You have two choices for this clause.

If the Landlord carries out Capital Upgrades, the Tenant will contribute towards the cost of the Capital Upgrade provided that the amount payable by the Tenant must not exceed a reasonable estimate of the cost savings to be made by the Tenant as a consequence of the Capital Upgrades.

[Drafting note – The clause could accompany a works clause that sets out the works that a landlord intends to carry out to improve the efficiency of the building. This clause deals with how the costs of those works are distributed between the Landlord and the Tenant.]

**2.3.2 Payment for capital works with efficiency benefit**

[Drafting note – clauses (a) – (c) provide for the Tenant to make a monetary contribution to the Landlord towards the costs of the capital upgrade works either after or before the works are carried out and recover that cost over the Term by reducing or capping the Tenants outgoings payments to the Landlord.]

(a) The Tenant agrees to contribute to the costs of capital upgrades to the Building that result in increased building efficiency by making the Capital Works Payment to the Landlord [#if an independently audited costs estimate prepared by an independent qualified quantity surveyor shows that such upgrades will result in a costs savings to the Tenant over the Term equal to or in excess of the cost to the Tenant / with the Tenant’s prior consent#].

(b) The parties agree that the Tenant will not be required to make the Capital Works Payment to the Landlord until the Landlord has satisfied the following conditions:

[Drafting note – consider whether the Tenant is to make the payment to the Landlord before or after the works have been carried out**.** If before the works have been carried out, then consider the following conditions by way of example:

the Landlord has entered into a contract with a builder to construct the works;

(ii) the Landlord has provided to the Tenant an independently audited report from a qualified quantity surveyor demonstrating the projected cost savings to the Tenant as a result of the Landlord carrying out the works exceed the Capital Works Payment;

(iii) the Landlord provides to the Tenant a valid tax invoice addressed to the Tenant for the Capital Works Payment;

If after the works have been carried out then consider the following conditions:

(i) the Landlord provides a certificate from the Landlord’s architect or quantity surveyor verifying that the works have been carried out;

(ii) the Landlord provides a certificate verifying the value the works that are the subject of the Capital Works Payment;

(iii) the Landlord provides to the Tenant a valid tax invoice addressed to the Tenant for the Capital Works Payment;

[Drafting note – the following clause (c) provides for the Tenant to be reimbursed for the costs of the Capital Works Payment by recovering the cost via a reduction in outgoings over the Term or a period during the Term.

(c) In consideration for the Tenant paying the Capital Works Payment to the Landlord, the outgoings payable by the Tenant in clause [#insert#] will be capped at an amount of $#[insert#] per annum for the [insert period].

[Drafting note – if the Tenant is reluctant to make an upfront payment to the Landlord in return for projected future cost savings then this clause (d) allows the Landlord to fund the works by retaining the savings by reducing outgoings as a result of the capital upgrade works instead of passing them on to the Tenant.]

(d) The Tenant agrees that the Landlord may recover the costs of capital upgrades that result in increased building efficiency from the Tenant over the Term of the lease by retaining the difference between the amounts saved as a result of the capital upgrades and costs of outgoings.

**Energy Management**

DRAFTING NOTE: Clauses under this head could relate to:

§ programs to reduce the consumption of energy, including education of employees

§ participation in existing programs

§ installation of decentralised energy production capabilities, energy efficient plant and equipment or renewable energy in the building or premises

The Landlord and the Tenant commit to using reasonable endeavours to minimise the energy consumption of the base building and the Premises.

[Level 1 commitment]

The Landlord and the Tenant agree to regular monitoring of energy consumption and greenhouse gas emissions of the base building and the Premises.

[Level 2 commitment]

The parties [#may/will] purchase or use [#insert a percentage as agreed between the parties] of GreenPower, low carbon electricity or renewable electricity to reduce the carbon intensity of the base building or Premises.

DRAFTING NOTE: The inclusion of paragraph (c) in paragraph 2.2 could be an environmental initiative.

DRAFTING NOTE: Paragraph (d) is an example of a clause dealing with a programme to reduce the consumption of energy, including education of employees.

The parties will co-operate to develop and implement a programme in relation to the management of electricity use to educate and encourage the Tenant’s employees to reduce consumption of electricity. Each party will nominate a representative for the development and implementation of this programme.

**Information sharing**

DRAFTING NOTE: Information to be shared could relate to: § energy or water consumption; § production of waste or greenhouse gases; § recycling rates; or § provision and access to the NMI meter or metering for automated reports.

* + 1. **Data sharing**

Each party [#will/will use reasonable endeavours to#] provide the other with information relating to the energy efficiency and sustainability of the Premises and Building.

Information to be provided under clause 2.5.1(a) includes all plans, documents, maintenance contracts, specifications, maintenance reports and maintenance schedules (excluding information that is confidential to a party or cannot be disclosed by law) that the parties have regarding:

(i) electricity and gas (which shows consumption data);

(ii) water consumption;

(iii) material use;

(iv) waste generation; and

(v) waste management, including recycling,

for the Building and the Premises.

The parties must keep all information provided under clause 2.5.1(a) secure and confidential except to the extent necessary:

(i) to comply with a Law; or

(ii) to enable the Parties to perform their roles and obligations under the Lease;

(iii) as required for any dispute resolution process in this Lease; or

(iv) if permitted by the other party, for other purposes,

including, corporate reporting or marketing.

**2.5.2 Required reports**

* + 1. The Landlord and the Tenant agree to provide (within the nominated timeframes) the [#energy, water and waste #]data information (which shows consumption data and cost) for the Premises and the Building reports to each other by [#insert date#].

The Landlord and the Tenant agree to provide updated reports to each other no less than [insert #] per [#month/quarter/year#].

Reports provided under clause 2.5.2(b) must include:

(i) a reasonably detailed assessment or description of the progress and performance of the [#party/parties#] against any relevant targets, strategies or plans;

(ii) descriptions of how the progress and performance was monitored over the relevant reporting period;

(iii) if progress or performance has not met (or is likely not to meet) a reasonable target, strategy or plan explain why and how the failure may be remedied or performance improved;

(iv) new, updated or revised targets, strategies and plan is more or a confirmation of the existing targets, strategies and plans for the next reporting period with supporting reasoning;

(v) cost savings achieved for that reporting

[DRAFTING NOTE: If you have inserted clause 2.4(b), consider inserting clause 2.5(d). You can insert clause 2.5(d) even if you have not inserted clause 2.5(b).]

The Landlord and the Tenant will provide reports containing details of the energy consumption and greenhouse gas emissions of the base building and the Premises (as relevant) to the party each [#month/quarter#].

**Performance Rating**

DRAFTING NOTE: Clauses could relate to: § achievement of a rating; § maintenance of a rating; § cooperating with the other party to assist them in obtaining a rating; § cooperating with the other party to assist them in achieving a higher than previously achieved rating; § sharing rating certificates when achieved or as requested; § not interfering with ratings through works or operations; § not making claims against the other party if they breach the lease due to an attempt to improve the performance of the building to achieve a rating.

The example clauses refer to a NABERS rating, but could be updated to refer to a similar rating.

You have a choice between the simple clause below or a choice from the proposed clauses 2.6.1 to 2.6.4.

The [#Landlord/Tenant#] may at its cost establish (where applicable) NABERS certification for the [#Building/Premises#] and will endeavour to continually improve the Building’s NABERS rating.

(b) The [#Landlord/Tenant#] will keep the other party informed of the NABERS rating of the [#Building/Premises#] and of any initiatives being considered by the Landlord, from time to time, to improve the environmental performance of the [#Building/Premises#].

[Level 1 commitment]

A Landlord will generally insert either of clauses 2.6.1 OR 2.6.3, but not both.

* + 1. **Base building NABERS Rating**
    2. Subject to clause 2.6.1(b), the Landlord [#will/will use its reasonable endeavours to#] ensure that the Current Base Building NABERS Rating is maintained for the Term.

(b) The Landlord [#will/will use its reasonable endeavours to#] ensure that the Target Base Building NABERS Rating is:

(i) if not achieved at the Commencing Date, achieved by [#insert date#]; and

(ii) maintained for the Term.

(c) The Landlord [#will/will use its reasonable endeavours to#] obtain a Base Building NABERS Rating on an annual basis and deliver to the Tenant a copy of an accredited Base Building NABERS Rating certification no less than once per annum during the Term.

(d) The Tenant must:

(i) comply with the Landlord’s reasonable requirements in relation to maintaining a Base Building NABERS Rating (including the Current Base Building NABERS Rating and the Target Base Building NABERS Rating );

(ii) [#must not/must use reasonable endeavours not to#] do:

[#anything to interfere with the Base Building NABERS Rating. #OR

any of the following:

[#list specific actions that the Tenant must not do which may affect the Base Building NABERS Rating#]

* + 1. **Tenancy NABERS Rating**

DRAFTING NOTE: Delete (a) if the building does not have a Current Base Building NABERS Rating or if the Current Base Building NABERS Rating is the same as the Target Base Building NABERS Rating.

(a) Subject to clause 2.6.2(b), the Tenant [#will/will use its reasonable endeavours to] ensure that the Current Tenancy NABERS Rating is maintained for the Term.

(b) The Tenant will obtain a Tenancy NABERS Rating on an annual basis and deliver to the Landlord a copy of an accredited Tenancy NABERS Rating certificate no less than once per annum during the Term.

(c) The Landlord [#must not/must use reasonable endeavours not to#] do anything to interfere with a Tenancy NABERS Rating(including the Current Tenancy NABERS Rating and Target Tenancy NABERS Rating), unless such action is necessary to protect the Services or the Building.

* + 1. **Whole Building NABERS Rating**

(a) Subject to clause 2.6.3(b), the Landlord [#will/will use its reasonable endeavours to#] ensure that the Current Whole B uildign NABERS Rating is maintained for the term.

(b) The Landlord [#will/will use its reasonable endeavour to#] ensure that the Tatget Whole Building NABERS Rating is:

(i) achieved by [#insert date#]; and

(ii) maintained for the Term.

(c) The Landlord [#will/will use its reasonable endeavours to#] obtain a Whole Building NABERS Rating on an annual basis and deliver to the Tenant a copy of an accredited Whole Building NABERS Rating certificate no less than once per annum during the Term.

(d) The Tenant must:

(i) comply with the Landlord’s reasonable requirements in relation to maintaining a Whole Building NABERS Rating (including the Current Whole Building NABERS Rating and the Target Whole Building NABERS Rating );

(ii) [#must not/must use reasonable endeavours not to#] do:

[#anything to interfere with the Whole Building NABERS Rating. #OR

any of the following:

[#list specific actions that the Tenant must not do which may affect the Whole Building NABERS Rating#]

* + 1. **Adjusted NABERS Rating**

(a) If a party reasonably believes that the Target NABERS Rating fro which it is responsible cannot be achieved, then provided:

(i) that party gives written notice to the other party stating the reasons why the Target NABERS Rating cannot be achieved and requesting an ADJUSSTED NABERS Rating (ADJUSTMENT Notice);

that party has taken all reasonable measure to achieve the Target NABERS Rating;

the inability to achieve the TARGET NABERS Rating is not due to any misrepresentation regarding the condition or capacity of the Building, The Service or the Premises or deterioration in or failure of relevant parts of the Building, the Services or the Premises or to activities in the Building or the Premises; and

that party, or the parties together , has or have exhausted all reasonable avenues to achieve the Target NABERS Rating,

the Adjusted NABERS Rating will become the Target NABERS Rating.

(b) Once the Adjustment Notice is given, the other party may agrees to the request for an Adjusted NABERS Rating in writing within [#insert number#] days.

(c) If the other Party does not accept the request for an Adjusted NABERS Rating, or respond within the time period in clause 1.4(b), the request may be referred by either or both parties for resolution by an Expert appointed under the processes in the Lease.

**2.6.5 Definitions**

DRAFTING NOTE: These definitions relate only to clause 2.6. You can delete the definitions that do not apply. If the Current NABERS Rating is the same as the Target NABERS Rating, you can delete the definitions for the ‘Current Base Building NABERS Rating, Current Tenancy NABERS Rating or Current Whole Building NABERS Rating’.

**Adjusted NABERS Rating** means a rating under NABERS being an adjustment to a Target NABERS Rating;

**Base Building** means the structure, roof, external walls of the Building and services installed by the Landlord (including Common Areas) but does not include any services, facilities or fitout installed by or onbehalf of any tenant or other occupier of premises in the Building.

[Drafting note: If the Building is a new building, or has undergone major refurbishment, a Base Building NABERS Rating may not be able to be obtained until certain criteria have been fulfilled.]

**Base Building NABERS Rating** means the following:

(a) a valid, current NABERS Energy rating for the Base Building;

(b) a valid, current NABERS Indoor Environment rating for the Base Building; or

(c) a valid, current NABERS Waste rating for the Base Building;

[Drafting note: If the Building is a new building, or has undergone major refurbishment, a Current Base Building NABERS Rating may not be able to be obtained until certain criteria have been fulfilled.]

**Current Base Building NABERS Rating** means the following:

(a) a [insert #] star NABERS Energy rating for the Base Building [including/excluding GreenPower];

(b) a [insert #] star NABERS Indoor Environment rating for the Base Building; or

(c) a [insert #] star NABERS Waste rating for the Base Building;

[Drafting note: A Current Tenancy NABERS Rating may only be relevant if the Tenant is an existing Tenant, or if the Tenant is re-using fitout from a previous tenant.]

**Current Tenancy NABERS Rating** means the following:

(a) a [insert #] star NABERS Energy rating for the Premises [including/excluding GreenPower];

(b) a [insert #] star NABERS Indoor Environment rating for the Premises; or

(c) a [insert #] star NABERS Waste rating for the Premises;

[Drafting note: If the Building is a new building, or has undergone major refurbishment, a Current Whole Building NABERS Rating may not be able to be obtained until certain criteria have been fulfilled.]

**Current Whole Building NABERS Rating** means the following:

(a) a [insert #] star NABERS Energy rating for the Whole Building [including/excluding GreenPower];

(b) a [insert #] star NABERS Indoor Environment rating for the Whole Building;

(c) a [insert #] star NABERS Waste rating for the Whole Building; or

(d) a [insert #] star NABERS Water rating for the Whole Building;

**NABERS** means the National Australian Built Environment Rating System administered by the NSW Office of Environment and Heritage (or by any successor or other body administering NABERS from time to time), in the form in which it applies at the Commencing Date;

**Target Base Building NABERS Rating** means the following:

(a) a [insert #] star NABERS Energy rating for the Base Building [including/excluding GreenPower];

(b) a [insert #] star NABERS Indoor Environment rating for the Base Building; or

(c) a [insert #] star NABERS Waste rating for the Base Building;

**Target NABERS Rating** means:

(a) a Target Base Building NABERS Rating;

(b) a Target Tenancy NABERS Rating; or

(c) a Target Whole Building NABERS Rating,

as adjusted in accordance with clause 2.6.4;

**Target Tenancy NABERS Rating** means the following:

(a) a [insert #] star NABERS Energy rating for the Premises [including/excluding GreenPower];

(b) a [insert #] star NABERS Indoor Environment rating for the Premises; or

(c) a [insert #] star NABERS Waste rating for the Premises;

**Target Whole Building NABERS Rating** means the following:

(a) a [insert #] star NABERS Energy rating for the Premises [including/excluding GreenPower];

(b) a [insert #] star NABERS Indoor Environment rating for the Premises;

(c) a [insert #] star NABERS Waste rating for the Premises; or

(d) a [insert #] star NABERS Water rating for the Premises;

**Tenancy NABERS Rating** means the following:

(a) a valid, current NABERS Energy rating for the Base Building;

(b) a valid, current NABERS Indoor Environment rating for the Base Building; or

(c) a valid, current NABERS Waste rating for the Base Building;

**Whole Building** means the whole building and includes the Base Building and any tenanted areas within the Building, including the Premises;

[Drafting note: If the Building is a new building, or has undergone major refurbishment, a Whole Building NABERS Rating may not be able to be obtained until certain criteria have been fulfilled.]

**Whole Building NABERS Rating** means the following:

(a) a valid, current NABERS Energy rating for the Whole Building;

(b) a valid, current NABERS Indoor Environment rating for the Whole Building;

(c) a valid, current NABERS Waste rating for the Whole Building; or

(d) a valid, current NABERS Water rating for the Whole Building;

Additional Sustainability Clauses

DRAFTING NOTE: These are some of the additional clauses relating to sustainability that the parties may wish to include in the MOU. For a more comprehensive list of clauses that could be included in alignment with the BBP Leasing Standard, please visit http://www.betterbuildingspartnership.com.au/resource/bbp-model-clauses/

**Works**

**3.1.1 Works Materials**

(a) The Tenant will use reasonable endeavours to:

(i) design the fitout of the Premises in a sustainable way, and to minimise water and electricity usage in the fitout; and

(ii) to use sustainable materials in the fitout and when doing any other works in the Premises.

(b) The Landlord will use its reasonable endeavours to assist the Tenant to comply with clause 3.1(a).

**3.1.2 Works waste**

(a) The parties will use reasonable endeavours to deal with waste from works carried out in relation to the Building or the Premises in a sustainable way. [#The parties aim to divert 60% of that works waste from landfill.#]

(b) A party carrying out work in relation to the Building or the Premises must use its reasonable endeavours to:

(i) record the amount of waste that is dealt with in a sustainable way rather than being sent to landfill and the total amount of waste; and

(ii) provide that information to the other party.

(c) The Landlord will use its reasonable endeavours to assist the Tenant to dispose of fitout waste and waste resulting from doing works in the Building or the Premises in a sustainable way.

**3.1.3 Re-use of fitout at end of Lease**

(a) The parties will use their reasonable endeavours agree on the make good works the Tenant is required to carry out at least 6 months and not more than 9 months before the expiry date of the Lease.

(b) The Tenant will prepare an inventory of that part of the fitout of the Premises that the Tenant is required to remove and which could reasonably be reused elsewhere and provide it to [#insert name of BBP fitout advertising list#] at least 6 months prior to the expiry date of the Lease.

(c) This clause does not lessen the obligations of the Tenant under the Lease, but is intended to give the opportunity for at least part of the fitout of the Premises to be reused.

**Resource management**

**3.2.1 Resource management programmes**

The parties will co-operate to develop and implement a programme in relation to the management of [#insert resources that are to be managed eg: electricity and water use#] to educate and encourage the Tenant’s employees to reduce consumption of [#water and electricity#]. Each party will nominate a representative for the development and implementation of this programme.

**3.2.2 Metering**

The Premises are separately metered for electricity. [#add other services that are separately metered to the Premises#] The Tenant must not disrupt the metering.

**Information sharing**

**3.3.1 Premises metering**

(a) The Landlord may access the Premises at any reasonable time after giving the Tenant reasonable prior written notice, to read the [NMI] meters in the Premises.

(b) The Tenant will provide the information obtained from reading the [NMI] meters in the Premises to the Tenant.

**3.3.2 Make good waste**

The Landlord will [#use its reasonable endeavours to#] share with the Building tenants the amount of waste from works carried out in the Building which has been diverted from landfill a minimum of [#insert frequency#], to the extent that information is available to the Landlord.

DRAFTING NOTE: Clause 3.1.2(b) is also a clause that relates to the ‘Information Sharing’ heading.

**Social initiatives**

**3.4.1 End of trip facilities**

(a)The Building contains showers as part of its end of trip facilities in the Common Areas. The Landlord and the Tenant wish to contribute towards the good of the wider community.

(b)The Landlord, as a contribution towards the good of the wider community, allows people without a fixed address to use the showers in the Common Areas [#outside of Building Hours/on weekends/on weekends within a fixed time period#] under supervision. The Landlord will [#use its reasonable endeavours to#] ensure that:

[#(i) the showers are cleaned before the commencement of Building Hours; and

(ii) Building tenants are notified of both which showers in the Common Areas will be used in this way and when they will be so used.#]

**3.4.1 Social initiatives – General**

(a) The Landlord, as a contribution towards the good of the wider community, will [#insert description of social initiative#] (Social Initiative).

(b) The Tenant will publicise the Social Initiative to its employees and encourage its employees to be involved in or contribute towards the Social Initiative where it is reasonably possible for the employees to do so.

1. Limitation of liability

DRAFTING NOTE: If the Landlord is the trustee of a trust insert the landlord’s limitation of liability clause here.

1. Miscellaneous
   1. **Notices**

Notices must be given in the manner specified in the Lease.

* 1. **Costs**

Each party must pay their own costs in connection with the preparation and negotiation of this document.

* 1. **No assignment**

The Tenant's rights under this document are personal only to the Tenant and may not be transferred or assigned.

* 1. **Prohibitions**

If the Tenant may not do something in connection with this document, then it may not do anything which may result in it happening.

* 1. **Waiver and variation**

A provision of or a right under this document may not be waived or varied except in writing signed by whoever is to be bound.

* 1. **Set off**

The Tenant may not delay payment or offset any liability under the Lease as a result of any entitlement under this document.

* 1. **No merger**

Obligations under this document which are of a continuing nature will not merge on the date on which any incentives are paid or granted.

Signing page

**EXECUTED** as an agreement.

DRAFTING NOTE: If this document is not to be binding, then it can be signed by authorised representatives of each party instead of as set out below.

|  |  |  |  |
| --- | --- | --- | --- |
| **Signed sealed and delivered** on behalf of  [#] by its attorneys pursuant to power of attorney dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ registered Book \_\_\_\_\_\_\_\_\_\_ No \_\_\_\_\_\_\_\_\_\_ who has no notice of the revocation of the power of attorney in the presence of: |  |  |  |
|  |  | Signature of attorney |  |
|  |  | Name of attorney (please print) |  |
| Signature of witness |  |  |  |
| Name of witness (please print) |  | Signature of attorney |  |
| Address of witness |  | Name of attorney (please print) |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **Executed** by [#] by its duly authorised officers in accordance with section 127 of the *Corporations Act 2001*: |  |  |  |
|  |  |  |  |
| Signature of director/secretary |  | Signature of director |  |
| Name of director/secretary (please print) |  | Name of director (please print) |  |

