

**SPECIFIC SECURITY AGREEMENT**

**between**

**STATE OF QUEENSLAND**  
**through the DEPARTMENT OF HOUSING AND PUBLIC WORKS**

**and**

**[insert name and ABN of Provider]**



**Queensland**  
**Government**

**THIS AGREEMENT** is made

**BETWEEN: STATE OF QUEENSLAND through the DEPARTMENT OF HOUSING AND PUBLIC WORKS**

('State')

**AND: The organisation named in Item 1 of the Agreement Particulars**

('Provider')

**BACKGROUND**

- A. The State agreed to provide the Funds to the Provider to purchase assets under the Service Funding Arrangement.
- B. Under the Service Funding Arrangement, the Provider is required to enter into this Agreement to grant the State a security interest in the assets purchased.

**AGREEMENT PARTICULARS**

Item	Information	Details
1	<b>Provider</b>	[insert name and ABN]
2	<b>Service Funding Arrangement</b>	The Service Funding Arrangement identified as [insert], formed under the Master Agreement between the State and the Provider dated [insert]
3	<b>Collateral</b>	<div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>Descriptions of personal property, including any serial numbers</p> <p>For motor vehicles - VIN Plus description of vehicle with make, model, registration number and year of make.</p> <p>(or if no VIN then insert chassis number, or if neither VIN nor chassis number insert manufacturer's number)</p> </div> <div style="width: 35%; text-align: center;"> <p>[insert]</p> </div> </div>

## AGREED TERMS

### 1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, the definitions in the Agreement Particulars and the following definitions apply:

**Agreement** means this document and any schedules to it;

**Agreement Particulars** means the agreement particulars at the start of this Agreement;

**Collateral** means the personal property specified in item 3 of the Agreement Particulars, and Proceeds;

**Financing Change Statement** has the same meaning as in the PPSA;

**Financing Statement** has the same meaning as in the PPSA;

**Permitted Security Interest** means any Security Interest over the Collateral which the State has consented to in writing;

**PPSA** means the *Personal Property Securities Act 2009* (Cth);

**Proceeds** has the same meaning as in the PPSA;

**Purchase Money Security Interest** has the same meaning as in the PPSA;

**Security Interest** has the same meaning as in the PPSA.

1.2 Capitalised words in this Agreement which are defined in the Service Funding Arrangement have the meaning given in the Service Funding Arrangement, unless the words are otherwise defined in this Agreement.

1.3 In this Agreement:

- (a) words importing a gender include any other gender and words in the singular include the plural and vice versa;
- (b) all monetary amounts refer to Australian currency;
- (c) a reference to legislation includes subordinate legislation made under it and any legislation amending, consolidating or replacing it;
- (d) a reference to an individual or person includes a corporation or other legal entity;
- (e) a reference to a clause or schedule means a clause or schedule to this Agreement;
- (f) the index and headings are included for convenience of reference only and are not intended to affect the meaning of this Agreement;
- (g) if an expression is defined, other grammatical forms of that expression will have corresponding meanings;
- (h) a reference to days or months means calendar days or months;

- (i) if the day on which any act or thing is to be done under this Agreement is a Saturday, Sunday or public holiday in the place where the act or thing is to be done, the act or thing may be done on the next business day in that place;
- (j) if any conflict arises between the clauses in this Agreement and the contents of any schedule, the clauses prevail;
- (k) an obligation on the part of two or more persons binds them jointly and each of them individually; and
- (l) a reference to consent or approval means prior written consent or approval.

1.4 In the event that a government department or agency mentioned in this Agreement:

- (a) ceases to exist; or
- (b) is reconstituted, renamed or replaced;

and its powers or functions are transferred to another government department or agency, a reference to the government department or agency will include the replacement, or renamed, or reconstituted department or agency.

## **2. SECURITY**

2.1 The Provider grants to the State a Security Interest over the Collateral to secure the performance of the Provider's obligations under the Service Funding Arrangement.

2.2 The Provider acknowledges that the Security Interest is a Purchase Money Security Interest.

## **3. CONSIDERATION**

3.1 The Provider acknowledges that the State has given valuable consideration for the State's Security Interest, including by providing the Funding.

## **4. PRIORITY**

4.1 The Provider represents and warrants to the State that:

- (a) the Collateral is free from Security Interests other than Permitted Security Interests; and
- (b) this Agreement creates a first ranking Purchase Money Security Interest over the Collateral, subject to Permitted Security Interests.

## **5. OBLIGATIONS UNDER THE ASSET AGREEMENT**

5.1 The Provider must comply with its obligations under the Service Funding Arrangement.

**6. DEALING WITH COLLATERAL**

- 6.1 The Provider must not, without the State's consent:
- (a) create or allow any Security Interest over the Collateral other than the Security Interest created under this Agreement;
  - (b) sell, assign, transfer, declare a trust over or otherwise dispose of the Collateral; or
  - (c) give control or possession of the Collateral to a person other than the State.
- 6.2 The Provider acknowledges that if the Provider disposes of or otherwise deals with the Collateral without the State's consent the State's Security Interest continues in the Collateral despite the disposal or dealing.
- 6.3 If required by the State, the Provider must ensure that the holder of any Permitted Security Interest enters into a priority agreement regulating the priority between the Security Interest under this Agreement and that Permitted Security Interest in a form acceptable to the State.

**7. PROVIDER'S UNDERTAKINGS**

- 7.1 The Provider must:
- (a) give to the State all details and information necessary to enable the State to have its Security Interest registered on the Register; and
  - (b) not permit any Financing Statement, other than in relation to the State, to be registered in respect of the Collateral unless the State consents.

**8. DEFAULT**

- 8.1 Each of the following events listed in this clause 8 is an Event of Default, whether or not it is within the control of the Provider:
- (a) the Provider fails to remedy a breach of the Service Funding Arrangement within 21 days after the date of notice to the Provider requesting that it remedy the breach;
  - (b) the Provider fails to remedy a breach of this Agreement within 21 days after the date of notice to the Provider requesting that it remedy the breach;
  - (c) the Provider fails to comply with clause 6.1 of this Agreement or has committed a breach of this Agreement which the State reasonably considers is not capable of being remedied;
  - (d) a representation or warranty by the Provider in, or in connection with, this Agreement or the Service Funding Arrangement is untrue or misleading in a material respect;
  - (e) the Security Interest created under this Agreement ceases to have priority as a first ranking Purchase Money Security Interest over the Collateral, subject to Permitted Security Interests;

- (f) a Security Interest in the Collateral becomes enforceable or is enforced;
- (g) the Provider does not comply with its obligations under any priority agreement entered into in accordance with this Agreement;
- (h) the Provider:
  - (i) becomes insolvent or bankrupt;
  - (ii) becomes subject to any form of external administration;
  - (iii) enters into an arrangement with its creditors or otherwise takes advantage of any laws in force in connection with insolvent debtors; or
  - (iv) is wound up, voluntarily or involuntarily.

## **9. ENFORCEMENT**

- 9.1 At any time after an Event of Default the State may seize the Collateral and sell or retain the Collateral in accordance with part 4.3 of chapter 4 of the PPSA.
- 9.2 For any purpose in connection with the seizure and sale or retention of the Collateral the State may, at any time, do anything that the Provider could do in relation to the Collateral.
- 9.3 Without limiting clause 9.2, the State may:
  - (a) access and use the Provider's premises and the services of the Grantor's employees and agents for any purpose in connection with the seizure and sale of the Collateral; and
  - (b) determine the terms on which the Collateral is sold.
- 9.4 The Provider must promptly on demand, pay to the State the amount of all costs and expenses incurred by the State in connection with the enforcement of the Security Interest.

## **10. APPLICATION OF MONEY**

- 10.1 Money received by the State as a result of enforcing its Security Interest in the Collateral will be applied in accordance with section 140 of the PPSA.

## **11. POWER OF ATTORNEY**

- 11.1 The Provider irrevocably appoints the State its attorney with the right:
  - (a) at any time to:
    - (i) comply with the obligations of the Provider under this Agreement;
    - (ii) do everything that may be necessary or expedient to enable the exercise of

any right of the State in relation to this Agreement;

(iii) complete this Agreement; and

(iv) appoint substitutes and otherwise delegate its powers; and

(b) after any default by the Provider under the Service Funding Arrangement has occurred, to do everything that the Provider may lawfully authorise an agent to do in relation to this Agreement and the Collateral.

11.2 The power of attorney is granted to secure the compliance by the Provider with its obligations to the State under this Agreement and any proprietary interests of the State under this Agreement.

## **12. RIGHTS UNDER LEGISLATION**

12.1 The rights and remedies under this Agreement are in addition to and not in substitution for any rights and remedies conferred by the PPSA.

## **13. COSTS**

13.1 Each party will bear its own legal costs of and incidental to the preparation and execution of this Agreement.

13.2 The State will pay registration fees for registration of a Financing Statement for the charge created under this Agreement on the Register.

## **14. NOTICES**

14.1 Notices under this Agreement may be given in accordance with the notice provisions in the Service Funding Arrangement.

## **15. FULL RELEASE**

15.1 At the request of the Provider, the State will release the Collateral from the security interest created by this Agreement if:

(a) the term of the Service Funding Arrangement has expired;

(b) the Provider has performed all of the Provider's obligations under this Agreement and the Service Funding Arrangement; and

(c) in the State's reasonable opinion, there is no prospect that money or damages will become owing by the Provider to the State under this Agreement or the Service Funding Arrangement.

15.2 If the State releases Collateral from a Security Interest, it will register a Financing Statement or a Financing Change Statement on the Register if it is required to do so under the PPSA.

**16. GENERAL PROVISIONS**

- 16.1 This Agreement is in addition to and is not in any way prejudiced by any judgment, order or other thing and the State's rights under this Agreement will not be merged with any judgment, order or other thing.
- 16.2 Neither party to this Agreement may assign its rights and obligations under this Agreement without the consent of the other party.
- 16.3 This Agreement will be governed by and construed under the law of the State of Queensland and the parties agree to submit to the jurisdiction of the courts of the State of Queensland.
- 16.4 Both parties must comply with all relevant laws in performing their obligations under this Agreement.
- 16.5 If any part of this Agreement is determined to be invalid, unlawful or unenforceable for any reason then that part will be severed from the rest of the Agreement and the remaining terms and conditions will continue to be valid and enforceable to the fullest extent permitted by law.
- 16.6 The Provider must do all things reasonably required to give effect to this Agreement including enabling or assisting the exercise of any right granted to the State under this Agreement or otherwise conferred on the State.
- 16.7 No right under this Agreement shall be deemed to be waived except by notice signed by each party.
- 16.8 Any failure by a party at any time to enforce a clause of this Deed, or any forbearance, delay or indulgence granted by a party to the other will not constitute a waiver of the party's rights.
- 16.9 A waiver by a party of a breach of any provision of this Deed will not operate as a waiver of any subsequent breach of the same provision or as a waiver of any other provision.
- 16.10 This Agreement may be varied at any time by a written agreement signed by both parties. The parties may vary a schedule to this Agreement by signing and dating a substitute schedule.
- 16.11 Each party must pay its own costs of and incidental to the negotiation, preparation and signing of this Agreement.
- 16.12 This Agreement may be signed in any number of counterparts with the same effect as if the signatures to each counterpart were on the same instrument. This Agreement may be executed or delivered by facsimile transmission or electronic transmission with the same force and effect as if it were manually executed and delivered counterpart.

**EXECUTED AS AN AGREEMENT** on the dates set out below

**SIGNED** on behalf of the )  
**STATE OF QUEENSLAND** )  
through the **DEPARTMENT OF** )  
**HOUSING AND PUBLIC WORKS** by )  
) )  
) )  
.....(*insert name*) ).....  
) (*signature*)  
..... (*insert position*) )  
a duly authorised person, in the presence of: )  
) ...../...../.....  
) (*date*)  
..... )  
(*signature of witness*) )

**[for a company:]**

**EXECUTED AS AN AGREEMENT** by )  
the **PROVIDER** )  
in accordance with section 127 of the )  
*Corporations Act 2001* (Cth) by )  
) (*signature of director*)  
) )  
..... (*name*) ).....  
a director and ) (*signature of director/secretary*)  
) )  
..... (*name*) )  
a director / the secretary )  
) ..... / ..... / .....  
) (*date*)

**[for an incorporated association:]**

**SIGNED** on behalf of )  
the **PROVIDER** )  
by the following persons acting under the )  
express authority of the management committee )  
) (*signature of authorised person*)  
) )  
..... (*name*) ).....  
authorised person and ) (*signature of authorised person*)  
) )  
..... (*name*) )  
authorised person )  
) ..... / ..... / .....  
) (*date*)