



File: T&F23/0741
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1 September 2023

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Freedom of Information Internal Review – Launce Complex Business Case and Grant Deed

I refer to your Internal Review application received by the Department of Treasury and Finance (DTF) on 18 August 2023, in response to DTF's initial determination of 18 July 2023.

Your Freedom of Information application requested:

'Reference DTF597 is an Economic and Business Growth Fund Grant Deed-SouthernLaunch.Space Pty Ltd to which references the Grantee's "Launch Complex Business Case" dated 23 March 2018. It is this "Launch Complex Business Case" document that is being sought for release in the public interest. The Marshall Liberal government won the state election on 18 March 2018, Mr Marshall was sworn in as Premier on 19 March 2018, and four days later the "Launch Complex Business Case" was prepared. However the public does not know when that business case was submitted to the state government. Nevertheless, it was not until 4 December 2018 when Premier Marshall first publicly announced the existence of Whalers Way Orbital Launch Complex, and also the establishment of Southern Launch Taskforce. Three days later, another Grant Deed dated 7 December 2018 was for \$650,000 to Southern Launch/Lloyd Damp but the Grant Deed is not in the public domain. This Grant Deed is referenced in another Grant Deed dated 23 May 2021. This 23 May 2021 Grant Deed and its subsequent Deed of Variation dated 25 February 2022 (both of which are in the public domain), contain references to grant monies, the "Launch Complex Business Case", and the "Site" being Whalers Way. In order for the public to understand why and how decisions were made about the "launch complex", it is important that the proponent's "Launch Complex Business Case" and the Grant Deed for \$650,000 are released. Southern Launch has already received \$5.4m Economic and Business Growth Fund Grant, but the grant for \$650,000 is not available to the public. It does not make sense. Thus, the release of the Grant Deed for \$650,000 is also requested. Additional reasons include the following. Department of Defence has already supported Southern Launch for a combined sum of \$4.08m, a significant portion of which is for the proponent's development of at Whalers Way. The federal Department of Industry, Science, and Resources has also contributed \$5.445m to the activities of Southern Launch, including at Whalers Way, and many other smaller grants have also been awarded. Whilst a total of \$22.138m of grants and "contracts" awarded to Southern Launch have been discovered in the public domain, only that \$650,000 grant has not been made available. For full transparency, and for the public to fully understand the whole picture about the

establishment of the launch complex at Whalers Way, and given the planning and environmental decisions that have been made and have yet to be made, the release of the "Launch Complex Business Case" and the Grant Deed for \$650,000 are requested in the public interest and in support of the Ministerial Code of Conduct (clause 2.5, 2.6, 2.7) .'

Determination under review

Your grievance about the initial determination which has led to this internal review has been interpreted as follows:

- Document 1 was a Grant Deed dated 23 May 2021, and your request sought the Grant Deed dated 7 December 2018.
- You are of the opinion that releasing Document 2 is, on balance, in the public interest.

Outcome of internal review

Under section 29(3) of the Act, on an application for internal review, as an alternate Accredited FOI Officer, I may, confirm, vary or reverse the determination under review.

The purpose of this letter is to advise you that I am partially varying the original determination.

A total of 2 documents were identified as answering the terms of your FOI application and I have determined as follows:

- I grant you access in full to 1 document, a copy of which is enclosed.
- I refuse you access to 1 document.

Please refer to the attached schedule that describes each document and sets out my determination and reasons in summary form.

Documents released in full

Document 1.

I am varying the document provided.

- As noted in your internal review application, the initial determination incorrectly provided the Grant Deed dated 23 May 2021. Attached is the Grant Deed dated 7 December 2018, as disclosed on the SA Tenders and Contracts website.
- The Grant Deed dated 23 May 2021 for \$5.4 million superseded the grant deed dated 7 December 2018 for \$650,000. The Grant Deed dated 7 December 2018 was terminated without any payment being made under that agreement. The publicly disclosed document was archived from the SA Tenders and Contracts website when it was terminated and superseded by the new agreement.

Documents refused in full

Document 2.

- Contains information detailing the Southern Launch project proposal, including expenditure, funding, and project timeframes. This information still relates to an active project.
- Release of this information would provide domestic and international competitors with detailed knowledge of Southern Launch's project structure, commercial and financial affairs. I acknowledge your observation that Southern Launch actively promotes their

projects through media statements and their website, however, the information released through their media statements is not comparable to the detail of information in Document 2.

- It is in the public interest that companies applying for government grants and funding provide meticulous commercial and financially sensitive information, for the Government to best assess the viability and suitability of potential projects. Disclosure of this document could reasonably be expected to inhibit frankness and candour in future proposals provided by companies applying for grant funding, and potentially deter those from seeking to do business in South Australia.
- Consequently, the release of this document would, on balance, be contrary to the public interest.

I have therefore determined to confirm the initial determination on this document and exempt from disclosure pursuant to clause 7(1)(c) of Schedule 1 to the FOI Act.

Exemptions

Clause 7 – Documents affecting business affairs

(1) *A document is an exempt document— ...*

(c) *if it contains matter—*

(i) *consisting of information (other than trade secrets or information referred to in paragraph (b)) concerning the business, professional, commercial or financial affairs of any agency or any other person; and*

(ii) *the disclosure of which—*

(A) *could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of such information to the Government or to an agency; and*

(B) *would, on balance, be contrary to the public interest.*

Please note, in compliance with Premier and Cabinet Circular PC045 - *Disclosure Logs for Non-Personal Information Released through Freedom of Information (PC045)*, DTF is required to publish a log of all non-personal information released under the *Freedom of Information Act 1991*.

In accordance with this Circular, any non-personal information determined for release as part of this application, may be published on the DTF website. A copy of PC045 can be found at the following address: <https://www.dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars>. Please visit the website for further information.

Appeal Rights

If you are unhappy with this determination you are entitled to exercise your rights of external review with the Ombudsman SA. Alternatively, you can apply to the South Australian Civil and Administrative Tribunal (SACAT). If you wish to seek a review, you must do so within 30 calendar days of receiving this internal review determination.

OFFICIAL

- 4 -

For more information about seeking a review, please contact the Ombudsman SA on telephone (08) 8226 8699 or SACAT on 1800 723 767.

If you require any further information, please contact Kate Tonkin via email FreedomofInformation2@sa.gov.au.

Yours sincerely

A handwritten signature in cursive script that reads "DFleming".

Deanna Fleming
ACCREDITED FREEDOM OF INFORMATION OFFICER

OFFICIAL

DATED

7th

DAY OF

December

2018

ECONOMIC AND BUSINESS GROWTH FUND

GRANT DEED

BETWEEN

THE TREASURER

("Treasurer")

-AND-

SOUTHERNLAUNCH.SPACE PTY LTD (ACN 621 420 504)

("Grantee")

-AND-

LLOYD DAMP

("Guarantor")



Government
of South Australia

CROWN SOLICITOR

Level 9, 45 Pirie Street, Adelaide SA 5000

TABLE OF CONTENTS

1. INTERPRETATION 1

2. CONDITIONS PRECEDENT..... 5

3. GRANTEE'S WARRANTIES 5

4. PAYMENT OF GRANT 7

5. GST 7

6. CONDUCT OF PROJECT 8

7. CONFIDENTIAL INFORMATION AND CONTRACT DISCLOSURE 11

8. OTHER FINANCIAL ASSISTANCE 12

9. REPAYMENT 12

10. NO DEALING WITH GRANTEE'S RIGHTS 14

11. BUSINESS IN SOUTH AUSTRALIA 14

12. ACKNOWLEDGEMENT AND PUBLIC STATEMENTS 15

13. NOTICES 15

14. GENERAL 15

15. AUTHORISATIONS..... 17

16. GUARANTEE 17

SCHEDULE

GRANT DEED dated 7th day of December 2018

PARTIES:

THE TREASURER of 200 Victoria Square, Adelaide, South Australia 5000, ABN 19 040 349 865 ("**Treasurer**")

AND

THE GRANTEE NAMED IN ITEM 1.1 OF THE SCHEDULE ("**Grantee**")

AND

THE GUARANTOR NAMED IN ITEM 1.2 OF THE SCHEDULE ("**Guarantor**")

BACKGROUND:

- A. The Government of South Australia has established the Fund.
- B. The Grantee has applied for financial assistance from the Fund for the Project.
- C. The Guarantor has offered to guarantee to the Treasurer the due and punctual performance by the Grantee of the Grantee Obligations.
- D. The Treasurer has agreed to provide the Grant to the Grantee from the Fund for the purposes of the Project on the terms of this Deed.

OPERATIVE PROVISIONS:

1. **INTERPRETATION**

1.1 Unless the contrary intention appears:

ADI means a deposit taking institution authorised under the *Banking Act 1959* (Cth) to carry on banking business in Australia.

Application means the application for financial assistance from the Fund submitted by the Grantee in respect of which the Grant has been awarded.

Business has the meaning given in item 1.4 of the schedule.

Business Day means any day which is not a Saturday or a Sunday or a public holiday in Adelaide.

Business Hours means between the hours of 9:00am and 5:00pm (Adelaide time) on a Business Day.

Claim means a written request for payment of the Grant, as described in item 9 of the schedule.

Company Associate means a related body corporate or subsidiary of the Grantee within the meaning of the *Corporations Act*.

Confidential Information means all trade secrets, ideas, know-how, concepts, processes, techniques, research, data, plans, materials, product development and other information regardless of its form, relating to the Grantee or its affairs, businesses, sales, marketing or promotional information which is proprietary or confidential in nature or which is treated by the Grantee as confidential and excluding information that:

- (a) is in the public domain, otherwise than through a breach of confidentiality by the Treasurer or any person to whom the Treasurer has disclosed that information;
- (b) the Treasurer created, or came lawfully into the possession of, independently of the Grantee; or
- (c) is contained within this Deed.

Control has the meaning given by section 50AA of the *Corporations Act*.

Change of Control of an Entity means where, at any time, any person, alone or together with any Company Associate or Company Associates, ceases to, or commences to, directly or indirectly have Control of the Entity.

Corporations Act means that *Corporations Act 2001* (Cth).

Crown means the Crown in right of the State of South Australia.

date of execution of this Deed means the date this Deed is executed by the last party.

Deal With means:

- (a) sell, transfer, novate, assign, declare a trust over or otherwise dispose of or procure or effect the disposal of, any interest or right; or
- (b) effect a change in the beneficial interest or beneficial unit holding under a trust which has an interest or right,

(and **Dealing With** has a corresponding meaning).

Deed means this deed and includes all schedules.

Disqualifying Event means an event set out in clause 4.5.

Eligible Expenses has the meaning given in item 1.7 of the schedule.

Encumbrance means a Security Interest or any other legal or equitable interest or right which is either imposed by law or which is given to any person, over property or rights under a contract.

Entity has the meaning given in section 64A of the *Corporations Act*, but is also deemed to include a joint venture within the meaning of Australian Accounting Standard 131.

Expiry Date means the date of expiry of this Deed, being the date specified in item 2.4 of the schedule.

Financial Year means the 12 month period beginning 1 July of one year and ending 30 June of the following year.

FTE has the meaning given in Item 11 of the schedule.

Fund means the fund known as the South Australia Economic and Business Growth Fund, established for the purposes of supporting the development of globally competitive industries and industrial capabilities in South Australia that create jobs of the future for South Australians.

Grant means the amount set out in item 3 of the schedule.

Grantee's Authorised Officer means the person nominated in item 8.2 of the schedule.

Grantee Obligations has the meaning given in clause 16.1.

GST has the same meaning as in the GST Act.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

GST Law has the meaning given to that expression in the GST Act.

Insolvent means being an insolvent under administration or insolvent (each as defined in the *Corporations Act*), or being in receivership, in receivership and management, in liquidation, in provisional liquidation, under administration, wound up, subject to any arrangement, assignment, or composition, protected from creditors under any statute, dissolved (other than to carry out a reconstruction while solvent) or being otherwise unable to pay debts when they fall due or having something with the same or a similar effect happen under the laws of any jurisdiction.

Parties means the Treasurer and the Grantee.

Payment Milestone means a payment milestone set out in item 5 of the schedule.

Payment Table means the table of payments set out in item 5 of the schedule.

Performance Milestone means a performance milestone set out in item 6 of the schedule.

Planned Outcomes means the outcomes articulated in item 1.6 of the schedule.

Prescribed Rate means:

- (a) a rate of interest (expressed as a percentage per annum) equal to the maximum indicator lending variable rate (for bank's business loans for small business) published by the Reserve Bank of Australia, for the month in which interest commences to be payable; plus
- (b) two percent per annum (2.00% p.a.).

Project means the project described in item 1.5 of the schedule.

Project Commencement Date means the date for commencement of the Project set out in item 2.2 of the schedule.

Project Completion Date means the agreed date for completion of the Project set out in item 2.3 of the schedule.

Quarter means each period of three months commencing on 1 January, 1 April, 1 July and 1 October in any year during the Term.

Repayment Amount means:

- (a) all amounts paid by the Treasurer to the Grantee under this Deed up to the Repayment Date; and

- (b) interest at the Prescribed Rate calculated from the Repayment Date up to but excluding the day on which the Grantee repays the amount in full without deduction.

Repayment Date means the date of the Treasurer's demand given under clause 9.5.

Repayment Event means any of the events described in clause 9.1.

Repayment Sum has the meaning given to it in item 10.3 of the schedule.

Reports means those reports described in item 7 of the schedule.

Security Documents means the documents listed in Item 12 of the schedule (if any).

Security Interest has the meaning given in section 12 of the *Personal Property Securities Act 2009* (Cth).

Site has the meaning given to it in item 1.3 of the schedule.

Sunset Date means the date specified in Item 2.1 of the schedule.

Term means the period commencing on the date of execution of this Deed until the Expiry Date, unless terminated earlier in accordance with this Deed.

Transaction Documents means this Deed and the Security Documents.

Treasurer's Representative means the person occupying the position identified in item 8.1 of the schedule.

Trust means the trust in relation to which the Grantee is trustee.

Trust Deed means the trust deed that establishes the Trust.

- 1.2 Words defined in the schedule have the meaning given in the schedule.
- 1.3 **Including, includes and in particular** do not limit the words which precede them or to which they refer.
- 1.4 Unless the contrary intention appears:
- 1.4.1 a **person** includes a firm, a body corporate, an unincorporated association or an authority;
- 1.4.2 an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and severally;
- 1.4.3 where the Grantee consists of two or more persons or companies then the obligations, representations and warranties in this Deed shall bind each of them jointly and severally;
- 1.4.4 the singular includes the plural and vice versa;
- 1.4.5 a reference to a statute, ordinance, code or other law includes regulations and other instruments made under it and consolidations, amendments, re-enactments or replacements of any of them; and
- 1.4.6 where any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- 1.5 Headings are inserted for convenience of reference only and are not to be used in the interpretation of this Deed.
- 1.6 A reference to the schedule is a reference to the schedule to this Deed.

- 1.7 A reference to this Deed includes the schedule.
- 1.8 If there is any inconsistency between this Deed (excluding the schedule) and the schedule, the Deed (excluding the schedule) shall prevail to the extent of the inconsistency.
- 1.9 A reference to **dollars** is to Australian dollars.
- 1.10 Where a party to this Deed is the trustee of a trust:
- 1.10.1 a reference to a transaction, asset, act or liability of any nature of the party includes its transactions, assets, acts or liabilities as trustee and in its own right; and
- 1.10.2 where the party incurs an obligation, it incurs that obligation in its capacity as trustee, and in its own right.

2. CONDITIONS PRECEDENT

The obligation of the Treasurer to provide the Grant or any part of the Grant under this Deed is subject to:

- 2.1 the Parties' execution and stamping of the Transaction Documents and registration of the Security Documents; and
- 2.2 the conditions precedent included in Item 10.1 of the schedule being achieved to the satisfaction of the Treasurer prior to the Sunset Date.

3. GRANTEE'S WARRANTIES

- 3.1 The Grantee warrants that:
- 3.1.1 all information that the Grantee provides to the Treasurer:
- (a) from time to time under or in connection with this Deed is true and correct at the time given, and the opinions and forecasts expressed (if any) were held *bona fides* and were made on a reasonable basis at the time they were expressed;
- (b) in the Application is true and correct at the time it was made, and the opinions and forecasts expressed (if any) were held *bona fides* and were made on a reasonable basis, as at the date of the Application and as at the date of execution of this Deed;
- 3.1.2 without limiting the generality of clause 3.1.1, at the date of execution of this Deed:
- (a) the Grantee is:
- (i) registered for GST purposes pursuant to the GST Act with the Australian Business Number as specified at Item 4.1 of the schedule; and
- (ii) duly qualified to carry on the Business; and
- (b) the Grantee does not have any interests or obligations that conflict with its interests or obligations under this Deed;
- 3.1.3 the Grantee has the power to enter into and perform its obligations under this Deed and has taken the necessary corporate action to authorise the entry into and performance of this Deed;

- 3.1.4 the Grantee is not aware of any circumstances which adversely affect or might adversely affect the Grantee's ability to fulfil its obligations under this Deed, including any threatened actions or proceedings before any court or other body;
 - 3.1.5 no Repayment Event or Disqualifying Event has occurred or is occurring;
 - 3.1.6 the Grantee is not in material default under any law, indenture, mortgage, trust deed, agreement or other instrument or arrangement by which it is bound;
 - 3.1.7 all authorisations, approvals, consents, licences, exemptions, filings, registrations and other requirements with respect to the Grantee of governmental, judicial and public bodies and authorities required in connection with the execution, delivery and performance by the Grantee of this Deed have been obtained or effected (or will be obtained or effected after that date of execution of this Deed within any relevant time or statutory period) and are or will be in full force and effect and there has been no default by the Grantee in the performance of any of the terms and conditions thereof;
 - 3.1.8 this Deed constitutes legal, valid and binding obligations on the part of the Grantee which are enforceable against it in accordance with its terms; and
 - 3.1.9 there are no material facts known to the Grantee relating to the Grantee which could or might affect the willingness of the Treasurer to enter into an agreement with the Grantee in terms similar to the terms of this Deed, which have not been disclosed to the Treasurer.
- 3.2 Where the Grantee enters into this Deed as trustee of a trust, the Grantee warrants that:
- 3.2.1 the Grantee is empowered by the Trust Deed to execute this Deed, to carry on the Business, and to do all things incidental thereto, and there are no restrictions or conditions upon such activity by the Grantee and all necessary meetings have been held and all necessary resolutions have been passed as required by the Trust Deed in order to render the Deed fully binding on the parties hereto;
 - 3.2.2 no amendments have been made to the Trust Deed save as disclosed in writing to the Treasurer prior to execution of this Deed;
 - 3.2.3 the Grantee is the present and sole trustee of the Trust, and no new trustees have been appointed;
 - 3.2.4 no vesting date has been determined under the provisions of the Trust Deed;
 - 3.2.5 there are no restrictions or limitations on the right of the Grantee to be indemnified out of the assets of the Trust;
 - 3.2.6 the Treasurer's rights under this Deed rank in priority to the rights of beneficiaries to the assets of the Trust; and
 - 3.2.7 the Grantee is not in default under the Trust Deed.
- 3.3 The Grantee acknowledges that the warranties made in this clause 3 have induced the Treasurer to agree to provide the Grant to the Grantee and are repeated at the time of provision of each Report and Claim by reference to the circumstances existing at that time.

- 3.4 The Grantee must immediately inform the Treasurer of any change in its status or circumstances that may affect its ability to comply with this Deed, including its ability to comply with the schedule.
- 3.5 If the Grantee becomes aware of a breach of warranty, the Grantee must immediately notify the Treasurer of that breach.

4. **PAYMENT OF GRANT**

Payment of Grant

- 4.1 Notwithstanding anything to the contrary in this Deed, the Treasurer is not obliged to make any payment of the Grant after the Expiry Date.
- 4.2 The Treasurer is not obliged to make any payment (or if a payment has already been made, any further payment) of the Grant to the Grantee in accordance with the Payment Table if the Treasurer determines that:
- 4.2.1 the Grantee has not complied with the terms and conditions of the Transaction Documents;
 - 4.2.2 the Grantee has not achieved a Performance Milestone by the date required for its achievement in accordance with item 6 of the schedule;
 - 4.2.3 the Grantee has not achieved the Payment Milestone related to the particular Grant payment in accordance with item 5 of the schedule;
 - 4.2.4 the Grantee has not submitted all Reports to the Treasurer in accordance with item 7 of the schedule;
 - 4.2.5 the Grantee has not submitted a Claim to the Treasurer in accordance with item 9 of the schedule;
 - 4.2.6 the Claim has not been submitted at least sixty (60) days prior to the Project Completion Date;
 - 4.2.7 the Grantee is Insolvent; or
 - 4.2.8 a Disqualifying Event or a Repayment Event has occurred or is occurring.
- 4.3 Payment of any instalment of the Grant will be by direct credit to the Grantee's bank account which must be with an ADI and in the name of the Grantee.
- 4.4 Except as provided by this clause 4, the Grantee will not be entitled to receive any amount or instalment which, when added to all payments previously made, would result in the Grantee receiving more than the total amount of the Grant.
- 4.5 For the purposes of this Deed, a Disqualifying Event occurs if and when the Grantee commits a breach of any of:
- 4.5.1 its industrial obligations to its employees;
 - 4.5.2 its statutory obligations not to discriminate against a person or class of persons;
 - 4.5.3 its statutory obligations to protect the environment; or
 - 4.5.4 its statutory obligations to the Crown.

5. **GST**

- 5.1 In this clause 5 words and expressions which are not defined in this Deed but which have a defined meaning in GST Law have the same meaning as in the GST Law.

- 5.2 Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this Deed are exclusive of GST.
- 5.3 If GST is payable by a supplier, or by the representative member for a GST group of which the supplier is a member, on any supply made under this Deed, the recipient will pay to the supplier an amount equal to the GST payable on the supply.
- 5.4 The recipient will pay the amount referred to in clause 5.3 in addition to and at the same time that the consideration for the supply is to be provided under this Deed.
- 5.5 Subject to clause 5.8, the supplier must deliver a tax invoice or an adjustment note to the recipient before the supplier is entitled to payment of an amount under clause 5.3, and the recipient can withhold payment of the amount until the supplier provides a tax invoice or an adjustment note as appropriate.
- 5.6 Subject to clause 5.8, if an adjustment event arises in respect of a taxable supply made by a supplier under this Deed, the amount payable by the recipient under clause 5.3 will be recalculated to reflect the adjustment event and a payment will be made by the recipient to the supplier or by the supplier to the recipient as the case requires.
- 5.7 The Grantee and the Treasurer acknowledge and agree that:
- 5.7.1 the Treasurer will issue the Grantee with a Recipient Created Tax Invoice, and where relevant an Adjustment Note, in respect of the Supply of the Grant and any Adjustment Event, and the Grantee will not be required to issue, and accordingly will not issue, a Tax Invoice in respect of that Supply;
 - 5.7.2 the Department of Treasury and Finance is the government related entity representing the Treasurer for the purposes of the GST Law, is registered under GST Law and is entitled to issue the Recipient Created Tax Invoice, and where relevant the Adjustment Note, for the Treasurer. The Treasurer agrees to notify the Grantee if, during the Term, the basis of the Treasurer's registration for the purposes of the GST Law materially changes;
 - 5.7.3 the Grantee is registered under the GST Law and the Grantee agrees to notify the Treasurer if, during the Term, it ceases to be registered under the GST Law; and
 - 5.7.4 they will notify the other if, during the Term, they cease to satisfy the requirements of the GST Law for the issuance of a Recipient Created Tax Invoice.
- 5.8 The Grantee's Claim for the Grant must not seek reimbursement of any amount in respect of which the Grantee is entitled to claim an Input Tax Credit for the purposes of the GST Law.

6. **CONDUCT OF PROJECT**

Conduct of Project

- 6.1 The Grantee must use the Grant solely for the purposes of reimbursing itself for Eligible Expenses.

Project Performance

- 6.2 The Grantee must commence the Project by the Project Commencement Date and complete the Project by the Project Completion Date, unless otherwise agreed in writing by the Treasurer.

- 6.3 The Grantee must perform each Performance Milestone by the date for achievement of that Performance Milestone as set out in item 6 of the schedule.
- 6.4 The Grantee must achieve the Planned Outcomes of the Project.
- 6.5 The Grantee must notify the Treasurer in writing immediately upon the Grantee becoming aware that it will not be able to comply with clause 6.2 or 6.3.
- 6.6 When notifying the Treasurer pursuant to clause 6.5, the Grantee must specify:
- 6.6.1 the Grantee's proposal to ensure that the Planned Outcomes of the Project are achieved;
 - 6.6.2 the planned revised date for achievement of the relevant Performance Milestone (if any); and
 - 6.6.3 the expected effect the delay will have on the Project.
- 6.7 Upon receipt of notification pursuant to clause 6.5, if the Treasurer considers in the Treasurer's absolute discretion that a failure by the Grantee may compromise the capacity of the Grantee to achieve the Planned Outcomes for the Project, the Treasurer will not be obliged to make any payment (or any further payment, as the case may be) of the Grant under this Deed.

Reporting

- 6.8 The Grantee must give to the Treasurer the Treasurer's Reports containing the matters and at the times required by the Treasurer from time to time, which requirements as at the date of this Deed are set out in item 7 of the schedule.
- 6.9 If the law or the Treasurer requires a Report to be audited, the Report must be audited by a registered company auditor, not being an employee, shareholder, director or other officeholder of or otherwise associated with the Grantee.
- 6.10 If in the Treasurer's opinion either the form or the content of a Report is not adequate for the Treasurer's purposes, and the Treasurer gives notice to the Grantee to that effect, the Grantee must submit a revised Report satisfactory to the Treasurer within thirty (30) days of receipt of notice by the Grantee.
- 6.11 If the Grantee fails to submit a satisfactory revised Report within thirty (30) days under clause 6.10 of this Deed, the Treasurer is not obliged to make any further payment of the Grant.
- 6.12 The Treasurer may request additional information from the Grantee in connection with this Deed.
- 6.13 If the Treasurer requests information under clause 6.12, the Grantee must provide the information to the Treasurer within thirty (30) days of the request or such other time as is agreed with the Treasurer.
- 6.14 Before the due date for submission of a Report under this Deed, the Grantee may apply in writing for an extension of time for submission of the Report, setting out the reason for the extension.
- 6.15 The Treasurer may, in its absolute discretion, grant to the Grantee an extension of time ending on a specific date for submission of the Report.
- 6.16 If the Grantee fails to submit two or more Reports consecutively by the due dates for submission (or, where the Treasurer has granted the Grantee an extension under clause 6.15, the due date for submission as extended under clause 6.15), the Treasurer is not obliged to make any further payment of the Grant.

Records to be kept

- 6.17 The Grantee must keep to the Treasurer's satisfaction:
- 6.17.1 all records (including original receipts and invoices) relating to the conduct and management of the Project necessary to provide a complete, detailed record and explanation of:
 - (a) expenditure by the Grantee on the Project, including Eligible Expenses;
 - (b) Project activities and the progress of the Project; and
 - (c) any amounts of GST paid by the Grantee in respect of any supply made to the Treasurer under this Deed; and
 - 6.17.2 any other records relating to the Project which are required by the Treasurer.
- 6.18 Those records must be retained by the Grantee during the Term and for five (5) years after the Expiry Date.

Inspection and Audit by the Treasurer

- 6.19 The Grantee will:
- 6.19.1 provide the Treasurer with such information as the Treasurer may reasonably require to enable him or her to monitor the Grantee's performance of its undertakings and obligations under this Deed; and
 - 6.19.2 upon reasonable notice, permit the Treasurer or the Treasurer's agents to have access to the Site for the purpose of conducting an audit of the performance by the Grantee of its obligations under this Deed.
- 6.20 All records and other documentation required to be kept by the Grantee under this Deed and under any other legislation or statutory instrument will upon the giving of ten (10) Business Days' notice be available to the Treasurer for inspection at the Site, at all times during Business Hours.
- 6.21 Upon the Treasurer's request (which must not be made with less than 5 Business Days' prior notice), the Grantee will permit the Treasurer to inspect, during Business Hours, all buildings, fixtures, fittings, machinery, implements, utensils, stock-in-trade and other things related to the Project and belonging to the Grantee or in which the Grantee may have an interest of whatever nature.
- 6.22 Nothing in this Deed derogates from the powers of the Auditor-General for the State of South Australia under the *Public Finance and Audit Act 1987* (SA).

Additional Obligations of the Grantee

- 6.23 The Grantee must ensure that any activity carried out by it in connection with its use of the Grant complies with the laws from time to time in force in the State of South Australia.
- 6.24 The Grantee shall not pay any part of the Grant to, or apply any of the Grant for the benefit of, any Company Associate without the prior written consent of the Treasurer.
- 6.25 The Grantee must not Deal With any real or personal property in relation to which the Grant has been applied by the Grantee without the prior written consent of the Treasurer, which shall not be unreasonably withheld.
- 6.26 If at any time prior to the Expiry Date the Grantee Deals With any real or personal property in relation to which the Grant has been applied (referred to in this clause 6.26 as "**the Property**"):

- 6.26.1 the Treasurer may by notice in writing given to the Grantee demand that the Grantee pay to the Treasurer a monetary amount (not exceeding the amount of the Grant) which is equivalent to the monetary payment or value received by or to be paid to or for the benefit of the Grantee in connection with the assignment, transfer, conveyance, sale, disposal or removal of the Property; and
- 6.26.2 the Grantee must then pay to the Treasurer the amount demanded by the Treasurer within the time stipulated by the Treasurer for payment.
- 6.27 The Grantee must:
- 6.27.1 maintain in force in its own name and at its own expense insurance in respect of the whole of the Business (including but not limited to the assets acquired by the Grantee with the Grant) with a reputable insurer, against all such risks as are usually insured against by persons and companies pursuing a business enterprise of the same or a similar nature as the Business, for the full replacement cost of those assets and undertakings;
- 6.27.2 apply any monies received for any claim against a policy of insurance required by clause 6.27.1 to be maintained, towards the repair or replacement of the property insured, unless the Treasurer approves otherwise; and
- 6.27.3 comply with its obligations under the *Return to Work Act 2014 (SA)*.
- 6.28 The Grantee must comply with the Grantee's obligations and undertakings set out in item 10 of the schedule.
- Ownership of Assets**
- 6.29 The Treasurer does not assert any ownership over any assets acquired by the Grantee with all or any part of the Grant.

7. CONFIDENTIAL INFORMATION AND CONTRACT DISCLOSURE

- 7.1 Subject to this clause 7, the Treasurer agrees not to disclose any Confidential Information of the Grantee without the Grantee's prior written consent.
- 7.2 The Grantee agrees to the disclosure of the Transaction Documents in accordance with Premier and Cabinet Circular "PC027 Disclosure of Government Contracts 27" (a copy of which can be viewed in either printed or online in electronic form) and either generally to the public or to a particular person as a result of a specific request.
- 7.3 The Treasurer may disclose Confidential Information without the consent of the Grantee where it is a disclosure:
- 7.3.1 to the Parliament of South Australia, the Governor, the Cabinet, any Minister of the Crown or Parliamentary or Cabinet committee or sub-committee having a proper interest in this Deed;
- 7.3.2 which must be made by the Government of South Australia as a consequence of a constitutional convention;
- or which:
- 7.3.3 it is reasonable for the Treasurer to make for the purpose of performing its own obligations under this Deed or monitoring the performance of the Grantee;

- 7.3.4 the law (including a freedom of information law) requires the Treasurer to make; or
- 7.3.5 is for the purposes of prosecuting or defending any legal proceedings.
- 7.4 The Treasurer will not be taken to have breached his obligations under this clause 7 to the extent that he discloses Confidential Information:
 - 7.4.1 to his officers, employees, agents, advisers or contractors solely in order to comply with obligations, or to exercise rights, under this Deed;
 - 7.4.2 to his internal management personnel, solely to enable effective management or auditing of Deed-related activities;
 - 7.4.3 to a Crown Minister, or in response to a request by a House or a Committee of the Parliament of South Australia;
 - 7.4.4 to another government agency, where this serves the Treasurer's legitimate interests;
 - 7.4.5 as required or permitted by any other law (including a freedom of information law) to be disclosed; or
 - 7.4.6 that is in the public domain otherwise than due to a breach of this clause 7.
- 7.5 Where the Treasurer discloses Confidential Information to another person, the Treasurer must notify that person that the information is Confidential Information.

8. **OTHER FINANCIAL ASSISTANCE**

- 8.1 The Grantee and Guarantor must give the Treasurer full details of any financial assistance for activities in connection with the Project which the Grantee or Guarantor expects or receives from another Commonwealth, State or Territory government source or agency after the date of execution of this Deed, including the amount and source of the funding and the name of the program under which it was provided, within thirty (30) days of receiving notice that the other financial assistance has been approved.
- 8.2 The Treasurer may reduce the size of payments as set out in the Payments Table by no more than the amount of the other financial assistance referred to in clause 8.1.

9. **REPAYMENT**

- 9.1 The occurrence of any of the following events is a Repayment Event:
 - 9.1.1 if the Grantee is, or threatens to become, Insolvent;
 - 9.1.2 if the Grantee breaches:
 - (a) any of its warranties or representations under this Deed;
 - (b) any of its obligations or undertakings under this Deed and has not rectified such breach within the time frame specified in a notice given in writing by the Treasurer to the Grantee requiring rectification of the breach.
 - 9.1.3 if a secured party enters into possession of any of the Grantee's assets or property in the State of South Australia or appoints an agent to enter into possession on its behalf;

- 9.1.4 if there occurs any material adverse change in the condition or stability of the Grantee which in the reasonable opinion of the Treasurer could result in the Grantee being unable to perform its obligations under the Deed;
- 9.1.5 if the Grantee breaches any representations, warranties or obligations made by it under any a Security Document or any other agreement the Grantee may have with the Crown; or
- 9.1.6 the events (if any) listed in item 10.2 of the schedule.
- 9.2 If, at any time before the Treasurer has made payments of the Grant in full, a Repayment Event occurs, the Treasurer shall immediately be released from any obligation to advance any unpaid portion of the Grant to the Grantee.
- 9.3 Nothing in clause 9.2 shall affect the Treasurer's right to recover any part of the Treasurer's Grant payments at that time already advanced to the Grantee pursuant to this Deed or any of the other Treasurer's rights under this Deed which may have accrued pursuant to this Deed as at the date of the Repayment Event.
- 9.4 The Grantee acknowledges that:
- 9.4.1 the Treasurer has concluded that it is in the interests of the public of the State of South Australia that the Treasurer should provide the Grant to the Grantee but only upon the terms and conditions of this Deed;
- 9.4.2 it is essential to the purpose for which the Grant is advanced pursuant to this Deed that:
- (a) the Grantee uses the Grant for the Eligible Expenses of the Project; and
- (b) the Grantee does not permit a Repayment Event to occur.
- 9.4.3 if a Repayment Event occurs, the extent of the loss or damage sustained by the Treasurer will be extremely difficult to assess or quantify accurately or to otherwise determine precisely;
- 9.4.4 the Repayment Amount and any Repayment Sum represents a genuine pre-estimate by the Treasurer of the compensation which the Treasurer believes is fair and reasonable; and
- 9.4.5 any amounts payable to the Treasurer pursuant to this clause 9.4 or under item 10.3 of the schedule are not and will not be construed or deemed to be a penalty payable by the Grantee for the purposes of any applicable legal rule or norm.
- 9.5 Subject to the provisions of this Deed, if a Repayment Event occurs at any time, then notwithstanding any previous delay or waiver on the Treasurer's part, the Repayment Amount shall immediately become due and payable by the Grantee to the Treasurer as liquidated damages upon demand by the Treasurer.
- 9.6 The Grantee enters into the obligation to pay the Repayment Amount and any Repayment Sum, with the intention that it is a legally binding, valid and enforceable contractual provision against the Grantee.
- 9.7 The Treasurer and the Grantee intend to exclude, to the extent permissible, the application and operation of any legal rule or norm, whether statutory or common law, relating to:
- 9.6.1 the characterisation as penalties of liquidated amounts payable under a contract on a breach occurring; or
- 9.6.2 the enforceability or revocability of such liquidated amounts.

- 9.7 The Grantee's obligation to pay the Repayment Amount and any Repayment Sum to the Treasurer shall not be subject to any set off or counterclaim by the Grantee and the Repayment Amount and each Repayment Sum shall be paid by the Grantee to the Treasurer free and clear of any withholding of whatever nature.
- 9.8 The Grantee undertakes that it will promptly inform the Treasurer in writing upon the Grantee becoming aware of, or when the Grantee ought reasonably to have become aware of, the happening of a Repayment Event.
- 9.9 Any amount due and payable by the Grantee to the Treasurer pursuant to:
- 9.9.1 this Deed;
 - 9.9.2 any other agreement that the Grantee may have with the Crown; or
 - 9.9.3 any agreement a Company Associate of the Grantee may have with the Crown;
- may be set off against any amount due and payable by the Treasurer to the Grantee under this Deed.
- 9.10 If the Grantee is required under this Deed to pay any Repayment Sums and the Repayment Amount, which in aggregate would exceed the Repayment Amount, then the Grantee will only be obliged to pay an amount equal to the Repayment Amount.

10. NO DEALING WITH GRANTEE'S RIGHTS

- 10.1 Unless expressly authorised to do so under this Deed, the Grantee must not Deal With, or grant or create any Encumbrance over its rights under this Deed without the prior written consent of the Treasurer (which may be granted or withheld in the Grantor's absolute discretion).
- 10.2 A Change in Control is taken to be a Dealing With the Grantee's rights under this Deed.
- 10.3 If the Grantee Deals With, or grants or creates any Encumbrance over its rights under this Deed without the prior written consent of the Treasurer and the Treasurer determines that this event adversely affects or may adversely affect the objectives from time to time of the Fund, then this is a Repayment Event.
- 10.4 The Treasurer may impose conditions (a breach of which is a breach of this Deed) in giving its consent under clause 10.1, including, but not limited to, requiring the Grantee and any other person concerned in a transaction referred to in clause 10.1 to execute all documentation as required by the Treasurer.

11. BUSINESS IN SOUTH AUSTRALIA

- 11.1 The Grantee will, during the Term, carry on and maintain its Business in the State of South Australia and will not, except with the prior written consent of the Treasurer, relocate its Business or any significant portion out of the State of South Australia.
- 11.2 The Grantee will not during the Term discontinue, or, in the Treasurer's opinion, significantly reduce:
- 11.2.1 the scale of; or
 - 11.2.2 the resourcing of (in terms of FTEs),
- its Business in the State of South Australia.

12. ACKNOWLEDGEMENT AND PUBLIC STATEMENTS

- 12.1 Subject to any requirement at law, the Grantee must not, without the prior written approval of the Treasurer, issue or participate in any media release or publicity in relation to:
- 12.1.1 the amount of the Grant; or
 - 12.1.2 the terms and conditions on which the Grant was made to the Grantee.
- 12.2 If approval is granted pursuant to clause 12.1, the Grantee must acknowledge the financial assistance received from the Treasurer in any public statements about the Project during the Term.
- 12.3 The Treasurer may publicise the awarding of the Grant at any time after it is awarded, including by disclosing the following information:
- 12.3.1 the name of the Grantee;
 - 12.3.2 the amount of the Grant; and
 - 12.3.3 the title and a brief description of the Project.
- 12.4 The Grantee agrees to participate in all promotional or publicity activities in relation to the Deed as reasonably required by the Treasurer.
- 12.5 The Grantee must ensure that the Grantee's employees, agents and subcontractors are aware of and comply with the provisions of this clause.

13. NOTICES

- 13.1 Any notice, request, approval, consent or other communication to be given or served pursuant to this Deed must be in writing and addressed and signed as the case may be, as specified in item 8 of the schedule.
- 13.2 A notice, request, approval, consent or other communication must be delivered by hand, sent by prepaid post, or transmitted by facsimile or e-mail.
- 13.3 A notice, request, approval, consent or other communication will be deemed to be received:
- 13.3.1 if delivered by hand, upon delivery;
 - 13.3.2 if sent by pre-paid ordinary post within Australia, upon the expiration of three (3) Business Days after the date on which it was sent; and
 - 13.3.3 if transmitted by facsimile, upon receipt by the sender of a facsimile acknowledgment that the communication has been properly transmitted to the recipient; or
 - 13.3.4 if sent by electronic mail, when sent by the sender unless the sender receives a delivery failure notification indicating that the email has not been delivered to the addressee,
- but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

14. GENERAL

- 14.1 A provision of, or a right created under, this Deed may not be:
- 14.1.1 waived except in writing signed by the party granting the waiver; or

- 14.1.2 varied except in writing signed by the Parties.
- 14.2 This Deed constitutes the entire agreement between the Parties and supersedes all communications, negotiations, arrangements and agreements, either oral or written, between the Parties with respect to the subject matter contained in or connected to this Deed.
- 14.3 This Deed is governed by the laws in force in South Australia.
- 14.4 Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of South Australia and courts of appeal from them for determining any dispute concerning this Deed or the transactions contemplated by this Deed.
- 14.5 Each party waives any right it has to object to an action being brought in those courts, including claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.
- 14.6 If any provision of this Deed is, or becomes, defective, and the Treasurer consequently is unable to enforce any of the Grantee's obligations under this Deed, and the defect is capable of remedy, the Grantee must do all things and sign all documents which the Treasurer may reasonably require the Grantee to do or sign to remedy the defect.
- 14.7 If any part of this Deed is or becomes void or unenforceable or if this Deed would, if any part were not omitted, be or become void or unenforceable then:
- 14.7.1 that part will be severable without affecting the remainder of this Deed and this Deed will then be read as if that part were not contained in it;
- 14.7.2 the Parties will attempt to renegotiate that part in good faith; but
- 14.7.3 any failure of the Parties to reach an agreement on the replacement of the severed parts of this Deed will not affect the enforceability of this Deed.
- 14.8 The Grantee must pay:
- 14.8.1 any stamp duty (including penalties and interest) assessable or payable on this Deed; and
- 14.8.2 on the basis of a full indemnity, any costs incurred by the Treasurer in enforcing the Treasurer's rights under this Deed.
- 14.9 Each party will bear its own costs of and incidental to the negotiation, preparation and execution of this Deed.
- 14.10 The Grantee must comply with the laws in force in the State of South Australia in the course of performing its obligations under this Deed.
- 14.11 Nothing in this Deed constitutes a partnership, joint venture or association of any kind between the Parties, or renders any party liable for the debts incurred by or liabilities of the other Parties.
- 14.12 No waiver of any right under this Deed is effective unless given in writing and signed by the party waiving its rights.
- 14.13 The rights and remedies contained in this Deed are cumulative and not exclusive of any rights or remedies provided at law.
- 14.14 Any modification or variation to this Deed must be in writing and signed by each party.
- 14.15 Where the Grantee requires the Treasurer's approval under this Deed, the Treasurer may in his absolute discretion give or withhold his consent or approval (subject to any provision in the Deed to the contrary) and if giving consent or approval, the Treasurer

may impose any condition on that consent that he considers appropriate and the Treasurer's consent or approval will not be effective unless in writing and signed.

15. **AUTHORISATIONS**

- 15.1 The Treasurer may authorise any person whom the Treasurer selects to exercise any of the Treasurer's powers or rights under this Deed, other than the power to amend or vary this Deed, and at the date of this Deed the Treasurer's authorised representative is the Treasurer's Representative.
- 15.2 The Treasurer may vary or revoke an authorisation at will.
- 15.3 Nothing in this clause shall prevent the Treasurer from exercising any of the Treasurer's powers or rights under this Deed.

16. **GUARANTEE**

- 16.1 The Guarantor irrevocably and unconditionally guarantees to the Treasurer the due and punctual performance by the Grantee of the Grantee's obligations and liabilities under or by reason of this Deed ("Guarantee"), including:
- 16.1.1 proper, due and punctual performance by the Grantee of the whole of the Grantee's undertakings and obligations in this Deed;
 - 16.1.2 the Grantee's compliance with all terms of this Deed;
 - 16.1.3 the Grantee's fulfilment of all warranties or representations under this Deed; and
 - 16.1.4 payment by the Grantee of any amounts due under this Deed, including (without limitation) repayment under clause 9,
- all to the satisfaction of the Treasurer (the "Grantee Obligations").
- 16.2 If the Grantee does not pay any Grantee Obligation when due, the Guarantor must on demand at any time from the Treasurer pay that Grantee Obligation.
- 16.3 As a covenant separate and distinct from any other thing in this Deed, the Guarantor irrevocably and unconditionally agrees to indemnify the Treasurer and at all times to keep the Treasurer indemnified against any loss or damage suffered by it arising out of:
- 16.3.1 any failure by the Grantee to perform the Grantee Obligations duly and punctually; or
 - 16.3.2 any obligation or liability that would otherwise form part of the Grantee Obligations being void, voidable or unenforceable or irrecoverable from the Grantee for any reason, whether or not the Treasurer or any other party knew or ought to have known of that reason.
- 16.4 The use of the term "Guarantor" must not be construed as diminishing that party's obligations as an indemnifier under this Deed.
- 16.5 The liability of a Guarantor under this Deed will not be reduced or avoided by any defence, set-off or counterclaim available to the Grantee or Guarantor against the Treasurer.
- 16.6 The liability of the Guarantor is absolute and is not subject to the performance of any condition precedent or subsequent, including any such condition as between the Grantee and/or Guarantor and/or the Treasurer.

- 16.7 The guarantee and indemnity provided under this clause 16 is a continuing obligation of the Guarantor notwithstanding any termination by the Treasurer, settlement of account, intervening payment, express or implied revocation or any other matter or thing, and the Treasurer will continue to be entitled to the benefit of the guarantee and indemnity under this clause 16 as regards the due and punctual payment of all the Grantee Obligations after such termination, settlement of account, payment, revocation or other matter or thing until a final discharge has been given to the Guarantor.
- 16.8 The liability of the Guarantor under this Deed will not be affected by any act, omission, matter or thing which, but for this clause 16.8 might operate in Law to release the Guarantor from that liability or to reduce that liability of the Guarantor.
- 16.9 The Guarantor must not exercise any right to contribution, indemnity or subrogation which might otherwise be entitled to claim and enforce against the Grantee until all the Grantee Obligations have been paid to, discharged or recovered by the Treasurer and no claim that a payment, receipt or other transaction to or in favour of the Treasurer under or in respect of this Deed is void, voidable or capable of being set aside is actually or potentially pending, upheld, conceded or compromised in relation to that payment other transaction relied upon by the Treasurer as the basis for any discharge.

EXECUTED AS A DEED

THE COMMON SEAL of)
THE TREASURER)
 was affixed in the presence of)



Rachel

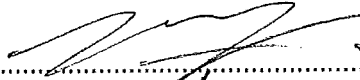
 Witness (Authorised Officer)
 Print Name: *Rachel Calogate*.....

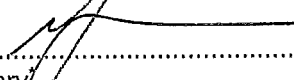
SIGNED by the Guarantor **LLOYD DAMP**)
 In the presence of:)

M

 Witness
 Print Name: **TIFFANY KATZMAR**

EXECUTED by **SOUTHERNLAUNCH.SPACE**)
PTY LTD (ACN 621 420 504))
in accordance with s127 of)
the Corporations Act and its Constitution)


.....
Director
Print Name: CLODY HOLES DEMP


.....
Director/Secretary
Print Name: MICHAEL HOLES DEMP

* Delete whichever is not applicable

SCHEDULE

1. **Grantee and Project**

- 1.1 The "**Grantee**" is **SOUTHERNLAUNCH.SPACE PTY LTD (ACN 621 420 504)** of 28A Webb Street Henley Beach SA 5022.
- 1.2 The "**Guarantor**" is **LLOYD DAMP** of 28A Webb Street Henley Beach SA 5022.
- 1.3 The "**Site**" means the land and buildings located below the -34.923 degree line of latitude at Allotment 101 Deposited Plan 71437 Hundred of Sleaford in the area of Sleaford known as "Whalers Way", lower Eyre Peninsula, South Australia, or an alternative site in South Australia that is acceptable to the Treasurer, at which the Business is conducted by the Grantee.
- 1.4 The "**Business**" means the operations and undertakings of the Grantee, as the operator of a commercial rocket launch facility for the delivery of small satellites into low earth orbit.
- 1.5 The "**Project**" is located at the Site and involves:
 - 1.5.1 the construction of a commercial rocket launch facility at the Site in accordance with the Grantee's '*Launch Complex Business Case*' dated 23 March 2018, for clients wishing to deliver small satellites into low Earth orbit; and
 - 1.5.2 achieving the Planned Outcomes.
- 1.6 The "**Planned Outcomes**" of the Project are:
 - 1.6.1 to construct and operate a commercial rocket launch facility including:
 - (a) Infrastructure - launch pad design and construction; launch instrumentation; site preparation; site environment protection, assembly building, main assembly area fit-out, block house, launch pad safety; container fit-outs for ablution, kitchen, primary workshop, secondary workshop, office, and meeting room; and
 - (b) Non-infrastructure – space licences/regulatory authorities and preliminary launch assessment, and environmental assessment;
 - and
 - 1.6.2 to achieve an average number of 35 FTEs employed by the Grantee (calculated using the formula in item 10.4) for a continuous period of any 6 months during the Financial Year ended 30 June 2023, and to maintain those 35 FTE for the remainder of the Term.
- 1.7 The "**Eligible Expenses**" are the costs and expenses incurred and actually paid by the Grantee in undertaking and completing the Project but excluding any costs and expenses:
 - 1.7.1 incurred in the preparation of feasibility studies, business cases, plans or reports in respect of the Project;
 - 1.7.2 incurred in the management of the Project;

- 1.7.3 incurred in human resource requirements for carrying out the Project, including offices, employees, and any other person who is taken to be an employee of the Grantee under the *Payroll Tax Act 2009 (SA)* who is engaged by the Grantee through an employment agent under an employment agency contract for the purposes of the *Payroll Tax Act 2009 (SA)*;
- 1.7.4 that are non-cash expenses according to generally accepted accounting principles such as depreciation, amortisation or opportunity costs; and
- 1.7.5 for which the Grantee is entitled to claim reimbursement or funding from the Government of South Australia pursuant to any arrangement other than this Deed

2. Key Dates

- 2.1 **Sunset Date:** 30 June 2023 or such later date agreed in writing by the Treasurer
- 2.2 **Project Commencement Date:** 31 December 2018 or such later date agreed in writing by the Treasurer
- 2.3 **Project Completion Date:** 31 December 2020 or such later date agreed in writing by the Treasurer.
- 2.4 **Expiry Date:** 31 December 2024 or such other date agreed in writing by the Treasurer

3. **Grant Amount:** \$ 650,000 (excluding GST)

4. Grantee Details

4.1 Grantee's ABN: 33 621 420 504

5. **Payment Table:**

Payment Milestones	
1. The Grantee providing documentary evidence confirming to the satisfaction of the Treasurer that Performance Milestone 1 has been completed.	\$195,000
2. The Grantee providing documentary evidence confirming to the satisfaction of the Treasurer that Performance Milestone 2 has been completed.	\$325,000
3. The Grantee providing documentary evidence confirming to the satisfaction of the Treasurer that Performance Milestone 3 has been completed.	\$130,000
Total (ex GST)	\$650,000

6. **Performance Milestones:**

Performance Milestones	Achievement Dates
1. Evidence to the satisfaction of the Treasurer that the Grantee has secured and executed legally binding client contracts to a value of at least [REDACTED] in total, to launch from the Site or such other site in the State that is acceptable to the Treasurer	[REDACTED]
2. Evidence to the satisfaction of the Treasurer that the Grantee has completed: (a) the launch pad construction component of the Rocket Launch Facility and the launch pad is operational; and (b) the assembly building and block house construction component of the Rocket Launch Facility and they are operational.	[REDACTED]
3. Evidence to the satisfaction of the Treasurer that the Grantee has	[REDACTED]

<p>employed an average number of not less than 35 FTEs (calculated using the formula in item 10.4) for any continuous period of 6 months during the Financial Year ended 30 June 2023.</p>	
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The Grantee must confirm that it has satisfied the above milestones by providing to the Treasurer's Representative, by no later than the due date of the next relevant Report or relevant Claim, documentary evidence to the satisfaction of the Treasurer that the relevant milestone has been duly completed.

7. Reports

Project Status Reports

The Grantee must provide a project status report, signed by the Grantee's Authorised Officer, every 6 months commencing from the date 6 months after the date of execution of this Deed until the Project Completion Date.

Annual Reports

On 30 September 2019 and annually on each 30 September thereafter the Grantee must provide a report covering the 12 months ending on the 30 June prior, signed by the Grantee's Authorised Officer, and containing:

- 7.1 a statement of the average number of FTEs employed by the Grantee during the period covered by the report and accompanied by payroll reports or other evidence to substantiate the numbers claimed;
- 7.2 a statement advising the Treasurer whether the Grantee has complied with its obligations under this Deed; and
- 7.3 a statement that the Grantee is continuing the Business at the Site.

A final report on the Project is due within 6 months after the Expiry Date.

Within six months of the end of each Financial Year during the Term, the Grantee will provide a copy of its annual financial report prepared by an external accountant.

8. Notices

- 8.1 Notices to the Treasurer must be provided to the Treasurer at the following address:

Treasurer's Representative:

Director Commercial Operations
South Australian Government Financing
Authority

Level 5, State Administration Centre, 200
Victoria Square, Adelaide SA 5000

Facsimile No: (08) 8115 1363

or as otherwise notified in writing.

- 8.2 Notices to the Grantee must be provided to the Grantee at the following address:

Grantee's Authorised Officer: SouthernLaunch.Space Pty Ltd
c/- MinterEllison
Attention: Kent Grey
Level 10, 25 Grenfell Street
Adelaide SA 5000
Facsimile No: 08 8233 5556
Email:
Lloyd.damp@Southernlaunch.space
(with a copy to:
kent.grey@minterellison.com)
or as otherwise notified in writing.

9. Claims Procedure

The Treasurer shall be under no obligation to pay any part of the Grant to the Grantee unless and until the Claim has first been submitted by the Grantee to the Treasurer's Representative, in accordance with the following procedure:

- 9.1 the Claim must be signed by the Grantee's Authorised Officer;
- 9.2 the Claim must contain and specify:
- 9.2.1 the Payment Milestone that has been reached;
 - 9.2.2 the amount paid by the Grantee with respect to the Payment Milestone reached;
 - 9.2.3 whether the Grantee has submitted all reports (if any) required on or before the time the relevant Claim is submitted;
 - 9.2.4 the amount of the Grant claimed by the Grantee and the components of the Grant so claimed up to but not exceeding the amount for the Payment Milestone achieved; and
 - 9.2.5 details of the Grantee's bank account.
- 9.3 the Claim must be accompanied by:
- 9.3.1 copies of relevant invoices received in connection with those costs and receipts received for any payments made with respect to those costs to substantiate expenditure on Eligible Expenses;
 - 9.3.2 a compliance certificate signed by the Grantee in a form acceptable to the Treasurer, representing and warranting that the Grantee has, to the date of the Claim, complied with all of its obligations under this Deed; and
 - 9.3.3 any other documentation which the Treasurer's Representative may reasonably require to substantiate the Claim.

10. Additional Obligations and Undertakings

Conditions Precedent:

- 10.1 The provision of evidence confirming to the Treasurer's satisfaction that:
- 10.1.1 The Grantee has secured tenure to the Site, or an alternative site in South Australia that is acceptable to the Treasurer;
 - 10.1.2 the Grantee has secured a Launch Facility Licence under the *Space (Launches and Returns) Act 2018 (Cth)* or equivalent licence under equivalent legislation if the *Space (Launches and Returns) Act 2018* is not (or is no longer) in force;
 - 10.1.3 the Treasurer has given final approval of the terms for the Grant;
 - 10.1.4 the Grantee has secured an unconditional commitment to at least [REDACTED] in debt and/or equity and/or grant funding by [REDACTED];
 - 10.1.5 execution has been effected for all formal documentation for the grant and related security documents, in form and substance to the satisfaction of the Grantor;
 - 10.1.6 all material authorisations required to enable the Grantee to enter into the Grant Deed have been obtained; and
 - 10.1.7 the Project has commenced by 31 December 2018 as evidenced by the commissioning and commencement of required environmental assessments.

Additional Repayment Events:

- 10.2 Any of the following shall constitute a Repayment Event:
- (a) the Grantee not having incurred expenditure on the Project of at least [REDACTED] by [REDACTED];
 - (b) the Grantee not completing and commissioning the Rocket Launch Facility as described in the "Launch Complex Business Case" dated 23 March 2018, and including the Launch Pad, Assembly Building, Block House, and associated Infrastructure Expenditure described in the Approved Purpose by [REDACTED];
 - (c) the Grantee entering into an exclusive launch agreement with one customer without the prior written consent of the Treasurer (which may be granted or withheld in the Treasurer's absolute discretion);
 - (d) disposal by the Grantee of the Site or its interest in the Site; or
 - (e) the Grantee ceasing to operate the Business at the Site.

FTE:

- 10.3 If during the Financial Year ended 30 June 2023, the Grantee does not employ an average number of 31 or more FTEs (calculated using the formula in item 10.4) for a continuous period of 6 months, the Grantee must repay to the Treasurer an amount calculated in accordance with the following formula:

$$A = (B - C) \times \$18,571$$

Where:

"A" is the amount payable by the Grantee to the Treasurer (the "Repayment Sum").

"B" is 35.

"C" is the highest average number of FTEs (calculated using the formula in item 10.4) employed by the Grantee in any continuous 6 month period during the Financial Year ended 30 June 2023 (the "FTE Period").

- 10.4 For the purposes of item 10.3, the average number of FTEs employed in the FTE Period shall be calculated in accordance with the following formula:

$$D = \frac{E}{F}$$

Where:

"D" is the average number of FTEs employed during the FTE Period;

"E" is the aggregate of the number of FTEs employed at the end of each month during the FTE Period; and

"F" is the number of calendar months in the FTE Period.

11. FTE Definitions

"FTE" means a person:

- 11.1 who resides in South Australia;
- 11.2 who is taken to be an employee under the *Payroll Tax Act 1971* (SA) or who is engaged by the Grantee through an employment agent under an employment agency contract for the purposes of Section 4A of the *Payroll Tax Act 1971*, to undertake the Business at the Site;
- 11.3 who under an applicable industrial award or agreement is taken to work on a full time basis, or if no such award or agreement exists, is required by the Grantee to work at least 37.5 hours a week; and
- 11.4 whose employment or engagement by the Grantee is not in any way connected with any other agreement (whether prior to or after the date of this Deed) between the State Government of South Australia and the Grantee or a Company Associate under which the State Government of South Australia provides to the Grantee or the Company Associate any form of funding or financial assistance or support.

In addition, where the Grantee employs or engages two or more persons, whether on a part time or casual basis, who but for paragraph 11.4 would qualify as FTEs, their routine weekly work hours as set by the Grantee, excluding hours regarded as hours worked on overtime, may be combined to equate to the routine hours set for full time workers under the applicable industrial award or agreement, otherwise 37.5 hours, and the persons whose hours are so combined will for the purposes of this definition be treated as an FTE.

A consultant or a person engaged by or through a consultant shall not be included in the FTE calculation.

12. Security Documents:

2018

NIL

