



Hot Leasing Agreement



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The Construction Training Centre	Version – 7.0
FOR-ASM-020	Issue Date: 17/08/2015
HOT LEASING AGREEMENT	

SCHEDULE 1

<p>ITEM 1 - FEE RATE Current on the date of this license agreement. CTC reserves the right to change the fee rate from time to time.</p> <p>NOTE: One full day = 7.00am – 4.30pm</p> <p>½ day = either 7.00am – 11.00am, or 12.30pm – 4.30pm</p>	<ul style="list-style-type: none"> • \$250 + GST per day per area listed in Item 3, including one classroom. • \$175 + GST per day per area listed in Item 3, no classroom. • \$100 + GST per half day for area listed in Item 3, no classroom. • \$1000 + GST per 5 day calendar week, per area listed in Item 3, including one classroom. • The deposit fee is 50% of the per day fee rate x days booked. • Refer Item 4 for Crane fees. NOTE: Crane fees are in addition to the Hot Leasing daily rate. 																														
<p>ITEM 2 - SIGNAGE AREA</p>	<p>1 x 'A' frame or similar not exceeding 600mm x 900mm per side.</p>																														
<p>ITEM 3 - SITE WORKING AREA and INCLUSIONS CTC reserves the right to change the number and type of inclusions from time to time.</p>	<p>Forklift</p>	<p>400 m2</p>	<p>2.5t forklift, pallet racking; pallets, lifting resources.</p>																												
	<p>EWP</p>	<p>295 m2</p>	<p>13m Genie knuckle Boom or 5m Haulotte Scissor lift.</p>																												
	<p>Asbestos</p>	<p>100 m2</p>	<p>Simulator house; decontamination unit; negative pressure extraction fan.</p>																												
	<p>Height safety</p>	<p>150 m2</p>	<p>Heights structure or Domestic structure; fixtures and fittings.</p>																												
	<p>Confined space</p>	<p>30 m2</p>	<p>Confined space simulator, smoke machine, access to heights structure if available.</p>																												
	<p>Dogging / rigging</p>	<p>295 m2</p>	<p>Slings, chains and ropes to be supplied by the RTO. Suitable crane and licenced operator are available at an additional cost.</p>																												
	<p>Scaffolding</p>	<p>295 m2</p>	<p>MMAP, assorted scaffolding.</p>																												
	<p>Swing Stage</p>	<p>100m2</p>	<p>Swing stage, top floor of MMAP.</p>																												
<p>ITEM 4 – CRANE FEE RATE Includes dry hire of crane, induction, set up and a selection of loads. NOTE: These rates do not apply to crane hire for dogging and rigging.</p>	<table border="1"> <thead> <tr> <th>Crane</th> <th>½ day fee</th> <th>Full day fee</th> </tr> </thead> <tbody> <tr> <td>Franna 14t (CN)</td> <td>\$280.00</td> <td>\$ 450.00</td> </tr> <tr> <td>Kobelco RK70 7t (C2)</td> <td>\$370.00</td> <td>\$ 620.00</td> </tr> <tr> <td>Tadano TR250 25t (C6)</td> <td>\$490.00</td> <td>\$ 870.00</td> </tr> <tr> <td>IHI CCH650 65t (C1)</td> <td>\$700.00</td> <td>\$ 1290.00</td> </tr> <tr> <td>Hitachi FK600 150t (CO)</td> <td>\$1190.00</td> <td>\$ 2280.00</td> </tr> <tr> <td>Potain MC85 5t (tower)</td> <td>\$500.00</td> <td>\$ 800.00</td> </tr> </tbody> </table>			Crane	½ day fee	Full day fee	Franna 14t (CN)	\$280.00	\$ 450.00	Kobelco RK70 7t (C2)	\$370.00	\$ 620.00	Tadano TR250 25t (C6)	\$490.00	\$ 870.00	IHI CCH650 65t (C1)	\$700.00	\$ 1290.00	Hitachi FK600 150t (CO)	\$1190.00	\$ 2280.00	Potain MC85 5t (tower)	\$500.00	\$ 800.00							
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<p>ITEM 4a – Crane Operator Rate</p>	<p>\$300 + GST per half day (4hrs); \$600 + GST per full day (8hrs)</p>																														
<p>ITEM 4b – Crane Fee Rate for Dogging and Basic Rigging Includes hire of crane, induction, set up and a selection of loads.</p>	<table border="1"> <thead> <tr> <th colspan="2">Without operator</th> <th colspan="2">With operator</th> </tr> </thead> <tbody> <tr> <td colspan="2">Kobelco RK70 7t</td> <td colspan="2">Kobelco RK70 7t</td> </tr> <tr> <td>4hrs</td> <td>\$350.00</td> <td>4hrs</td> <td>\$650.00</td> </tr> <tr> <td>8hrs</td> <td>\$600.00</td> <td>8hrs</td> <td>\$1200.00</td> </tr> <tr> <td colspan="2">CCH650 65t</td> <td colspan="2">CCH650 65t</td> </tr> <tr> <td>4hrs</td> <td>\$680.00</td> <td>4hrs</td> <td>\$980.00</td> </tr> <tr> <td>8hrs</td> <td>\$1200.00</td> <td>8hrs</td> <td>\$1800.00</td> </tr> </tbody> </table>			Without operator		With operator		Kobelco RK70 7t		Kobelco RK70 7t		4hrs	\$350.00	4hrs	\$650.00	8hrs	\$600.00	8hrs	\$1200.00	CCH650 65t		CCH650 65t		4hrs	\$680.00	4hrs	\$980.00	8hrs	\$1200.00	8hrs	\$1800.00
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<p>ITEM 5 - SITE HOURS</p>	<p>7.00am – 4.30pm, Monday to Friday. Weekends as negotiated</p>																														
<p>ITEM 6 – LICENSEE CREDENTIALS On signing this agreement, the Licensee is to provide verified copies of:</p>	<ul style="list-style-type: none"> • RTO registration • Current WorkCover and Public Liability insurance certificates • Relevant High Risk Work licence (and/or safety competency certificates) and training qualification (TAA or TAE) for all trainers and assessors who will access the Site • Current and relevant WHSQ registration for all High Risk assessors who will access the site 																														

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SCHEDULE 2 – TERMS

Recitals

- A. CTC is the owner of the Site.
- B. The Licensee wishes CTC to make the Site and/or parts of the Site available for use by the Licensee from time to time.
- C. Subject to these Terms, CTC has agreed to license the Site and parts of the Site to the Licensee on an ad hoc and as required basis.

Operative provisions

1. Application of these Terms and Conditions

The parties acknowledge and agree that:

- (a) any agreement by CTC to license the Site or parts of the Site to the Licensee is subject to these terms and conditions, and is subject to availability;
- (b) CTC has not given or made and will not give or make any warranty, representation or guarantee to the Licensee that the Site or any part of the Site required by the Licensee will be available to the Licensee at the times required by the Licensee;
- (c) CTC is entitled to grant licences in respect of the whole or parts of the Site to third parties;
- (d) any licence which CTC may grant to the Licensee will be described in the Booking Confirmation issued to the Licensee;
- (e) notwithstanding anything to the contrary, any licence which CTC may grant to the Licensee shall be deemed to include the terms and conditions set out herein as well as the Hot Leasing Operations Handbook;
- (f) unless the parties otherwise agree in writing, any access or use of the Site by the Licensee on or after the date of this Agreement shall be on the terms and conditions set out herein; and
- (g) the terms and conditions set out herein will prevail over and operate to the exclusion of any terms on which the Licensee later submits or purports to submit to CTC;
- (h) CTC has made no promise, representation, warranty or undertaking:
 - (i) in respect of the suitability of the Site or the Land for any use or for any business to be carried on, or in respect of the fixtures, fittings, furnishings, finish, plant, machinery and equipment of or in the Site or the Land or as to other businesses to be carried on or not to be carried on in the Site or the Land;
 - (ii) that others have leased, will license or will continue to lease or license or will not be permitted to lease or license premises forming part of the Land or the Site or that the Licensee has any exclusive or limited shared right to carry on any use or business at the Site or on the Land.

2. Application for use

If, after signing this agreement, the Licensee wants to access the site, the Licensee must first;

- a) provide the documents required in Item 6 of Schedule 1, to be verified by CTC;
- b) schedule a site induction, conducted by CTC, for all trainers/assessors the Licensee wishes to have access to the site;
- c) make a Booking Request to CTC.

3. Acceptance of Booking Requests

- (a) The mere delivery of a Booking Request to CTC shall not be taken to be an acceptance by CTC of same.
- (b) The Licensee acknowledges and agrees that until a Booking Confirmation is issued by CTC, CTC is free to accept or reject any Booking Request submitted to it at its absolute discretion.
- (c) A Booking Request shall only be taken to have been accepted by CTC in the event that CTC issues to the Licensee a Booking Confirmation in respect of the Booking Request and only after the Deposit Fee, or payment in full, has been received by CTC.

4. Cranes

Where a Licensee has signed this agreement, whether wholly or in part for the purpose of Hot Leasing Cranes, they acknowledge and fully accept any and all additional terms and conditions as set out in Attachment A – *Lifting Skills Standard Terms and Conditions of CTC Hot Lease Crane Hire*.

5. Licence

- (a) In the event that CTC issues the Licensee with a Booking Confirmation in respect of any Booking Request submitted by the Licensee, CTC grants to and the Licensee accepts a non-exclusive licence to access and use that part of the Site described in that Booking Confirmation for the Hire Period described in that Booking Confirmation and on the terms and conditions stated in that Booking Confirmation, which, for the avoidance of doubt, shall be deemed to include the terms and conditions set out herein;
- (b) CTC grants to the Licensee without charge a licence to use the Licensee's Signage for purposes associated with its training activities at the Site. Before erecting any signage, the Licensee must first procure the consent of CTC;
- (c) In the event Signage is used, the Signage licence remains in force at the discretion of CTC and for no longer than the Hire Period defined in the Booking Confirmation;
- (d) The provisions of Clause 5 apply mutatis mutandis to the licences granted by CTC to the Licensee pursuant to the provisions of paragraph (a) and (b) above;
- (e) The licences granted by CTC to the Licensee pursuant to paragraphs (a) and (b) above may be terminated at any time by CTC giving to the Licensee seven (7) days written notice. In the event of any such termination, the Licensee must remove all of its property and signage from the Land and make good any damage to the Land caused by the installation or removal of any such signage or goods.

6. Terms of Use

The Licensee:

- (a) accesses, uses and occupies the Site at its own risk;
- (b) on signing this agreement, must provide to CTC evidence of the currency of credentials relevant to the Licensee's activities which are held or which are required to be held by the Licensee or the Licensee's staff or any contractors engaged by the Licensee as detailed in Item 6 of Schedule 1;
- (c) must satisfy itself at all times that the Site is safe for use and is suitable for its purposes;
- (d) must ensure that all persons accessing the Site or who use or operate or erect any plant or equipment on the Site are suitably qualified and competent and do so in a safe and proper manner
- (e) must ensure that any person conducting training and/or assessment activities on the Site is appropriately qualified and holds all necessary or relevant qualifications, competencies, licences or permits required in that regard;
- (f) must operate plant and equipment on the Site safely, strictly in accordance with the law, only for their intended use, and in accordance with the plant and equipment manufacturer's instructions whether supplied by CTC or otherwise;
- (g) must conduct a thorough hazard and risk assessment before using the Site and any plant and equipment on the Site and on request, provide a copy of the hazard and risk assessment to CTC;
- (h) must, where the preparation of a Safe Work Method Statement is a required industry standard, prepare a SWMS for the activity

- they intend to undertake on the Site and provide a copy of the SWMS to CTC on request;
- (i) must comply with all Workplace Health and Safety laws relating to its access and use of the Site and the use and operation of any plant and equipment used on the Site;
 - (j) must not tamper with or damage the Site or make any alterations, additions or improvements to the Site without first procuring the written consent of CTC;
 - (k) must not allow any person to use or access the Site who is affected by drugs and/or alcohol;
 - (l) must not exceed the recommended or legal load and capacity limits of the Site or any plant and equipment on the Site;
 - (m) must not use or allow the Site or any plant or equipment on the Site to be used for any illegal, immoral or prohibited purpose;
 - (n) must not, without the express written consent of CTC, allow any illegal, prohibited or dangerous substance to be brought onto or remain in the Site;
 - (o) must maintain and give to CTC on demand the Insurance Policy;
 - (p) must only use the Site for the purpose stated in the Booking Confirmation and, if no use is stated in the Booking Confirmation, only use the Site for the training purposes associated with the business of the Licensee;
 - (q) must not use or permit the Site to be used in a manner that creates a nuisance or disturbs or interferes with other users of the Site or properties adjoining the Site or may cause CTC to breach an obligation to a third party;
 - (r) must not use materials or substances which may be detrimental to the quality of the air at the Site or to the health or comfort of people at the Site;
 - (s) must not, without prior approval from CTC, install any fittings, fixtures, equipment, facilities or illumination in or to the Site;
 - (t) must not use or permit to be used any radio, television, video or audio reproduction equipment, amplifier or other media or equipment, or any musical instrument likely to be heard or seen from outside the Site without CTC's consent (which consent, once given, may be withdrawn at any time for any reason);
 - (u) must not bring on, use or store upon the Site any corrosive, explosive, flammable, harmful, poisonous, toxic or other dangerous substance (solid, liquid or gas);
 - (v) must not use any Services contrary to their intended purpose;
 - (w) must not obstruct or permit the obstruction of any part of the Common Areas;
 - (x) must not use part of the Site in excess of that authorised by any Booking Confirmation;
 - (y) must not create any actual or potential fire hazard at the Site;
 - (z) must not do anything that may overload any Services;
 - (aa) must not allow vehicles (used for the delivery or pick up of goods) to be driven or stopped other than in areas designated by CTC;
 - (bb) must not smoke or allow any other person to smoke on the Site other than in the designated smoking areas;
 - (cc) must not cause or contribute to any damage to the Site;
 - (dd) if the Licensee or any of the Licensee's employees, students, contractors, customers or invitees cause any damage to the Site, must immediately make good any such damage;
 - (ee) must repair (by replacement if necessary) all damage caused by the installation and subsequent location of the Licensee's equipment on the Site (including, without limitation, replacing floorcoverings and ceiling tiles which have been holed, filling in holes and restoring original surfaces to walls, floors and ceilings, removing cabling, and reinstatement generally);
 - (ff) must comply with and observe at the Licensee's cost all laws and requirements of any Authority in relation to or affecting Site, their use or any of the Licensee's equipment used therein whether or not those laws or requirements are addressed to or required to be complied with by either or both of CTC and the Licensee or by any other person;
 - (gg) must immediately provide to CTC a complete copy of any requirements of any Authority notified to or served on the Licensee;
 - (hh) must obtain, maintain, comply with and observe at the Licensee's cost all consents, licences or approvals from any Authority which may from time to time be necessary or appropriate for the Licensee's business and/or the Licensee's use and access to the Site;
 - (ii) must, upon demand, pay to CTC all costs incurred by or on behalf of CTC in complying with any laws or requirements of any Authority on behalf of the Licensee as if those moneys were Licence Fees in arrears;
 - (jj) must not place or store any equipment or materials upon the Site without the prior written consent of CTC, which consent may be granted or withheld in the absolute discretion of CTC (the Licensee must comply with any conditions imposed by CTC in granting any such consent);
 - (kk) releases CTC, and agrees that CTC is not liable for any loss or claim incurred in connection with any damage or theft of the Licensee's equipment or materials whilst on Site;
 - (ll) must not in any way interfere with any fire or security alarm system and shall not in any manner obstruct or hinder access to it;
 - (mm) must not use any drains, basins, sinks or toilets for any purpose other than those for which they were designed, nor place into them any substances which they were not designed to receive;
 - (nn) must not deface or mark or drive any nails, screws or hooks into any part of the Site except with the CTC's prior written approval;
 - (oo) if the Licensee or any of the Licensee's employees, students, contractors, customers or invitees damage, deface or mark any part of the Site, must, upon demand, pay to CTC all costs in repairing and/or reinstating the Site to its former condition;
 - (pp) must comply with all directions of CTC from time to time relating to the receipt, delivery or other movement of any goods;
 - (qq) must not use any walkway, pavement, forecourt, entrance, vestibule, corridor, passageway, stairway or landing comprised in a Common Area except as necessary for the purpose of ingress to and egress from the Site;
 - (rr) must not use any Common Area for any business or commercial purpose or for the display or advertisement of any goods or services, nor generally for any purpose other than a purpose for which the same was (in the opinion of CTC) constructed or provided;
 - (ss) must pay to CTC on demand all costs incurred by CTC in making good any breakage, defect or damage to CTC property, or property provided by CTC, including but not limited to classrooms, common areas, plant or equipment occasioned by the want of care, misuse or abuse on the part of the Licensee or any of the Licensee's employees, students, contractors, customers or invitees or otherwise occasioned by any breach or default of the Licensee;
 - (tt) must not litter any Common Area or otherwise cause the same to be put or left in an unclean or untidy condition
 - (uu) must give CTC immediate notice of any event likely to give rise to any Claim against CTC, the Licensee or any of their

- respective employees or students in respect of the use or operation of the Site;
- (vv) must maintain and provide to CTC a register of all material safety data sheets for materials, chemicals and substances used or intended to be used by the Licensee at the Site;
 - (ww) must ensure that any work or partly completed work at the Site is not left in an unsafe condition or in a condition which might cause personal injury or damage to other existing work, plant, facilities, machinery or equipment;
 - (xx) in performing activities at the Site, must keep the Site free from all unnecessary obstruction;
 - (yy) must ensure that upon completion of the Hire period, the Site is left fit for immediate use, clean and in an orderly state including removal of any waste, equipment, hazardous materials or chemicals;
 - (zz) must conduct itself and ensure that its employees, agents, contractors, customers and invitees conduct themselves in accordance with any safety and health management systems approved or advised by CTC from time to time;
 - (aaa) must not access or use or attempt to access or use the Site outside of the Site Working Hours;
 - (bbb) must, at the Licensee's own cost and before commencing any work or training activities on the Site, ensure that the Licensee and all of the Licensee's employees, contractors, students, customers and invitees who enter the Site complete such site inductions as required by CTC from time to time;
 - (ccc) must ensure that the Licensee and all of the Licensee's employees, contractors, students, customers and invitees at all times comply with all environmental protection, cultural heritage, equal opportunity, anti-bullying and anti-discrimination policies approved or advised by CTC from time to time;
 - (ddd) must, if CTC considers that the Licensee's environmental performance is below the standards required of it, comply with all reasonable directions made by CTC in that regard;
 - (eee) must not operate a café from the Site or provide services similar to that of a café from the Site;
 - (fff) releases CTC, and agrees that CTC is not liable for any Claim incurred in connection with:
 - A. damage, loss (including consequential and economic loss), injury or death related to the Licensee's activities;
 - B. anything CTC is permitted or required to do (whether under these terms and conditions or otherwise);
 - C. a Service not being available, being interrupted or not working properly;
 - D. plant and equipment provided to the Licensee by CTC that does not work as intended;
 - E. any other matter or thing which is beyond the control and knowledge of CTC.
 - (ggg) is liable for, and indemnifies CTC against any and all Claims arising directly from the negligent acts and/or default of the Licensee or the Licensee's employees, students, contractors, customers or invitees, provided that the liability of the Licensee will be reduced proportionately to the extent that a wrongful act or omission of CTC or a third party directly caused or contributed to the event that gave rise to the Claim.
 - (hhh) at the end of the Hire Period described in the Booking Request:
 - A. vacate the Site;
 - B. remove all of the Licensee's plant, equipment, chattels and goods from the Site;
 - C. ensure that the Site is clean;

- D. repair any damage to the Site which has been caused by the Licensee or any of the Licensee's employees, students, contractors, customers or invitees;

7. Deposit Fee and License Fee

- (a) The Licensee must pay to CTC the Deposit Fee specified in Item 1 of Schedule 1 to secure a Booking Confirmation. A Booking Confirmation will not be issued to the Licensee until CTC is in receipt of the Deposit Fee or payment in full.
- (b) The Licensee must pay to CTC the total Licence Fee specified on the Booking confirmation, less the Deposit Fee, at least 7 days prior to the Hire Period commencement date.
- (c) If a Booking Request is made within 7 days of the requested Hire Period, no Deposit Fee will apply and the total Licence Fee must be paid immediately to secure a Booking Confirmation.
- (d) Fees can be paid via EFT, Cheque or Credit Card (Visa or Mastercard only) When purchasing via credit card, the details are transmitted through an application programming interface. Card details are hosted by CISC Pty Ltd after processing.

8. Additional Licence Fee

In the event that the Licensee uses an area of the Site and/or accesses or uses the Site for a period in excess of that stated in a Booking Confirmation or not authorised in writing by CTC, the Licensee must, within seven (7) of demand for payment by CTC, pay to CTC any additional Licence Fee calculated in accordance the following formula: $ALF = (SA \times FR) / TSA \times ND + 50\%$

Where:

ALF means the Additional Licence Fee payable by the Licensee
 SA means the area of the Site used by the Licensee in excess of that allocated for the use of the Licensee pursuant a Booking Confirmation
 FR means the Fee Rate
 TSA means the total area of the Site
 ND means the number of days (or part of a day) during which the Licensee used or accessed the Site in excess of that specified in a Booking Confirmation.

9. Cancellation and Refunds

If a Licensee cancellation is received by CTC between 7 and 1 working days prior to the Hire Period commencement, the cancellation fee is 50% of the Licence Fee. Where notification of cancellation is received by CTC on the first day of the Hire Period commencement, the cancellation fee is 100% of the Licence Fee. CTC reserves the right to retain the Deposit Fee as a cancellation fee if CTC cancels the booking due to the Licensee not paying the total Licence Fee by the due date specified in 7(b). However, if offered by CTC, the Licensee may elect to offset fees already paid against future days hire. Such fees will be deemed to be held in credit for future use by the Licensee.

10. Closure of Site

CTC may close the Site or any part of it in an emergency or where CTC at the time considers that action is reasonably necessary in the interests of the safety of any person or property. The Licensee and all of the Licensee's employees, students, contractors, customers and invitees must leave the Site immediately following a direction from CTC to leave and must remain off Site until such time as the Site is reopened by CTC.

11. Removal of Licensee's Property

If the Licensee fails to remove its property and equipment from the Site within the time period required by any Booking Confirmation or these terms, the interest of the Licensee in such property and equipment not removed shall immediately pass to CTC to the intent that such property and equipment shall be deemed to have become the property of CTC, which may at its option:

- (a) cause any such property and equipment to be removed and stored in the manner as CTC in its absolute discretion deems fit at the risk and at the cost of the Licensee; or
 - (b) deal with such property and equipment in the manner as CTC thinks fit without being liable in any way to account to the Licensee for it.
- The Licensee indemnifies and shall keep CTC indemnified in respect of any action taken by the Licensor pursuant to the provisions of this Clause 10.

12. Rights vest in contract only

The Licensee acknowledges and agrees that:

- (a) any licence granted to it by CTC pursuant to or following the date of this Agreement is a licence only;
- (b) the Licensee's rights in respect of any such licence shall vest in contract only;
- (c) the Licensee's rights in respect of any such licence do not confer any estate or interest in the Site nor do they create the relationship of landlord and tenant between the parties;
- (d) the legal right to possession and control of the Site shall at all times remain vested in CTC.

13. No assignment

The Licensee may not assign, encumber or otherwise dispose of or deal with its rights under this Agreement or any licence which it may be granted pursuant to or following the date of this Agreement.

14. Additional Costs and Expenses

Each party must pay its own costs in connection with the preparation and execution of this Agreement. The Licensee must pay to CTC within seven (7) days of demand for payment by CTC:

- (a) interest calculated daily at the rate of 10% per annum on all amounts owing by the Licensee to CTC, which have not been paid on time;
- (b) any expenses and legal costs (calculated on a solicitor and own client basis) incurred by CTC (as a result of the negligent acts and/or default of the Licensee) in any actual or attempted exercise or enforcement of a power, right or remedy conferred on or implied in favour of the CTC under this Agreement, any subsequent Booking Request, Booking Confirmation or any other contract or agreement arising between the parties or otherwise at law.

15. Amendments to these terms and Conditions

- (a) CTC may vary these terms and condition from time to time.
- (b) If CTC varies these terms and conditions, it must first give the Licensee written notice of the variation.
- (c) The Licensee must, within 7 days of such notice, either accept or reject the variation.
- (d) If the Licensee accepts such a variation it must notify CTC in writing.
- (e) If the Licensee does not accept such a variation within 7 days of notice by CTC, CTC may (in its absolute discretion) terminate this Agreement immediately.

16. Goods and Services Tax

- (a) Capitalised expressions which are not defined in this clause but which have a defined meaning in the GST Law have the same meaning in this clause;
- (b) In this Agreement:
 - (i) "GST" means the goods and services tax as imposed by the GST Law including, where relevant, any related interest, penalties, fines or other charge;
 - (ii) "GST Amount" means, in relation to a Payment, an amount arrived at by multiplying the Payment (or the relevant part of a Payment if only part of a Payment is the consideration for a Taxable Supply) by the appropriate rate of GST (being 10% when the GST Law commenced) or any lower rate notified from time to time by the person making the relevant Supply;

- (iii) "GST Law" has the meaning given to that term in A New Tax System (Goods and Services Tax) Act 1999, or, if that Act is not valid or does not exist for any reason, means any Act imposing or relating to the imposition or administration of a goods and services tax in Australia and any regulation made under that Act;

- (iv) "Payment" means:

- A. the amount of any monetary consideration (other than a GST Amount payable under this clause), and
- B. the GST Exclusive Market Value of any non-monetary consideration, paid or provided by the Licensee for this Agreement or by the Licensor or the Licensee for any other Supply made under or in connection with this Licence or any subsequent contract or agreement between the parties and includes:
 - C. any Licence Fee;
 - D. any Additional Licence Fee; and
 - E. any amount payable by way of indemnity, reimbursement, compensation or damages.

- (c) The parties agree that:

- (i) all Payments have been set or determined without regard to the impact of GST;
- (ii) if the whole or any part of a Payment is the consideration for a Taxable Supply for which the payee is liable to GST, the GST Amount in respect of the Payment must be paid to the payee as an additional amount, either concurrently with the Payment or as otherwise agreed in writing; and
- (iii) the payee will provide to the payer a Tax Invoice.
- (d) Despite any other provision of this Agreement, if a Payment due under this Agreement is a reimbursement or indemnification by one party of an expense, loss or liability incurred or to be incurred by the other party, the Payment shall exclude any GST forming part of the amount to be reimbursed or indemnified for which the other party can claim an Input Tax Credit.

17. Confidentiality

- (a) The Licensee acknowledges and agrees that all Confidential Information disclosed or revealed to it by or to any of its employees, students, representatives or independent contractors either directly or indirectly by CTC or by any of CTC's employees, agents, representatives or independent contractors is and remains the property of CTC and is secret and confidential.
- (b) The Licensee must:
 - (i) hold all Confidential Information in confidence and must not use the Confidential Information for any purpose not expressly authorised by CTC in writing;
 - (ii) not discuss, communicate or transmit any Confidential Information to any person without CTC's prior written consent;
 - (iii) not make any unauthorised copy of the Confidential Information;
 - (iv) use its best endeavours to prevent unauthorised use or disclosure of, and to protect, all Confidential Information, including the use of cryptographic software and mechanical security devices;
 - (v) indemnify and keep CTC indemnified for any unauthorised use or disclosure of any Confidential Information by it and any of its employees, agents, representatives or independent contractors;
 - (vi) deliver-up to CTC all Confidential Information, including all electronic or paper copies thereof and including any password or key necessary to remove any applicable encryption, forthwith upon demand by CTC;

- (vii) not exercise any lien over any Confidential Information or any document, whether an original or a copy, containing a record of same;
 - (viii) not use any Confidential Information for the development through reverse engineering or otherwise of any product or business;
 - (ix) supply CTC with copies of any Confidential Information, including any password or key necessary to remove any applicable encryption, in its possession within 24 hours of being requested so to do by CTC;
 - (x) ensure that its directors, employees, students, contractors and other persons which are or may become aware of, in possession of or able to access in any way the Confidential Information comply with its obligations under this clause and the Licensee hereby warrants that its will draw this obligation to the attention of those persons aforesaid and procure that those persons agree to be bound by the provisions of this Clause as though named as the Licensee.
- (c) Save for any of such Confidential Information which the Licensee expressly authorised by CTC to retain the Licensee must return to CTC all, including all copies, of the Confidential Information that is in its possession, custody or control immediately upon demand by CTC.

18. General

- (a) All warranties and conditions are excluded to the full extent permitted by law;
- (b) Any dispute by the Licensee in relation to any fact, matter or thing arising from, pursuant to or in connection with this Agreement or any subsequent agreement or contract between the parties must be notified to CTC within 30 days of the Licensee becoming aware of such fact, matter or thing. In the event that the Licensee fails or neglects to notify CTC of any such dispute, the Licensee shall be deemed to have waived its rights against CTC in respect of such dispute;
- (c) The parties agree that this Agreement and any subsequent agreement or contract between the parties shall be governed by the laws of the State of Queensland, and the parties submit to the jurisdiction of the Courts of that State;
- (d) Each and every indemnity given by the Licensee under or pursuant to this Agreement is independent from the Licensee's other obligations and continues until it has been completely satisfied or has been waived by CTC in writing. CTC shall be entitled to enforce an indemnity before incurring expense.
- (e) Any notice or approval required by this Agreement must be in writing.
- (f) A notice or approval is:
 - (i) if posted, it is taken to be received on the second Business Day after posting if posted in Australia and on the fifth Business Day after posting if posted outside Australia; and
 - (ii) if sent by facsimile, it is taken to be received on production of a transmission report by the machine from which the facsimile was sent which indicates the facsimile was sent in its entirety to the facsimile number of the recipient if produced before 5.00 pm on a Business Day, otherwise on the next Business Day.
- (g) The time referred to is the time in Brisbane in the State of Queensland.
- (h) Each party agrees, at its own expense, on request of the other party, to do everything reasonably necessary to give effect to this Agreement and the transactions contemplated by it, including the execution of documents.

- (i) If a provision of this Agreement is illegal or unenforceable then that provision must be severed from this Agreement and the remaining provision of this Agreement continue in force. If only part of a provision is illegal or unenforceable then this clause applies to that part only.
- (j) Time is of the essence of each party's obligations hereunder.
- (k) Unless otherwise provided by these terms and conditions, no amendment to this Agreement has any force unless it is in writing and signed by all of the parties.
- (l) This Agreement is validly executed if executed in one or more counterparts.
- (m) To the extent permissible, no law will apply to this Agreement so as to extinguish, fetter, delay or otherwise prejudice any of the rights, powers and remedies of CTC under this Agreement or otherwise conferred on or available to CTC.
- (n) The rights, powers, authorities, discretions and remedies of a party under this Agreement do not exclude any other right, power, authority, discretion or remedy.
- (o) None of the terms of, or any act, matter or thing done under or by virtue of, or in connection with this Agreement shall operate as a merger of any of the obligations of the parties in or under this Agreement and such rights and remedies shall at all times continue in full force and effect.
- (p) Neither the Licensee nor CTC is responsible for any failure to fulfil obligations imposed under this Agreement if such fulfilment is delayed, prevented, restricted or interfered with by reason of a Force Majeure Event.
- (q) Nothing in this Agreement or any Booking Request, Booking Confirmation or other contract or agreement between the parties shall be deemed or construed as creating the relationship of a partnership or of principal and agent or of joint venture between the parties.

19. Interpretation

Unless the context otherwise requires, in this Agreement:

- (a) any word importing the singular includes the plural and vice versa;
- (b) any word importing one gender includes the other genders;
- (c) an obligation or liability assumed by, or a right release or other benefit conferred on or in favour of, 2 or more persons, binds or benefits each of them jointly and severally;
- (d) any reference to a person shall be construed as a reference to any person, firm, company, corporation, government, governmental authority, state or agency of a state or any association or partnership (whether or not having corporate legal personality) or any two or more of the above;
- (e) any reference to a statute is to be considered as including all statutory provisions consolidating, amending or replacing the statute referred to and all regulations, rules, by-laws, proclamations, orders and other authorities pursuant to the statute;
- (f) any reference to "writing" includes any means of producing words in a tangible permanently visible form and in the English language and "written" has a corresponding meaning;
- (g) any reference to an agreement or to another contractual instrument includes all subsequent amendments to it or changes in it entered into in accordance with its terms but only to the extent to which such amendment or changes are expressly or impliedly permitted by this Agreement;
- (h) any reference to a party to this Agreement includes a reference to its successors, executors, administrators and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes a substituted or additional trustee;

- (i) any reference to a recital, clause, sub-clause, paragraph, schedule, annexure or exhibit shall, unless otherwise indicated, refer to a recital, clause, sub-clause, paragraph, schedule, annexure or exhibit to or of this Agreement;
- (j) any heading used in this Agreement is used for convenience only and shall not be used in the interpretation of this Agreement;
- (k) derivatives of any term to which a meaning is assigned in this Agreement shall have a corresponding meaning;
- (l) a reference to "\$" or "dollar" is to Australian currency;
- (m) a reference to "the parties" means the Licensee and CTC jointly;
- (n) a reference to the whole of something includes a reference to part of it;
- (o) words or expressions used in Clause 19 which are defined in the PPSA shall have the meanings ascribed to them under the PPSA.

20. Definitions

For the purposes of this Agreement, the following words have the corresponding meanings set out below:

- (a) **"Authority"** means any court, or any state or federal government, local government, statutory or public authority, instrumentality or body or any other person having jurisdiction over the Site or any part of it or anything in relation to it;
- (b) **"Booking Confirmation"** means a booking confirmation issued by CTC in respect of a Booking Request submitted to CTC by the Licensee;
- (c) **"Booking Request"** means a request, made either on line or by telephone or email, by the Licensee to hire a Hot Leasing space or spaces.
- (d) **"Business Day"** means any day other than a Saturday, Sunday or public holiday appointed throughout the City of Brisbane;
- (e) **"Claims"** means any claim, demand, remedy, suit, injury, damage, loss, cost, liability, action, proceeding, right of action, claim for compensation and claim for abatement of any monetary obligation;
- (f) **"Common Areas"** means those parts of the Land which CTC intends for common use from time to time;
- (g) **"Confidential Information"** means all Intellectual Property, information, procedures, formulae, designs, ideas, discoveries, inventions, enhancements, systems, manuals, specifications, know-how, trade secrets, documents, data and written material of CTC howsoever recorded or stored whether manually, mechanically or electronically including, without limitation:
 - (i) any information or document belong to or prepared by, on behalf of or at the direction or expense of CTC (including the contents of any such document) which comes to the Licensee's attention or into the Licensee's possession by any means;
 - (ii) information concerning CTC's business practices, consulting methods and practices;
 - (iii) information, manuals, processes, concepts and designs created or developed by CTC in its undertaking the Consulting Services;
 - (iv) information, manuals, processes, concepts, designs, ideas, discoveries or inventions (whether patentable or not) conceived or created by CTC or its employees agents or contractors in the course of carrying out the Consultancy Services irrespective of whether or not they have been derived from any information provided to CTC by or on the Licensee's behalf;
 - (v) information which CTC has designated or indicated whether orally or in writing to be confidential, but does not include:
 - a. information which is already in the public domain (other than as a result of a breach of this Agreement);
 - b. information which is required to be disclosed by law;
 - c. concepts, material, ideas, discoveries, inventions and any registrable rights of any nature created and/or developed by the Licensee before the date of its execution of this Deed and which is not in any way related to or derived from any Confidential Information
- (h) **"Deposit Fee"** means a payment that must be made by the Licensee and received by CTC for the Licensee to secure a Booking Confirmation. The Fee is set out in Item 1 of Schedule 1;
- (i) **"Fee Rate"** means the rate per day set out in Items 1 and 4 of Schedule 1;
- (j) **"Force Majeure Event"** means an event which is beyond the reasonable control of either party and which could not reasonably have been foreseen by that party including, but not limited to, any act of God or the elements, fire, flood, war, the public enemy, strikes, labour difficulties, civil commotion, transportation or other embargoes, termination of existing distributorship arrangements (other than by consent), act of civil or military authority, governmental priority, requisition, allocation, order or request.
- (k) **"Hire Period"** means the licence period stated in a relevant Booking Confirmation for which the Licensee has been provided access to the Site;
- (l) **"Insurance Policy"** means a current policy of insurance for public risk liability with insurers and on terms approved by CTC in the names of the Licensee which includes cover for bodily injury liability, property damage liability, personal injuries liability and the Licensee's legal liability with respect to the Licensee's use of the Site. Such policy will be written on a comprehensive basis with limits of not less than \$20,000,000.00 per occurrence or any higher limits with CTC may reasonably require from time to time;
- (m) **"Intellectual Property"** means all trademarks, trade names, copyright, patents, registered designs, formulae, confidential information including trade secrets, know-how and technology, and all other intellectually property rights (both present and future) of CTC;
- (n) **"Land"** means the Construction Training Centre owned by CTC and situated at 460-492 Beaudesert Road, Salisbury in the State of Queensland;
- (o) **"Licence Fee"** has the same meaning as "Fee Rate";
- (p) **"PPSA"** means the *Personal Property and Securities Act 2009* (Cth);
- (q) **"Services"** mean the services to or of the Site provided by any Authority or CTC (including water, electricity, gas, air conditioning, and lifts);
- (r) **"Signage Area"** means the area (if any) described in Item 2 of Schedule 1;
- (s) **"Site"** means that part of the Land from time to time and in the absolute discretion of CTC as being available for Hot Leasing. So as there may be no doubt, the Site includes as part of the Site, the facilities to the Site, all fixtures and/or equipment provided by CTC at the Site and any Services to the Site;
- (t) **"Site Working Hours"** means the hours and days stated in any Booking Request and, if no such hours and days are nominated, the Site Working Hours shall be deemed to be those set out in Item 5 of Schedule 1