

DEED OF ASSIGNMENT

UNIT 8, 16 GUTHRIE STREET, OSBORNE PARK

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THIS DEED is made the

day of

2011

BETWEEN:

ANTULA KOLICHIS and ATHANASIOS KOLICHIS both of 20 Guthrie Street, Osborne Park in the State of Western Australia ("the Lessor");

and

ANDREW JAMES WHEATLEY of 66 Campbell Drive, Hillarys in the State of Western Australia ("the Assignor");

and

PERTH ARTIFACTORY INC of 48 Meriwa Street, Nedlands in the State of Western Australia ("the Assignee");

and

SCOTT MILLAR MCDONALD of 46 Meriwa Street, Nedlands in the State of Western Australia and **JASON MAURICE MUIRHEAD** of 1/78 Caledonian Avenue, Maylands in the State of Western Australia ("the Guarantor").

RECITALS:

- A. By a Lease more particularly described in Item 1 of the schedule hereto ("the Lease") the Assignor is vested of an estate as Lessee of the premises specified in Item 2 of the schedule hereto ("the Leased Premises") for the term specified in Item 3 of the schedule hereto ("the Term") and at the rental and together with the benefit of any option of renewal specified in the Lease.
- B. It has been agreed by and between the Assignor and the Assignee that in consideration of the Assignee taking over and assuming liability under the Lease from the date specified in Item 4 of the schedule hereto ("the Date of Assignment") for the then unexpired residue of the Term the Assignor shall, with the consent of the Lessor and in accordance with clause 3.34 of the Lease, assign and set over unto the Assignee all the Leased Premises including all the right, title and interest of the Assignor in all of the fixtures and fittings belonging to the Assignor and

the benefit and burden of the terms and conditions comprised in the Lease including the benefit of any option of renewal therein contained to be held by the Assignee as from the Date of Assignment for the then unexpired residue of the Term on the terms and conditions hereinafter set out.

- C. The Guarantor has agreed to guarantee to the performance of the Assignee's covenant to the Lessor as set out in this Deed.

NOW THIS DEED WITNESSES:

1. ASSIGNMENT

In consideration of these presents and of the Assignee assuming liability under the Lease for the balance of the Term the Assignor ABSOLUTELY ASSIGNS to the Assignee all the Assignor's estate and interest in the Leased Premises (including all fixtures and fittings belonging to the Assignor) and the benefit and burden of the terms and conditions of the Lease for the unexpired residue of the Term (including the benefit of any option of renewal therein contained) as and from the Date of Assignment TO HOLD the Leased Premises unto the Assignee for the unexpired residue of the said Term subject to the payment of the rental and the performance and observance by the Assignee of each and every covenant, condition and stipulation reserved and contained in the Lease and expressed on the part of the Lessee to be performed and observed.

2. ASSIGNOR'S COVENANTS WITH ASSIGNEE

The Assignor COVENANTS with the Assignee that:

- 2.1 Notwithstanding any act, deed or thing done by the Assignor or knowingly suffered by the Assignor to have been done the Lease is now a valid and subsisting instrument and has not become void or voidable and that the Assignor has duly performed and observed each and every covenant on his part contained in the Lease and will continue to so duly perform and observe such covenants up to and including the Date of Assignment;
- 2.2 The Assignor has not done or omitted to do anything whereby any option of renewal contained in the Lease has become or may become void or voidable and such option of renewal is freely assignable by him and is validly assigned by this Deed;

- 2.3 The Assignor has power to assign the Leased Premises unto the Assignee for the residue of the Term of the Lease in the manner aforesaid free from all encumbrances whatsoever;
- 2.4 The Leased Premises at all times hereafter during the residue of the Term of the Lease and any renewal thereof may be entered into and held and the profits thereof received accordingly by the Assignee without any lawful interruption by the Assignor, the Lessor or any person rightfully claiming through or in trust for the Assignor or the Lessor (subject always to the provisions of the Lease and to the performance and observance by the Assignee of the several covenants on his part herein expressed or implied);
- 2.5 The Assignor and every person or persons rightfully claiming through him any estate, right, title or interest in the Lease or the Leased Premises or any fixtures and fittings belonging to the Assignor shall, at all times during the residue of the Term and any extension thereof at the request and expense of the Assignee, execute and do every such lawful act, assurance and thing for further assuring the Leased Premises for the Assignee for the residue of the Term and any valid extension thereof;
- 2.6 The same covenants by the Assignor shall be implied in this Deed as are to be implied by virtue of the *Property Law Act 1969* in a conveyance of leasehold property for valuable consideration by a person who conveys and who is expressed to convey as Beneficial Owner;
- 2.7 The Assignor will indemnify and keep indemnified the Assignee against all actions, claims, demands, suits, costs, charges, expenses and damages whatsoever arising as a result of any breach of the Lease on the part of the Assignor prior to the Date of Assignment.

3. ASSIGNOR'S COVENANTS WITH LESSOR

The Assignor COVENANTS with the Lessor to:

- 3.1 Withdraw any caveat affecting the Leased Premises lodged by the Assignor and if the Assignor fails to withdraw any such caveat by the Date of Assignment, the Assignor IRREVOCABLY APPOINTS the Lessor (and where the Lessor is a corporation then every manager and other officer of the Lessor for the time being authorised in that

behalf by the Lessor) to be the true and lawful agent and attorney for the Assignor and in its name and on its behalf to sign and lodge at Landgate a withdrawal of the caveat AND the Assignor RATIFIES AND CONFIRMS and AGREES TO RATIFY AND CONFIRM all and whatsoever the Lessor shall do and cause to be done under or by virtue of this clause and shall indemnify the Lessor in respect of any loss arising from any act done under or by virtue of this clause;

- 3.2 Pay the Lessor's costs and expenses of and incidental to the withdrawing of any caveat lodged by the Assignor affecting the Leased Premises.

4. ASSIGNEE'S COVENANTS WITH ASSIGNOR AND LESSOR

The Assignee COVENANTS with the Assignor and as a separate covenant with the Lessor that:

- 4.1 At all times from and including the Date of Assignment during the continuance of the Term and any extension thereof the Assignee will duly and punctually pay the rent reserved by the Lease as varied by this Deed (if applicable) and will perform, observe and abide by each and every covenant expressed in the Lease as varied by this Deed to be made by or on behalf of the Lessee;
- 4.2 The Assignee will from the Date of Assignment indemnify and keep indemnified the Assignor against all actions, claims, demands, suits, costs, charges, expenses and damages whatsoever in respect of the said rental and other covenants, conditions and stipulations reserved by or contained or referred to in the Lease as varied by this Deed or in any way relating thereto.

5. POWER OF ATTORNEY BY ASSIGNEE

The Assignee hereby IRREVOCABLY APPOINTS the Lessor (and where the Lessor is a corporation then every manager or other officer of the Lessor for the time being authorised in that behalf by the Lessor) to be the true and lawful agent and attorney for the Assignee and in its name and on its behalf to perform all acts, matters and things and execute all deeds, instruments and documents which the Lessor was authorised to perform or execute on behalf of the Assignor in accordance with the provisions of the Lease and the Assignee RATIFIES AND CONFIRMS and AGREES TO RATIFY AND CONFIRM all and whatsoever the Lessor

shall do and cause to be done under or by virtue of this clause and shall indemnify the Lessor in respect of any loss arising from any act done under or by virtue of this clause.

6. CONSENT BY LESSOR

In consideration of the covenants on the part of the Assignee hereinbefore contained the Lessor CONSENTS to the assignment of the balance of the Term as hereinbefore provided together with the benefit of each and every covenant contained in the Lease including the benefit of any option of renewal contained therein and FURTHER CONFIRMS and warrants to the Assignee that the Lease and any option for renewal contained therein is a valid and subsisting instrument and nothing has been done or omitted to be done thereby rendering the same liable to forfeiture or rendering the Lease or such option of renewal void or voidable.

7. GUARANTEE AND INDEMNITY

The Guarantor in consideration of the Lessor having granted the Lease to the Assignee guarantee to the Lessor the due and punctual payment by the Assignee of the Rent reserved by the Lease and all other monies payable by the Assignee under the Lease and the performance and observance by the Assignee of the covenants, conditions and stipulations contained in this Lease during the Term and any extension or renewal of the Term or during any holding over period upon the following terms and conditions:

- (a) If any instalment of the Rent or any part of the Rent or any other money due under this Lease from the Assignee to the Lessor is in arrears or unpaid for seven (7) days after it is due and payable then the Guarantor shall upon demand pay that sum to the Lessor.
- (b) If there is a breach on the part of the Assignee of any of the covenants, conditions or stipulations contained in this Lease to be performed and observed by the Assignee, then the Guarantor shall upon written request being made by the Lessor cause that breach to be remedied within a reasonable time and shall pay to the Lessor all losses, damages, expenses and costs which the Lessor is entitled to recover under this Lease by reason of that breach.
- (c) The liability of the Guarantor under this Lease shall not be impaired or discharged by reason of any time or other indulgence granted by or with the consent of the Lessor to the Assignee or otherwise.

- (d) The guarantee provided by the Guarantor herein shall be a continuing guarantee and shall bind the Guarantor jointly and severally (if applicable) and shall pass upon an assignment of the reversion of the Premises by the Lessor and it shall not be revocable or discharged by the winding up or insolvency of the Lessee or by any scheme of arrangement or composition made by the Assignee with its creditors and the Guarantor shall not be entitled to the benefit of any debt owing to it (and if more than one to any one or more of them) until the Lessor has received 100 cents in the dollar for each claim of the Lessor against the Lessee or Assignee.
- (e) Any notice, demand or request to be given by the Lessor to the Guarantor shall be sufficiently served if sent to the Guarantor by certified mail at the Guarantor's address mentioned in this Lease or last known to the Lessor and any notice, demand or request so sent shall be deemed to have been served on the day on which it would in the ordinary course of post have reached the address to which it was sent.
- (f) The Guarantor agrees with the Lessor that the provisions of this clause shall be deemed essential terms of this Lease and that every condition contained in this clause shall be deemed an essential and fundamental condition of the guarantee provided by the Guarantor herein entitling the Lessor to damages as against the Guarantor in the event of default or non-performance of any of the covenants contained herein to be performed and/or observed by the Guarantor.
- (g) The Guarantor hereby agrees to indemnify and keep indemnified the Lessor against all losses, costs, expenses and damages sustained or incurred by the Lessor arising out of or in respect of any breach or default by the Assignee in payment of the Rent and all other moneys payable under this Lease and/or in duly performing and observing any of the terms, covenants, agreements or conditions of this Lease to be performed and/or observed by the Assignee.

8. INTERPRETATION

Wheresoever used in this Deed and wheresoever the context so admits the expressions:

- 8.1 "Lessor" means the Lessor and the personal representatives, successors in title and assigns of the Lessor;
- 8.2 "Assignor" means the Assignor and the personal representatives and successors in title of the Assignor;
- 8.3 "Assignee" means the Assignee and the personal representatives and permitted assigns of the Assignee.

8.4 "Guarantor" means the Guarantor and the personal representatives, successors in title and permitted assigns of the Guarantor.

9. JOINT AND SEVERAL

If there be more than one Lessor, Assignor, Assignee or Guarantor then in each case the covenants on the part of the Lessor, Assignor, Assignee or Guarantor (as the case may be) herein expressed or implied shall be deemed to be joint and several.

10. GENDER AND NUMBER

Throughout this Deed the use of one gender shall include all other genders and the singular number shall include the plural and vice versa wheresoever applicable.

11. COSTS AND EXPENSES

The Lessor's costs, charges and expenses incurred in connection with the negotiation, preparation, execution and stamping of this Deed shall be borne by the Assignee and must be paid on or before the Date of Assignment.

12. SECURITY BOND

- A D O A*
- (a) The Assignee shall provide to the Lessor on or before the Commencement Date a security bond equivalent to one (1) months net Rent and estimated Variable Outgoings as a bond and surety for the compliance by the Assignee of the provisions of the Lease and this Deed ("the Security Bond").
 - (b) The Security Bond will be held in trust by the Lessor's managing agent for the duration of the Lease in a non- interest bearing account.
 - (c) The Lessor shall have the right to apply the Security Bond, or any part of it, to reduce any amount then owing by the Assignee to the Lessor.
 - (d) The Assignee must pay to the Lessor an amount equal to any amount of this Security Bond applied by the Lessor pursuant to clause 12(c) above, and must not permit the amount held by the Lessor to be less than the amount prescribed by clause 12(a)

above as varied by clause 12(e) below for a period of 7 days following any demand for payment by the Lessor.

- (e) The value of the Security Bond referred to in clause 12(a) above may be varied from time to time, based on adjustments to the annual Rent, calculated on the Rent Review Dates. Within 14 days of receiving the Reviewed Rent the Assignee will be required to provide a further security bond so that the Security Bond is equivalent to one (1) months net Rent inclusive of estimated Variable Outgoings at all times.

13. SPECIAL CONDITIONS

13.1 It is a condition of this Deed that the Assignee pay:

- (a) all outstanding Rent and other monies due and payable to the Lessor on or before the Date of Assignment;
- (b) the legal costs for the preparation of this Deed of Assignment.

SCHEDULE

1. **Lease:**
The Lease undated but made in about August 2010 between the Lessor and the Assignor as lessee.

2. **Leased Premises:**
Unit 8, 16 Guthrie Street, Osborne Park in the State of Western Australia and more particularly defined in the Lease.

3. **Term:** Three (3) years: 1 August 2010 - 31 July 2013

4. **Date of Assignment:** 10 December 2011

EXECUTED AS A DEED on the date hereinbefore mentioned.

(the Lessor)

SIGNED by the said)
ATHANASIOS KOLICHIS)
in the presence of:)

ATHANASIOS KOLICHIS

Signature of Witness

Name of Witness (please print)

Address of Witness

Occupation of Witness

SIGNED by the said)
ANTULA KOLICHIS)
in the presence of:)

ANTULA KOLICHIS

Signature of Witness

Name of Witness (please print)

Address of Witness

Occupation of Witness

(the Assignor)

SIGNED by the said)
ANDREW JAMES WHEATLEY)
in the presence of:)

ANDREW JAMES WHEATLEY

Signature of Witness

Name of Witness (please print)

Address of Witness

Occupation of Witness

(the Assignee)

The Common Seal of
PERTH ARTIFACTORY INC

Was hereunto affixed by authority of Directors in the presence of:

Signature of Director

Signature of Director

Print name of Director

Print name of Director

(the Guarantor)

SIGNED by the said)
SCOTT MILLAR MCDONALD)
in the presence of:)

SCOTT MILLAR MCDONALD

Signature of Witness

Name of Witness (please print)

Address of Witness

Occupation of Witness

SIGNED by the said)
JASON MAURICE MUIRHEAD)
in the presence of:)

JASONMAURICE MUIREHEAD

Signature of Witness

Name of Witness (please print)

Address of Witness

Occupation of Witness