



THE SOUTH AUSTRALIAN GOVERNMENT GAZETTE

PUBLISHED BY AUTHORITY

ALL PUBLIC ACTS appearing in this GAZETTE are to be considered official, and obeyed as such

ADELAIDE, THURSDAY, 23 JANUARY 2003

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GOVERNMENT GAZETTE NOTICES

ALL poundkeepers' and private advertisements forwarded for publication in the *South Australian Government Gazette* must be PAID FOR PRIOR TO INSERTION; and all notices, from whatever source, should be legibly written on one side of the paper only and sent to **Government Publishing SA** so as to be *received no later than 4 p.m. on the Tuesday preceding the day of publication. Phone 8207 1045 or Fax 8207 1040. E-mail: governmentgazette@saugov.sa.gov.au*. Send as attachments in Word format and please confirm your transmission with a faxed copy of your document, including the date the notice is to be published and to whom the notice will be charged.

Department of the Premier and Cabinet
Adelaide, 23 January 2003

HER Excellency the Governor in Executive Council has removed Christopher Brown as a Member of the Local Government Superannuation Board, pursuant to the Local Government Act 1999 and the Acts Interpretation Act 1915.

By command,

TRISH WHITE, for Premier

MLG 001/2002CS

Department of the Premier and Cabinet
Adelaide, 23 January 2003

HER Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the RESI Corporation Board, pursuant to the provisions of the Electricity Corporations Act 1994:

Director: (from 23 January 2003 until 22 January 2006)
Terence Charles Evans
Robert Murrie Fuller

By command,

TRISH WHITE, for Premier

TFD 0118/02CS

Department of the Premier and Cabinet
Adelaide, 23 January 2003

HER Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the South Australian Water Corporation Board, pursuant to the provisions of the South Australian Water Corporation Act 1994:

Director: (from 23 January 2003 until 30 June 2004)
Rosemary Joan Owens

By command,

TRISH WHITE, for Premier

MAGEN 001/2003CS

Department of the Premier and Cabinet
Adelaide, 23 January 2003

HER Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the Development Policy Advisory Committee, pursuant to the provisions of the Development Act 1993:

Member: (from 23 January 2003 until 30 June 2003)
Mark Parnell

By command,

TRISH WHITE, for Premier

MUDP-PL 00034/2002CS

Department of the Premier and Cabinet
Adelaide, 23 January 2003

HER Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the Local Government Superannuation Board, pursuant to the provisions of the Local Government Act 1999:

Member: (from 23 January 2003)
John Frederick Braithwaite

By command,

TRISH WHITE, for Premier

MLG 0017/2002CS

Department of the Premier and Cabinet
Adelaide, 23 January 2003

HER Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the Onkaparinga Catchment Water Management Board, pursuant to the provisions of the Water Resources Act 1997:

Member: (from 23 January 2003 until 22 January 2007)
Deane Michelmore

By command,

TRISH WHITE, for Premier

MEC 0013/03CS

Department of the Premier and Cabinet
Adelaide, 23 January 2003

HER Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the South Eastern Water Conservation and Drainage Board, pursuant to the provisions of the South Eastern Water Conservation and Drainage Act 1992:

Member: (from 23 January 2003 until 22 January 2007)
John Allan Schulz
Manfred Stadter
Lynette Anne Rasenberg

By command,

TRISH WHITE, for Premier

MEC 0014/03CS

Department of the Premier and Cabinet
Adelaide, 23 January 2003

HER Excellency the Governor in Executive Council has been pleased to appoint Christopher John Kourakis, QC, as the Solicitor-General from 3 February 2003 pursuant to the provisions of the Solicitor-General Act 1972 and on the following terms and conditions:

1. Salary and Allowances: those of a Puisne Judge of the Supreme Court.
2. Recreation Leave: under the Public Sector Management Act 1995.
3. Long Service Leave: under the Public Sector Management Act 1995.
4. Sick Leave: under the Public Sector Management Act 1995.
5. Disclosure of pecuniary interests in a manner consistent with the requirements of a Chief Executive pursuant to section 18 of the Public Sector Management Act 1995.

By command,

TRISH WHITE, for Premier

ATTG 0018/03CS

Department of the Premier and Cabinet
Adelaide, 23 January 2003

HER Excellency the Governor in Executive Council has been pleased to appoint Janice Catherine Andrews as Deputy Commissioner for Public Employment, for a term of five years commencing on 29 January 2003 pursuant to Part 5 of the Public Sector Management Act 1995.

By command,

TRISH WHITE, for Premier

DPC 045/02CS

Department of the Premier and Cabinet
Adelaide, 23 January 2003

HER Excellency the Governor in Executive Council has been pleased to appoint Cathy Helen Deland and Clive William Kitchin as Stipendiary Magistrates from 23 January 2003 pursuant to the provisions of the Magistrates Act 1983.

By command,

TRISH WHITE, for Premier

ATTG 17/03CS

Department of the Premier and Cabinet
Adelaide, 23 January 2003

HER Excellency the Governor in Executive Council has been pleased to appoint John Antoine Kiosoglous to the office of Magistrate on an auxiliary basis from 3 March 2003 to 30 June 2003, it being a condition of appointment that the powers and jurisdictions of office should only be exercised during the time or times the actual duties are being undertaken, but at no other time throughout the period of appointment pursuant to the provisions of the Judicial Administration (Auxiliary Appointments and Powers) Act 1988.

By command,
TRISH WHITE, for Premier

ATTG 0005/03CS

Department of the Premier and Cabinet
Adelaide, 23 January 2003

HER Excellency the Governor in Executive Council has revoked the appointment of Trevor Noel Argent from the office of Commissioner of Highways pursuant to the Highways Act 1926 and the Acts Interpretation Act 1915.

By command,
TRISH WHITE, for Premier

DTRN 14441/2002CS

Department of the Premier and Cabinet
Adelaide, 23 January 2003

HER Excellency the Governor in Executive Council has been pleased to appoint Timothy William O'Loughlin as the Commissioner of Highways from 23 January 2003 for a period of five years pursuant to section 10 of the Highways Act 1926.

By command,
TRISH WHITE, for Premier

DTRN 14441/2002CS

Department of the Premier and Cabinet
Adelaide, 23 January 2003

HER Excellency the Governor in Executive Council has been pleased to appoint the Honourable Michael John Atkinson, MP, Attorney-General, Minister for Justice, Minister for Consumer Affairs and Minister for Multicultural Affairs to be also Acting Minister for Agriculture, Food and Fisheries and Acting Minister for Mineral Resources Development for the period 27 January 2003 to 2 February 2003, inclusive, during the absence of the Honourable Paul Holloway, MLC.

By command,
TRISH WHITE, for Premier

ATTG 0018/03CS

THE ANGLICAN CHURCH OF AUSTRALIA

Constitutional Amendment

NOTICE is hereby given that the Most Reverend Dr Peter Carnley, Archbishop of Perth, President of the General Synod and Primate of The Anglican Church of Australia has declared, pursuant to section 67 (2) of the Constitution and the Rules of the General Synod, that on 14 April 2003 the following Constitutional amendment shall come into effect and the Constitution on and from that day will be altered accordingly.

Constitution Alteration (Discipline Clarification) Canon 1998.

P. CARNLEY, President of General Synod

AQUACULTURE ACT 2001 AQUACULTURE LEASE PL00001 *Class of Aquaculture (Tuna)*

THIS Pilot Lease is granted under the Aquaculture Act 2001 ('the Act') pursuant to section 3 (2) of the Schedule to the Act and Division 4 of Part 6 of the Act.

This lease is granted to the lessee for the term of one year, by the Minister for Agriculture, Food and Fisheries ('the Minister') for the purpose of conducting the Class of Aquaculture nominated in the Schedule ('the permitted use'), subject to the conditions set out in this document.

This lease is granted with the concurrence of the Minister for Transport as required in section 20 of the Aquaculture Act 2001 and section 15 of the Harbours and Navigation Act 1993.

SCHEDULE

Lessee:

Emily Krstina (Australia) Pty Ltd (13053)
Pine Freezers Road
Port Lincoln, S.A. 5606

Leased Area:

GDA 94—Zone 53
588714E 6161127N
589978E 6161127N
589979E 6160494N
588714E 6160495N

Licensed Hectares

80

Permitted Class of Aquaculture:

Tuna Aquaculture

Term of the Lease:

Twelve months

Initial Rental:

\$350.00

Marking-off requirements:

The marked-off area must be marked with 30 cm diameter white buoys spaced at 50 m intervals and positioned no more than 50 m from structures located on the site.

Amount of Public Liability Insurance:

\$10 million

Amount of Guarantee or contribution to indemnity fund:

\$10 000

Extent of Leased Area that must be developed:

During the term of this lease at least one cage of at least 20 m diameter must be installed on the site.

1. *Term and Renewal*

- 1.1 The term of this lease is the term of one year commencing on 1 July 2002 and ending on 30 June 2003 ('the initial term').
- 1.2 The term is renewable in accordance with section 38 of the Act for successive terms, by the lessee giving the Minister notice no earlier than two months before the expiry of the term, and no later than one month before the expiry of the term, unless there is at the expiry of the lease a default under the lease or any corresponding licence.
- 1.3 Any renewal of the term shall be subject to conditions in accordance with standard conditions under aquaculture policies developed under Part 4 of the Act, and such other conditions as are determined by the Minister ('the reviewed conditions').

- 1.4 Upon renewal the Minister may issue either a certificate of renewal, or a new lease, incorporating the reviewed conditions.
- 1.5 The Minister may, at the time of renewal of a term, vary the term subject to the maximum term for a production lease permitted by the Act.

2. Rental

- 2.1 The lessee must pay to the Minister the annual rental, free from exchange, deduction or abatement.
- 2.2 At the commencement of the initial term the annual rental payable under this lease is the initial rental stipulated in the Schedule.
- 2.3 The initial rental payable in respect of the initial term is subject to adjustment during the initial term, as determined by the Minister in accordance with aquaculture policy developed under Part 4 of the Act. The adjusted rental shall be applicable in respect of the entire initial term.
- 2.4 Rental in respect of renewed terms shall be as notified by the Minister before the expiry of the initial term, and adjustments of rental in renewed terms of the lease will be applicable in accordance with the reviewed conditions.
- 2.5 Rental is payable in full within one month of commencement of the lease by direct bank transfer to the credit of a bank account nominated by the Minister, or by cheque payable to the Department for Primary Industry and Resources SA, delivered to the address stipulated by the Minister.

3. GST

- 3.1 The rental payable under this lease is exclusive of GST.
- 3.2 The lease is a taxable supply under GST Law.
- 3.3 Department of Primary Industries and Resources (ABN 53 763 159 658) is the government entity administering this lease on behalf of the Minister and is registered pursuant to the GST Law.
- 3.4 Department of Primary Industries and Resources is entitled to be treated as the maker of any taxable supply and the recipient of any taxable supply pursuant to this lease instead of the Minister for the purposes only of the GST Law.
- 3.5 The lessee must pay to the Minister, together with any payment of rental under this lease, an additional amount in respect of GST (the 'GST payment'). The GST payment is ten per cent of the rental, subject only to any change in the rate of GST under GST Law.
- 3.6 The Minister must issue to the lessee a tax invoice within 10 business days after the lessee has delivered payment of rental and the GST payment.

4. Cancellation

The Minister may cancel this lease by immediate written notice to the lessee:

- 4.1 if the lessee enters into any form of Insolvency Administration;
- 4.2 if the lessee assigns or purports to assign the lease without giving the Minister prior written notice as required by section 39 of the Act;
- 4.3 if any rent or other moneys payable by the lessee are in arrears for more than 14 days whether or not any formal demand has been made for the rent or other moneys;
- 4.4 if the lessee (being a natural person) is convicted of any indictable offence;
- 4.5 if there is any breach of any condition of a corresponding licence in respect of this lease;

- 4.6 if there is a breach of any obligation under the Act by the lessee or a licensee under a corresponding licence;
- 4.7 if a corresponding licence is cancelled; or
- 4.8 if in the opinion of the Minister the use of the leased area by or on behalf of the lessee reveals, indicates or provides reasonable grounds for the Minister to form the view or opinion that degradation or damage of an unacceptable level of coastal land or the surrounding marine environment has or is being caused by the lessee's use of the leased area or the use of the leased area by a licensee under a corresponding licence, or any activity associated with their activities and the lessee fails to comply with a notice requiring the lessee to remedy the degradation or damage, and/or cease or prevent the relevant activity within 30 days after the date the notice is served upon the lessee by or on behalf of the Minister.

5. Dealing with Lease

- 5.1 This lease is transferable in accordance with the Act (see section 39).
- 5.2 Subletting under this lease is not permitted except with the prior written consent of the Minister.

6. Marking-off

The lessee must mark-off the leased area in the manner stipulated in the Schedule.

7. Lessee's Use of Leased Area

The lessee must not use the leased area or permit it to be used for any purpose other than the Permitted Class of Aquaculture.

8. Development Requirement

The lessee must ensure that the leased area is developed and used for the Permitted Class of Aquaculture to the extent stipulated in the Schedule.

9. Consents and Approvals

- 9.1 If the lessee's use of the leased area is permissible only with the consent or approval of any authority under or in pursuance of any law enactment or order of Court the lessee must obtain such consent or approval at its own expense and the lessee shall at no time during the term of this lease do or permit or fail to do or suffer to be done any act, matter or thing whereby such consent or approval shall lapse or be revoked; and
- 9.2 The lessee must keep current during the term of this lease all consents and approvals required under the Development Act 1993 and any other law applicable to the leased area or the permitted use or the lessee's use of the leased area.

10. Public Liability Insurance

- 10.1 The lessee shall forthwith effect and keep current during the term of this lease in the joint names of the Minister and the lessee for their respective rights and interests with a reputable and solvent insurer first approved by the Minister (which approval shall not be unreasonably withheld) a policy of public risk insurance in respect of the leased area for an amount not less than the amount stipulated in the Schedule in respect of any single claim, accident or event (or such greater amount as the Minister shall from time to time reasonably require) and upon request from or on behalf of the Minister to produce a copy of such policy and a copy of a certificate of currency in respect thereof such policy to indemnify the lessee and the Minister against any and all actions, suits, claims, demands, cost, proceedings, expenses, harm and loss of any kind including arising out of or in connection with:
 - 10.1.1 the use of the leased area by the lessee or a licensee under a corresponding licence or its servants, agents and invitees; and/or

- 10.1.2 any death, illness or bodily injury sustained by any person upon the leased area or any damage to property occurring upon the leased area.

Notwithstanding any other provision of this clause the lessee shall satisfy the obligations to effect a policy of public risk insurance if the lessee notes the leased area and the Minister's rights and interests therein and under this lease upon any policy of public risk insurance effected by the lessee in respect of other land or premises within the Commonwealth of Australia provided such policy and such insurer otherwise satisfies the requirements of this clause and the lessee upon request from or on behalf of the Minister produces a copy of such policy and a copy of a Certificate of Currency in respect thereof.

11. Statutory Requirements

- 11.1 The lessee must comply with the laws in force in South Australia in the course of any activity undertaken pursuant to this lease, or in relation to or on the leased area.
- 11.2 The lessee shall be liable to indemnify the Minister from and against all actions, proceedings, claims, demands, charges, penalties and expenses arising from any failure to comply with the laws in force in South Australia.

12. No Nuisance

- 12.1 The lessee must not do or fail to do anything on or in respect of the leased area (and must ensure that its employees, agents, contractors and invitees and any licensee under a corresponding licence do not do or fail to do anything on or in respect of the leased area):
- 12.1.1 whereby a nuisance (whether public or private) may arise or continue upon or in connection with the leased area; or
- 12.1.2 whereby any nuisance or disturbance could arise to any users of land near the leased area or the waters around the leased area or which could interfere with the same.

13. Indemnities

The lessee must indemnify and save harmless the Minister against:

- 13.1 all actions, claims, demands, proceedings, suits, costs, damages, expenses and losses which the Minister may suffer or incur as a result of the death of or injury to any person or loss of or damage to the property of any person arising from or out of any occurrence in, upon or about the leased area or any part of it or the use of the leased area by the lessee or a licensee under a corresponding licence or by any employee, agent, contractor or invitee of the lessee or licensee;
- 13.2 all loss or damage to the leased area, and any property on it caused by the lessee or licensee under a corresponding licence or by any employee, agent, contractor, or invitee of the lessee or licensee or other person having business with the lessee or licensee and in particular but without limiting in any way the generality of the foregoing by reason of the use, misuse, waste or abuse of the leased area; and
- 13.3 all fees, costs, liabilities and expenses incurred by the Minister in the exercise or attempted exercise of any of the rights, authorities, powers or remedies which are exercisable by the Minister pursuant to this lease,

except to the extent caused or contributed to by any wilful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

14. Exclusion of Liability

The Minister and its servants, employees, agents, contractors and invitees shall have no responsibility or liability to the lessee and the Minister and its employees, agents, contractors and invitees for any loss or injury suffered by the lessee or to the property of the lessee except to the extent caused or contributed to by any unlawful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

15. Minister's Entry on Leased Area

- 15.1 The Minister may, on giving reasonable notice, with or without the Minister's officers, employees and/or agents, enter upon and remain on the leased area for the purpose of inspecting the leased area including in respect of the performance of the lessee's obligations and/or for the purpose of remedying any breach of the lessee's obligations under this lease or the Act in respect of the leased area or any breach by any licensee under a corresponding licence of its obligations under and pursuant to the licence or the Act, although the Minister shall be under no obligation to so remedy any such breach.
- 15.2 The Minister shall not be required to give any prior notice to the lessee before exercising its rights under and pursuant to this clause in circumstances where, in the reasonable opinion of the Minister:
- 15.2.1 it is not practicable to do so, or;
- 15.2.2 the Minister or any responsible officer, employee or agent of the Minister believes on reasonable grounds that an offence has or is being or is about to be committed on the leased area or that a breach of the terms and conditions of this lease by the lessee or any breach by any licensee of its obligations under and pursuant to the licence, has occurred, is occurring or is about to occur;
- 15.2.3 in exercising any of its rights under and pursuant to this clause the Minister shall use its reasonable endeavours not to interfere with the lawful and permitted conduct of the lessee's or a licensee's use of the leased area.

16. Contamination and Contaminating Substances

- 16.1 The lessee must not bring or permit to be brought upon the leased area any matter in any form which the handling, storage, disposal, dealing with or the escape of which may in any manner result in, cause or contribute to pollution, contamination or degradation on or to the leased area or any land or water adjacent or near to the leased area or exacerbate, add to or compound any pre-existing pollution, contamination or degradation or the feasibility, practicality or cost of its control and/or removal, unless the lessee has obtained the prior written consent of the Minister, (which consent the Minister may grant or withhold or impose conditions on in its absolute unfettered discretion).
- 16.2 Irrespective of whether the Minister gave its consent in respect of such material, compounds or substances pursuant to this clause, if during the term of this lease, or during any subsequent period in which the lessee continues to occupy or control the leased area, any pollution, contamination or degradation occurs or any exacerbation, addition to or compounding of any pollution, contamination or degradation existing prior to the date of commencement of the term of this lease occurs (other than to the extent the result of any wilful or negligent act or omission of the Minister or any agent employee or contractor of the Minister) then:

- 16.2.1 the lessee must forthwith notify the Minister in writing of the location, nature, extent and quantity of such substance or compound and the pollution, contamination and degradation it might cause and reasonable particulars of the long term effect of the same and likely cost of control, collection, removal and disposal;
- 16.2.2 the lessee must permit the Minister and any employee, agent, inspector, contractor or invitee of the Minister at all times to enter upon the leased area and to inspect any suspected notified or known pollution, contamination or degradation or any substance or compound capable of causing pollution, contamination and degradation to the leased area or the land or water adjacent to or near the leased area and to abate any actual or potential danger or hazard in or about the leased area and if such hazard or damage in the reasonable opinion of the Minister is caused by or results from the substance or compound the lessee shall pay to the Minister the costs and expenses incurred in carrying out such work; and
- 16.2.3 the lessee must at its own cost and expense if so required by the Minister remove any and all substances and compounds causing contributing or which could cause or contribute to pollution, contamination or degradation of the leased area (or exacerbate add to or compound any pre-existing similar condition) from all parts of the leased area.
- 16.3 During the term of this lease, the lessee must indemnify and hold harmless the Minister and keep the Minister indemnified from and against all claims, demands, actions, proceedings, judgments, orders, costs, losses, damages and expenses of any nature whatsoever suffered or incurred by the Minister as a result whether directly or otherwise of:
- 16.3.1 any act or omission of the lessee its servants, agents, contractors, licensees or any other person acting with its authority which results in pollution, contamination or degradation on or to the leased area or any part thereof; and
- 16.3.2 any failure of the lessee to comply with observe and perform in respect of the leased area the requirements imposed on tenants or occupiers of the leased area by any laws, statutory enactments or regulations made pursuant thereto (whether Federal, State or municipal) relating to the contamination and/or degradation and/or pollution of the leased area or any part thereof (the 'relevant law').
- 17. Lease Expiry**
- The lessee must, at the lessee's cost in all things immediately prior to the expiration or sooner determination of the term of this lease:
- 17.1 remove and carry away from the leased area all improvements, plant, equipment, chattels and property located or brought upon the leased area by or on behalf of the lessee and in such removal cause as little damage to the leased area as practicable;
- 17.2 upon completion of such removal, remove all debris, rubbish and waste from the leased area and rehabilitate the same in respect of any damage caused thereto by the location thereon of such waste and debris; and
- 17.3 reinstate and rehabilitate the leased area and any portions thereof affected by the conduct of the permitted use or the lessee's use of the same to the condition existing prior to commencement of the term of this lease. Such rehabilitation shall be performed by the lessee at its cost in all things to the reasonable satisfaction of the Minister.
- 18. Occupation**
- The lessee has the rights of occupation provided in the Act.
- 19. Default Costs**
- 19.1 The lessee is liable to pay the Minister reasonable costs and expenses including but without limiting the generality thereof reasonable professional charges and workmen's wages:
- 19.1.1 of and incidental to the recovery of annual rent due and unpaid interest thereon; and
- 19.1.2 incurred by remedying or attempting to remedy any breach of the lessee's obligations under this lease.
- 19.2 Any amount payable by the lessee under this clause is payable on demand by the Minister.
- 20. Default Interest**
- Without prejudice to the rights, powers and remedies of the Minister otherwise under this lease the lessee must pay to the Minister interest at the overdrawn rate charged from time to time by the Minister's Bankers on overdrafts not exceeding \$50 000 on any money due but unpaid after the same fell due and payable by the lessee to the Minister on any account whatsoever under this lease. Interest shall be computed from the due date for the payment of the money in respect of which the interest is chargeable until payment of such money is made in full and shall be recoverable in like manner as rent in arrears.
- 21. Minister may remedy Default**
- 21.1 If the lessee fails or neglects to perform any obligation or to observe any provision to be performed or observed by the lessee under this lease or if any licensee under the licence is in breach or default under the licence and if such failure or neglect shall continue for one month after the Minister has given to the lessee notice in writing requiring the lessee to perform such obligation or to observe such provision then the Minister may (but without being bound so to do and without prejudice to any other right or remedy) perform that obligation or observe that provision and all reasonable costs and expenses including overtime charges, fines, levies and penalties due to such default or incurred by the Minister in remedying the same shall be paid by the lessee to the Minister.
- 22. Waiver**
- No forbearance by the Minister in respect of any breach of any obligation contained or implied in this lease shall operate as a waiver of another breach of the same or of any other obligation contained or implied in this lease.
- 23. Joint Lessees**
- If the lessee constitutes more than one natural person or bodies corporate or a partnership:
- 23.1 the persons comprising the lessee are jointly and severally bound by the conditions of this lease; and
- 23.2 notice to one of the natural persons or bodies corporate comprising the lessee shall be notice to all persons comprising the lessee.
- 24. Guarantee or Indemnity**
- 24.1 The lessee must within five business days of receipt of this lease but with effect from the date of commencement of the term of this lease either:
- 24.1.1 provide a guarantee from its bankers; or
- 24.1.2 contribute to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry,
- to and in favour of and for the benefit of the Minister by way of security for the due and punctual performance by the lessee of the terms and conditions of this lease and in particular the obligations of the lessee to rehabilitate the leased area immediately prior to the expiration or sooner determination of the term of this lease upon the following terms and conditions:

24.1.3 the lessee shall either:

- (a) arrange for the provision from a bank as defined in the Banking Act 1959 or established by an Act of the Parliament of South Australia of an irrevocable and continuing bank guarantee for an amount stipulated from time to time by the Minister (the 'Bank Guarantee'). The Bank Guarantee shall otherwise contain terms and conditions which are reasonably satisfactory to the Minister. The Bank Guarantee shall be continuously in existence until the Minister agrees to release the Bank Guarantee under this clause. The guarantee shall entitle the Minister to make demand on the Bank Guarantee at any time if there has been a failure by the lessee to pay any money at the time specified for such payment or if there has been any other breach or default by the lessee for the due and punctual performance of the covenants, obligations and provisions on the part of the lessee under this lease. If the Minister makes a demand on the Bank Guarantee either in whole or in part and appropriate such funds then the lessee shall within five days of such demand by the Minister provide the Minister with a fresh Bank Guarantee for an amount equal to the amount so demanded and paid by the Bank to the Minister on the Bank Guarantee and on the same terms and conditions as specified in this clause. The lessee shall not be entitled to a release or a re-delivery nor to request a release or re-delivery of the Bank Guarantee until one month after the expiration of the term of this lease. Notwithstanding any other provisions of this clause the Minister shall be entitled to refuse to release or deliver up to the lessee the Bank Guarantee if the Minister reasonably considers that there may be unremedied breaches or contingent obligations under the lease yet to mature and to be performed by the lessee at the time of the request to the Minister to release or re-deliver the Bank Guarantee; or
- (b) make such contributions to the indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industries as required by the Minister or the administrator of such scheme, and if required make such contributions on an annual or other basis and in such amounts as required by the Minister or the administrator of such scheme;

24.1.4 the provisions of this clause do not in any way limit, restrict or prejudice the rights of the Minister to exercise such additional rights, remedies and powers as the Minister may consider appropriate as a result of the lessee's default;

24.1.5 notwithstanding any other provision of this clause, if the lessee transfers or assigns its estate and interest in this lease, then upon and as and from the date ('the Date') such transferee or assignee providing to the Minister either a guarantee from its bankers as satisfies the requirements of this clause or evidence of having contributed to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry in such amount as required by this clause, the Minister shall from the date fully free release and discharge the lessee from any and all obligations under and

pursuant to this clause and shall release and re-deliver to the lessee any bank.

24.2 If the lessee has already provided a guarantee or contributed to a fund in accordance with obligations under previous arrangements to the extent required under this lease, then the lessee is excused from the initial requirement to provide a guarantee or contribution, but not from subsequent obligations under this clause.

25. *Disclaimer*

The Minister does not expressly or impliedly warrant that the leased area is now or will remain suitable or adequate for all or any of the purposes of the lessee and all warranties (if any) as to the suitability and adequateness of the leased area that might otherwise be implied are expressly negated.

26. *Delegation*

Unless expressly excluded by any provision of this lease, any consent, any notice, any consultation or any other thing which pursuant to the terms of this lease is either required to be given, done or performed by the Minister or is permitted to be given, done or performed by the Minister may for the purposes of this lease be properly given, done or performed by a person authorised by the Minister to act on the Minister's behalf.

27. *Special Conditions*

Incorporated in this lease are any special conditions set out in the Schedule.

28. *Notices*

28.1 Notice to the lessee is valid if sent by post to the address for notices in the Schedule, or such other address as is notified by the lessee to the Minister in writing.

28.2 The lessee may give notice to the Minister by posting written notice addressed to PIRSA Aquaculture, G.P.O. Box 1625, Adelaide, S.A. 5001.

29. *Definitions and Interpretation*

In this lease unless inconsistent with the context:

'*business days*' means Monday to Friday (inclusive) excluding any public holiday;

'*corresponding licence*' has the meaning attributed in the Act;

'*GST*' means the tax imposed by the GST Law;

'*GST Law*' has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999;

'*Insolvency Administration*' means, if the lessee is a corporation:

- an administrator is appointed to the lessee or action is taken to make such an appointment;
- the lessee resolves to be wound up;
- an application is made to a court for an order or an order is made that the lessee be wound up (whether on grounds of insolvency or otherwise);
- the lessee ceases to carry on business;
- a receiver or a receiver and manager of property of the lessee is appointed whether by a court or otherwise;
- an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the lessee or one of them is appointed, whether or not under an order;
- the lessee enters into a compromise or arrangement with its creditors or a class of them; or
- the lessee is or states that it is unable to pay its debts when they fall due;

'*Insolvency Administration*' means if the lessee is a natural person:

- the lessee has committed an act of bankruptcy as contemplated by the Bankruptcy Act 1966;
- the lessee is unable to pay his or her debts as and when they become due and payable;

- the court has made a sequestration order against the lessee's estate;
- a creditors' petition has been presented against the lessee;
- the lessee has presented to the Official Receiver a declaration of intention to present a debtor's petition;
- the lessee becomes a bankrupt;
- a meeting of creditors of the lessee is convened; or
- the lessee lodges with his or her trustee a proposal to his or her creditors for a composition in satisfaction of his or her debts or a scheme of arrangement of his or her affairs;

'Lessee' means the party described in this lease and the heirs, executors, administrators and permitted assigns thereof and if a body corporate, its successors and permitted assigns;

'Minister' means the Minister for Agriculture, Food and Fisheries, a body corporate under the Administrative Arrangements Act 1994;

'Permitted Use' means the use of the leased area for such aquaculture purposes as are specified in the Schedule to this lease;

'Leased Area' means the area comprised of State waters or State waters and adjacent land within the meaning of the Harbours and Navigation Act 1993, described in the Schedule to this lease;

'Taxable Supply' has the meaning attributed in the GST Act;

'Tax Invoice' has the meaning attributed in the GST Act;

'Term of this Lease' or the 'Term' means the initial term granted by the Minister (unless sooner determined) and any extension of such initial term.

30. Interpretation

- 30.1 Words importing the singular shall embrace the plural and words importing the masculine gender shall embrace the feminine and neuter genders and *vice versa* respectively.
- 30.2 Any reference to a person shall include a corporate body and *vice versa*.
- 30.3 Where two or more persons are included in the designation the 'lessee' the obligations on the part of the lessee contained in this lease shall bind such persons and any two or greater number of them jointly and each of them severally and the expression the 'lessee' shall include all or any one or more of such persons.
- 30.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for it and the regulations, by-laws or other orders for the time being made under that statute.
- 30.5 Headings are for convenience of reference only and shall not affect the construction or interpretation of the covenants of this lease.

Dated 23 December 2002.

Signed by the General Manager, Aquaculture of the Department for Primary Industries and Resources as delegate of the Minister for Transport (as successor of) the Minister for Transport and Urban Planning, pursuant to a delegation made on 13 March 2000 under section 11 (1) of the Harbours and Navigation Act 1993.

I. NIGHTINGALE, General Manager, Aquaculture

AQUACULTURE ACT 2001
AQUACULTURE LEASE PL00002
Class of Aquaculture (Tuna)

THIS Pilot Lease is granted under the Aquaculture Act 2001 ('the Act') pursuant to section 3 (2) of the Schedule to the Act and Division 4 of Part 6 of the Act.

This lease is granted to the lessee for the term of one year, by the Minister for Agriculture, Food and Fisheries ('the Minister') for the purpose of conducting the Class of Aquaculture nominated in the Schedule ('the permitted use'), subject to the conditions set out in this document.

This lease is granted with the concurrence of the Minister for Transport as required in section 20 of the Aquaculture Act 2001 and section 15 of the Harbours and Navigation Act 1993.

SCHEDULE

Lessee:

Di Fishing Co. Pty Ltd (13643)
P.O. Box 1491
Port Lincoln, S.A. 5606

Leased Area:

GDA 94—Zone 53
590627E 6158913N
589851E 6158596N
589566E 6159290N
590343E 6159608N

Licensed
Hectares

63

Permitted Class of Aquaculture:

Tuna Aquaculture

Term of the Lease:

Twelve months

Initial Rental:

\$350.00

Marking-off requirements:

The marked-off area must be marked with 30 cm diameter white buoys spaced at 50 m intervals and positioned no more than 50 m from structures located on the site.

Amount of Public Liability Insurance:

\$10 million

Amount of Guarantee or contribution to indemnity fund:

\$10 000

Extent of Leased Area that must be developed:

During the term of this lease at least one cage of at least 20 m diameter must be installed on the site.

1. Term and Renewal

- 1.1 The term of this lease is the term of one year commencing on 1 July 2002 and ending on 30 June 2003 ('the initial term').
- 1.2 The term is renewable in accordance with section 38 of the Act for successive terms, by the lessee giving the Minister notice no earlier than two months before the expiry of the term, and no later than one month before the expiry of the term, unless there is at the expiry of the lease a default under the lease or any corresponding licence.
- 1.3 Any renewal of the term shall be subject to conditions in accordance with standard conditions under aquaculture policies developed under Part 4 of the Act, and such other conditions as are determined by the Minister ('the reviewed conditions').
- 1.4 Upon renewal the Minister may issue either a certificate of renewal, or a new lease, incorporating the reviewed conditions.

- 1.5 The Minister may, at the time of renewal of a term, vary the term subject to the maximum term for a production lease permitted by the Act.

2. Rental

- 2.1 The lessee must pay to the Minister the annual rental, free from exchange, deduction or abatement.
- 2.2 At the commencement of the initial term the annual rental payable under this lease is the initial rental stipulated in the Schedule.
- 2.3 The initial rental payable in respect of the initial term is subject to adjustment during the initial term, as determined by the Minister in accordance with aquaculture policy developed under Part 4 of the Act. The adjusted rental shall be applicable in respect of the entire initial term.
- 2.4 Rental in respect of renewed terms shall be as notified by the Minister before the expiry of the initial term, and adjustments of rental in renewed terms of the lease will be applicable in accordance with the reviewed conditions.
- 2.5 Rental is payable in full within one month of commencement of the lease by direct bank transfer to the credit of a bank account nominated by the Minister, or by cheque payable to the Department for Primary Industry and Resources SA, delivered to the address stipulated by the Minister.

3. GST

- 3.1 The rental payable under this lease is exclusive of GST.
- 3.2 The lease is a taxable supply under GST Law.
- 3.3 Department of Primary Industries and Resources (ABN 53 763 159 658) is the government entity administering this lease on behalf of the Minister and is registered pursuant to the GST Law.
- 3.4 Department of Primary Industries and Resources is entitled to be treated as the maker of any taxable supply and the recipient of any taxable supply pursuant to this lease instead of the Minister for the purposes only of the GST Law.
- 3.5 The lessee must pay to the Minister, together with any payment of rental under this lease, an additional amount in respect of GST (the 'GST payment'). The GST payment is ten per cent of the rental, subject only to any change in the rate of GST under GST Law.
- 3.6 The Minister must issue to the lessee a tax invoice within 10 business days after the lessee has delivered payment of rental and the GST payment.

4. Cancellation

The Minister may cancel this lease by immediate written notice to the lessee:

- 4.1 if the lessee enters into any form of Insolvency Administration;
- 4.2 if the lessee assigns or purports to assign the lease without giving the Minister prior written notice as required by section 39 of the Act;
- 4.3 if any rent or other moneys payable by the lessee are in arrears for more than 14 days whether or not any formal demand has been made for the rent or other moneys;
- 4.4 if the lessee (being a natural person) is convicted of any indictable offence;
- 4.5 if there is any breach of any condition of a corresponding licence in respect of this lease;
- 4.6 if there is a breach of any obligation under the Act by the lessee or a licensee under a corresponding licence;
- 4.7 if a corresponding licence is cancelled; or

- 4.8 if in the opinion of the Minister the use of the leased area by or on behalf of the lessee reveals, indicates or provides reasonable grounds for the Minister to form the view or opinion that degradation or damage of an unacceptable level of coastal land or the surrounding marine environment has or is being caused by the lessee's use of the leased area or the use of the leased area by a licensee under a corresponding licence, or any activity associated with their activities and the lessee fails to comply with a notice requiring the lessee to remedy the degradation or damage, and/or cease or prevent the relevant activity within 30 days after the date the notice is served upon the lessee by or on behalf of the Minister.

5. Dealing with Lease

- 5.1 This lease is transferable in accordance with the Act (see section 39).
- 5.2 Subletting under this lease is not permitted except with the prior written consent of the Minister.

6. Marking-off

The lessee must mark-off the leased area in the manner stipulated in the Schedule.

7. Lessee's Use of Leased Area

The lessee must not use the leased area or permit it to be used for any purpose other than the Permitted Class of Aquaculture.

8. Development Requirement

The lessee must ensure that the leased area is developed and used for the Permitted Class of Aquaculture to the extent stipulated in the Schedule.

9. Consents and Approvals

- 9.1 If the lessee's use of the leased area is permissible only with the consent or approval of any authority under or in pursuance of any law enactment or order of Court the lessee must obtain such consent or approval at its own expense and the lessee shall at no time during the term of this lease do or permit or fail to do or suffer to be done any act, matter or thing whereby such consent or approval shall lapse or be revoked; and
- 9.2 The lessee must keep current during the term of this lease all consents and approvals required under the Development Act 1993 and any other law applicable to the leased area or the permitted use or the lessee's use of the leased area.

10. Public Liability Insurance

- 10.1 The lessee shall forthwith effect and keep current during the term of this lease in the joint names of the Minister and the lessee for their respective rights and interests with a reputable and solvent insurer first approved by the Minister (which approval shall not be unreasonably withheld) a policy of public risk insurance in respect of the leased area for an amount not less than the amount stipulated in the Schedule in respect of any single claim, accident or event (or such greater amount as the Minister shall from time to time reasonably require) and upon request from or on behalf of the Minister to produce a copy of such policy and a copy of a certificate of currency in respect thereof such policy to indemnify the lessee and the Minister against any and all actions, suits, claims, demands, cost, proceedings, expenses, harm and loss of any kind including arising out of or in connection with:
- 10.1.1 the use of the leased area by the lessee or a licensee under a corresponding licence or its servants, agents and invitees; and/or
- 10.1.2 any death, illness or bodily injury sustained by any person upon the leased area or any damage to property occurring upon the leased area.

Notwithstanding any other provision of this clause the lessee shall satisfy the obligations to effect a policy of public risk insurance if the lessee notes the leased area and the Minister's rights and interests therein and under this lease upon any policy of public risk insurance effected by the lessee in respect of other land or premises within the Commonwealth of Australia provided such policy and such insurer otherwise satisfies the requirements of this clause and the lessee upon request from or on behalf of the Minister produces a copy of such policy and a copy of a Certificate of Currency in respect thereof.

11. *Statutory Requirements*

- 11.1 The lessee must comply with the laws in force in South Australia in the course of any activity undertaken pursuant to this lease, or in relation to or on the leased area.
- 11.2 The lessee shall be liable to indemnify the Minister from and against all actions, proceedings, claims, demands, charges, penalties and expenses arising from any failure to comply with the laws in force in South Australia.

12. *No Nuisance*

- 12.1 The lessee must not do or fail to do anything on or in respect of the leased area (and must ensure that its employees, agents, contractors and invitees and any licensee under a corresponding licence do not do or fail to do anything on or in respect of the leased area):
 - 12.1.1 whereby a nuisance (whether public or private) may arise or continue upon or in connection with the leased area; or
 - 12.1.2 whereby any nuisance or disturbance could arise to any users of land near the leased area or the waters around the leased area or which could interfere with the same.

13. *Indemnities*

The lessee must indemnify and save harmless the Minister against:

- 13.1 all actions, claims, demands, proceedings, suits, costs, damages, expenses and losses which the Minister may suffer or incur as a result of the death of or injury to any person or loss of or damage to the property of any person arising from or out of any occurrence in, upon or about the leased area or any part of it or the use of the leased area by the lessee or a licensee under a corresponding licence or by any employee, agent, contractor or invitee of the lessee or licensee;
- 13.2 all loss or damage to the leased area, and any property on it caused by the lessee or licensee under a corresponding licence or by any employee, agent, contractor, or invitee of the lessee or licensee or other person having business with the lessee or licensee and in particular but without limiting in any way the generality of the foregoing by reason of the use, misuse, waste or abuse of the leased area; and
- 13.3 all fees, costs, liabilities and expenses incurred by the Minister in the exercise or attempted exercise of any of the rights, authorities, powers or remedies which are exercisable by the Minister pursuant to this lease,

except to the extent caused or contributed to by any wilful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

14. *Exclusion of Liability*

The Minister and its servants, employees, agents, contractors and invitees shall have no responsibility or liability to the lessee and the Minister and its employees, agents, contractors and invitees for any loss or injury suffered by the lessee or to the property of the lessee except to the extent caused or contributed to by any unlawful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

15. *Minister's Entry on Leased Area*

- 15.1 The Minister may, on giving reasonable notice, with or without the Minister's officers, employees and/or agents, enter upon and remain on the leased area for the purpose of inspecting the leased area including in respect of the performance of the lessee's obligations and/or for the purpose of remedying any breach of the lessee's obligations under this lease or the Act in respect of the leased area or any breach by any licensee under a corresponding licence of its obligations under and pursuant to the licence or the Act, although the Minister shall be under no obligation to so remedy any such breach.
- 15.2 The Minister shall not be required to give any prior notice to the lessee before exercising its rights under and pursuant to this clause in circumstances where, in the reasonable opinion of the Minister:
 - 15.2.1 it is not practicable to do so, or;
 - 15.2.2 the Minister or any responsible officer, employee or agent of the Minister believes on reasonable grounds that an offence has or is being or is about to be committed on the leased area or that a breach of the terms and conditions of this lease by the lessee or any breach by any licensee of its obligations under and pursuant to the licence, has occurred, is occurring or is about to occur;
 - 15.2.3 in exercising any of its rights under and pursuant to this clause the Minister shall use its reasonable endeavours not to interfere with the lawful and permitted conduct of the lessee's or a licensee's use of the leased area.

16. *Contamination and Contaminating Substances*

- 16.1 The lessee must not bring or permit to be brought upon the leased area any matter in any form which the handling, storage, disposal, dealing with or the escape of which may in any manner result in, cause or contribute to pollution, contamination or degradation on or to the leased area or any land or water adjacent or near to the leased area or exacerbate, add to or compound any pre-existing pollution, contamination or degradation or the feasibility, practicality or cost of its control and/or removal, unless the lessee has obtained the prior written consent of the Minister, (which consent the Minister may grant or withhold or impose conditions on in its absolute unfettered discretion).
- 16.2 Irrespective of whether the Minister gave its consent in respect of such material, compounds or substances pursuant to this clause, if during the term of this lease, or during any subsequent period in which the lessee continues to occupy or control the leased area, any pollution, contamination or degradation occurs or any exacerbation, addition to or compounding of any pollution, contamination or degradation existing prior to the date of commencement of the term of this lease occurs (other than to the extent the result of any wilful or negligent act or omission of the Minister or any agent employee or contractor of the Minister) then:

- 16.2.1 the lessee must forthwith notify the Minister in writing of the location, nature, extent and quantity of such substance or compound and the pollution, contamination and degradation it might cause and reasonable particulars of the long term effect of the same and likely cost of control, collection, removal and disposal;
- 16.2.2 the lessee must permit the Minister and any employee, agent, inspector, contractor or invitee of the Minister at all times to enter upon the leased area and to inspect any suspected notified or known pollution, contamination or degradation or any substance or compound capable of causing pollution, contamination and degradation to the leased area or the land or water adjacent to or near the leased area and to abate any actual or potential danger or hazard in or about the leased area and if such hazard or damage in the reasonable opinion of the Minister is caused by or results from the substance or compound the lessee shall pay to the Minister the costs and expenses incurred in carrying out such work; and
- 16.2.3 the lessee must at its own cost and expense if so required by the Minister remove any and all substances and compounds causing contributing or which could cause or contribute to pollution, contamination or degradation of the leased area (or exacerbate add to or compound any pre-existing similar condition) from all parts of the leased area.
- 16.3 During the term of this lease, the lessee must indemnify and hold harmless the Minister and keep the Minister indemnified from and against all claims, demands, actions, proceedings, judgments, orders, costs, losses, damages and expenses of any nature whatsoever suffered or incurred by the Minister as a result whether directly or otherwise of:
- 16.3.1 any act or omission of the lessee its servants, agents, contractors, licensees or any other person acting with its authority which results in pollution, contamination or degradation on or to the leased area or any part thereof; and
- 16.3.2 any failure of the lessee to comply with observe and perform in respect of the leased area the requirements imposed on tenants or occupiers of the leased area by any laws, statutory enactments or regulations made pursuant thereto (whether Federal, State or municipal) relating to the contamination and/or degradation and/or pollution of the leased area or any part thereof (the 'relevant law').
- 17. Lease Expiry**
- The lessee must, at the lessee's cost in all things immediately prior to the expiration or sooner determination of the term of this lease:
- 17.1 remove and carry away from the leased area all improvements, plant, equipment, chattels and property located or brought upon the leased area by or on behalf of the lessee and in such removal cause as little damage to the leased area as practicable;
- 17.2 upon completion of such removal, remove all debris, rubbish and waste from the leased area and rehabilitate the same in respect of any damage caused thereto by the location thereon of such waste and debris; and
- 17.3 reinstate and rehabilitate the leased area and any portions thereof affected by the conduct of the permitted use or the lessee's use of the same to the condition existing prior to commencement of the term of this lease. Such rehabilitation shall be performed by the lessee at its cost in all things to the reasonable satisfaction of the Minister.
- 18. Occupation**
- The lessee has the rights of occupation provided in the Act.
- 19. Default Costs**
- 19.1 The lessee is liable to pay the Minister reasonable costs and expenses including but without limiting the generality thereof reasonable professional charges and workmen's wages:
- 19.1.1 of and incidental to the recovery of annual rent due and unpaid interest thereon; and
- 19.1.2 incurred by remedying or attempting to remedy any breach of the lessee's obligations under this lease.
- 19.2 Any amount payable by the lessee under this clause is payable on demand by the Minister.
- 20. Default Interest**
- Without prejudice to the rights, powers and remedies of the Minister otherwise under this lease the lessee must pay to the Minister interest at the overdrawn rate charged from time to time by the Minister's Bankers on overdrafts not exceeding \$50 000 on any money due but unpaid after the same fell due and payable by the lessee to the Minister on any account whatsoever under this lease. Interest shall be computed from the due date for the payment of the money in respect of which the interest is chargeable until payment of such money is made in full and shall be recoverable in like manner as rent in arrears.
- 21. Minister may remedy Default**
- 21.1 If the lessee fails or neglects to perform any obligation or to observe any provision to be performed or observed by the lessee under this lease or if any licensee under the licence is in breach or default under the licence and if such failure or neglect shall continue for one month after the Minister has given to the lessee notice in writing requiring the lessee to perform such obligation or to observe such provision then the Minister may (but without being bound so to do and without prejudice to any other right or remedy) perform that obligation or observe that provision and all reasonable costs and expenses including overtime charges, fines, levies and penalties due to such default or incurred by the Minister in remedying the same shall be paid by the lessee to the Minister.
- 22. Waiver**
- No forbearance by the Minister in respect of any breach of any obligation contained or implied in this lease shall operate as a waiver of another breach of the same or of any other obligation contained or implied in this lease.
- 23. Joint Lessees**
- If the lessee constitutes more than one natural person or bodies corporate or a partnership:
- 23.1 the persons comprising the lessee are jointly and severally bound by the conditions of this lease; and
- 23.2 notice to one of the natural persons or bodies corporate comprising the lessee shall be notice to all persons comprising the lessee.
- 24. Guarantee or Indemnity**
- 24.1 The lessee must within five business days of receipt of this lease but with effect from the date of commencement of the term of this lease either:
- 24.1.1 provide a guarantee from its bankers; or
- 24.1.2 contribute to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry,
- to and in favour of and for the benefit of the Minister by way of security for the due and punctual performance by the lessee of the terms and conditions of this lease and in particular the obligations of the lessee to rehabilitate the leased area immediately prior to the expiration or sooner determination of the term of this lease upon the following terms and conditions:

- 24.1.3 the lessee shall either:
- (a) arrange for the provision from a bank as defined in the Banking Act 1959 or established by an Act of the Parliament of South Australia of an irrevocable and continuing bank guarantee for an amount stipulated from time to time by the Minister (the 'Bank Guarantee'). The Bank Guarantee shall otherwise contain terms and conditions which are reasonably satisfactory to the Minister. The Bank Guarantee shall be continuously in existence until the Minister agrees to release the Bank Guarantee under this clause. The guarantee shall entitle the Minister to make demand on the Bank Guarantee at any time if there has been a failure by the lessee to pay any money at the time specified for such payment or if there has been any other breach or default by the lessee for the due and punctual performance of the covenants, obligations and provisions on the part of the lessee under this lease. If the Minister makes a demand on the Bank Guarantee either in whole or in part and appropriate such funds then the lessee shall within five days of such demand by the Minister provide the Minister with a fresh Bank Guarantee for an amount equal to the amount so demanded and paid by the Bank to the Minister on the Bank Guarantee and on the same terms and conditions as specified in this clause. The lessee shall not be entitled to a release or a re-delivery nor to request a release or re-delivery of the Bank Guarantee until one month after the expiration of the term of this lease. Notwithstanding any other provisions of this clause the Minister shall be entitled to refuse to release or deliver up to the lessee the Bank Guarantee if the Minister reasonably considers that there may be unremedied breaches or contingent obligations under the lease yet to mature and to be performed by the lessee at the time of the request to the Minister to release or re-deliver the Bank Guarantee; or
- (b) make such contributions to the indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industries as required by the Minister or the administrator of such scheme, and if required make such contributions on an annual or other basis and in such amounts as required by the Minister or the administrator of such scheme;
- 24.1.4 the provisions of this clause do not in any way limit, restrict or prejudice the rights of the Minister to exercise such additional rights, remedies and powers as the Minister may consider appropriate as a result of the lessee's default;
- 24.1.5 notwithstanding any other provision of this clause, if the lessee transfers or assigns its estate and interest in this lease, then upon and as and from the date ('the Date') such transferee or assignee providing to the Minister either a guarantee from its bankers as satisfies the requirements of this clause or evidence of having contributed to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry in such amount as required by this clause, the Minister shall from the date fully free release and discharge the lessee from any and all obligations under and pursuant to this clause and shall release and re-deliver to the lessee any bank.
- 24.2 If the lessee has already provided a guarantee or contributed to a fund in accordance with obligations under previous arrangements to the extent required under this lease, then the lessee is excused from the initial requirement to provide a guarantee or contribution, but not from subsequent obligations under this clause.
25. *Disclaimer*
- The Minister does not expressly or impliedly warrant that the leased area is now or will remain suitable or adequate for all or any of the purposes of the lessee and all warranties (if any) as to the suitability and adequateness of the leased area that might otherwise be implied are expressly negated.
26. *Delegation*
- Unless expressly excluded by any provision of this lease, any consent, any notice, any consultation or any other thing which pursuant to the terms of this lease is either required to be given, done or performed by the Minister or is permitted to be given, done or performed by the Minister may for the purposes of this lease be properly given, done or performed by a person authorised by the Minister to act on the Minister's behalf.
27. *Special Conditions*
- Incorporated in this lease are any special conditions set out in the Schedule.
28. *Notices*
- 28.1 Notice to the lessee is valid if sent by post to the address for notices in the Schedule, or such other address as is notified by the lessee to the Minister in writing.
- 28.2 The lessee may give notice to the Minister by posting written notice addressed to PIRSA Aquaculture, G.P.O. Box 1625, Adelaide, S.A. 5001.
29. *Definitions and Interpretation*
- In this lease unless inconsistent with the context:
- 'business days' means Monday to Friday (inclusive) excluding any public holiday;
- 'corresponding licence' has the meaning attributed in the Act;
- 'GST' means the tax imposed by the GST Law;
- 'GST Law' has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999;
- 'Insolvency Administration' means, if the lessee is a corporation:
- an administrator is appointed to the lessee or action is taken to make such an appointment;
 - the lessee resolves to be wound up;
 - an application is made to a court for an order or an order is made that the lessee be wound up (whether on grounds of insolvency or otherwise);
 - the lessee ceases to carry on business;
 - a receiver or a receiver and manager of property of the lessee is appointed whether by a court or otherwise;
 - an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the lessee or one of them is appointed, whether or not under an order;
 - the lessee enters into a compromise or arrangement with its creditors or a class of them; or
 - the lessee is or states that it is unable to pay its debts when they fall due;
- 'Insolvency Administration' means if the lessee is a natural person:
- the lessee has committed an act of bankruptcy as contemplated by the Bankruptcy Act 1966;
 - the lessee is unable to pay his or her debts as and when they become due and payable;

- the court has made a sequestration order against the lessee's estate;
- a creditors' petition has been presented against the lessee;
- the lessee has presented to the Official Receiver a declaration of intention to present a debtor's petition;
- the lessee becomes a bankrupt;
- a meeting of creditors of the lessee is convened; or
- the lessee lodges with his or her trustee a proposal to his or her creditors for a composition in satisfaction of his or her debts or a scheme of arrangement of his or her affairs;

'Lessee' means the party described in this lease and the heirs, executors, administrators and permitted assigns thereof and if a body corporate, its successors and permitted assigns;

'Minister' means the Minister for Agriculture, Food and Fisheries, a body corporate under the Administrative Arrangements Act 1994;

'Permitted Use' means the use of the leased area for such aquaculture purposes as are specified in the Schedule to this lease;

'Leased Area' means the area comprised of State waters or State waters and adjacent land within the meaning of the Harbours and Navigation Act 1993, described in the Schedule to this lease;

'Taxable Supply' has the meaning attributed in the GST Act;

'Tax Invoice' has the meaning attributed in the GST Act;

'Term of this Lease' or the 'Term' means the initial term granted by the Minister (unless sooner determined) and any extension of such initial term.

30. Interpretation

- 30.1 Words importing the singular shall embrace the plural and words importing the masculine gender shall embrace the feminine and neuter genders and *vice versa* respectively.
- 30.2 Any reference to a person shall include a corporate body and *vice versa*.
- 30.3 Where two or more persons are included in the designation the 'lessee' the obligations on the part of the lessee contained in this lease shall bind such persons and any two or greater number of them jointly and each of them severally and the expression the 'lessee' shall include all or any one or more of such persons.
- 30.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for it and the regulations, by-laws or other orders for the time being made under that statute.
- 30.5 Headings are for convenience of reference only and shall not affect the construction or interpretation of the covenants of this lease.

Dated 23 December 2002.

Signed by the General Manager, Aquaculture of the Department for Primary Industries and Resources as delegate of the Minister for Transport (as successor of) the Minister for Transport and Urban Planning, pursuant to a delegation made on 13 March 2000 under section 11 (1) of the Harbours and Navigation Act 1993.

I. NIGHTINGALE, General Manager, Aquaculture

AQUACULTURE ACT 2001
AQUACULTURE LEASE PL00003
Class of Aquaculture (Tuna)

THIS Pilot Lease is granted under the Aquaculture Act 2001 ('the Act') pursuant to section 3 (2) of the Schedule to the Act and Division 4 of Part 6 of the Act.

This lease is granted to the lessee for the term of one year, by the Minister for Agriculture, Food and Fisheries ('the Minister') for the purpose of conducting the Class of Aquaculture nominated in the Schedule ('the permitted use'), subject to the conditions set out in this document.

This lease is granted with the concurrence of the Minister for Transport as required in section 20 of the Aquaculture Act 2001 and section 15 of the Harbours and Navigation Act 1993.

SCHEDULE

Lessee:

AJKA Pty Ltd (1673)
7 Riversdale Avenue
Port Lincoln, S.A. 5606

Leased Area:

GDA 94—Zone 53
587881E 6161052N
588268E 6161052N
588268E 6160665N
587881E 6160665N

Licensed
Hectares

15

Permitted Class of Aquaculture:

Tuna Aquaculture

Term of the Lease:

Twelve months

Initial Rental:

\$350.00

Marking-off requirements:

The marked-off area must be marked with 30 cm diameter white buoys spaced at 50 m intervals and positioned no more than 50 m from structures located on the site.

Amount of Public Liability Insurance:

\$10 million

Amount of Guarantee or contribution to indemnity fund:

\$10 000

Extent of Leased Area that must be developed:

During the term of this lease at least one cage of at least 20 m diameter must be installed on the site.

1. Term and Renewal

- 1.1 The term of this lease is the term of one year commencing on 1 July 2002 and ending on 30 June 2003 ('the initial term').
- 1.2 The term is renewable in accordance with section 38 of the Act for successive terms, by the lessee giving the Minister notice no earlier than two months before the expiry of the term, and no later than one month before the expiry of the term, unless there is at the expiry of the lease a default under the lease or any corresponding licence.
- 1.3 Any renewal of the term shall be subject to conditions in accordance with standard conditions under aquaculture policies developed under Part 4 of the Act, and such other conditions as are determined by the Minister ('the reviewed conditions').
- 1.4 Upon renewal the Minister may issue either a certificate of renewal, or a new lease, incorporating the reviewed conditions.

- 1.5 The Minister may, at the time of renewal of a term, vary the term subject to the maximum term for a production lease permitted by the Act.

2. Rental

- 2.1 The lessee must pay to the Minister the annual rental, free from exchange, deduction or abatement.
- 2.2 At the commencement of the initial term the annual rental payable under this lease is the initial rental stipulated in the Schedule.
- 2.3 The initial rental payable in respect of the initial term is subject to adjustment during the initial term, as determined by the Minister in accordance with aquaculture policy developed under Part 4 of the Act. The adjusted rental shall be applicable in respect of the entire initial term.
- 2.4 Rental in respect of renewed terms shall be as notified by the Minister before the expiry of the initial term, and adjustments of rental in renewed terms of the lease will be applicable in accordance with the reviewed conditions.
- 2.5 Rental is payable in full within one month of commencement of the lease by direct bank transfer to the credit of a bank account nominated by the Minister, or by cheque payable to the Department for Primary Industry and Resources SA, delivered to the address stipulated by the Minister.

3. GST

- 3.1 The rental payable under this lease is exclusive of GST.
- 3.2 The lease is a taxable supply under GST Law.
- 3.3 Department of Primary Industries and Resources (ABN 53 763 159 658) is the government entity administering this lease on behalf of the Minister and is registered pursuant to the GST Law.
- 3.4 Department of Primary Industries and Resources is entitled to be treated as the maker of any taxable supply and the recipient of any taxable supply pursuant to this lease instead of the Minister for the purposes only of the GST Law.
- 3.5 The lessee must pay to the Minister, together with any payment of rental under this lease, an additional amount in respect of GST (the 'GST payment'). The GST payment is ten per cent of the rental, subject only to any change in the rate of GST under GST Law.
- 3.6 The Minister must issue to the lessee a tax invoice within 10 business days after the lessee has delivered payment of rental and the GST payment.

4. Cancellation

The Minister may cancel this lease by immediate written notice to the lessee:

- 4.1 if the lessee enters into any form of Insolvency Administration;
- 4.2 if the lessee assigns or purports to assign the lease without giving the Minister prior written notice as required by section 39 of the Act;
- 4.3 if any rent or other moneys payable by the lessee are in arrears for more than 14 days whether or not any formal demand has been made for the rent or other moneys;
- 4.4 if the lessee (being a natural person) is convicted of any indictable offence;
- 4.5 if there is any breach of any condition of a corresponding licence in respect of this lease;
- 4.6 if there is a breach of any obligation under the Act by the lessee or a licensee under a corresponding licence;
- 4.7 if a corresponding licence is cancelled; or

- 4.8 if in the opinion of the Minister the use of the leased area by or on behalf of the lessee reveals, indicates or provides reasonable grounds for the Minister to form the view or opinion that degradation or damage of an unacceptable level of coastal land or the surrounding marine environment has or is being caused by the lessee's use of the leased area or the use of the leased area by a licensee under a corresponding licence, or any activity associated with their activities and the lessee fails to comply with a notice requiring the lessee to remedy the degradation or damage, and/or cease or prevent the relevant activity within 30 days after the date the notice is served upon the lessee by or on behalf of the Minister.

5. Dealing with Lease

- 5.1 This lease is transferable in accordance with the Act (see section 39).
- 5.2 Subletting under this lease is not permitted except with the prior written consent of the Minister.

6. Marking-off

The lessee must mark-off the leased area in the manner stipulated in the Schedule.

7. Lessee's Use of Leased Area

The lessee must not use the leased area or permit it to be used for any purpose other than the Permitted Class of Aquaculture.

8. Development Requirement

The lessee must ensure that the leased area is developed and used for the Permitted Class of Aquaculture to the extent stipulated in the Schedule.

9. Consents and Approvals

- 9.1 If the lessee's use of the leased area is permissible only with the consent or approval of any authority under or in pursuance of any law enactment or order of Court the lessee must obtain such consent or approval at its own expense and the lessee shall at no time during the term of this lease do or permit or fail to do or suffer to be done any act, matter or thing whereby such consent or approval shall lapse or be revoked; and
- 9.2 The lessee must keep current during the term of this lease all consents and approvals required under the Development Act 1993 and any other law applicable to the leased area or the permitted use or the lessee's use of the leased area.

10. Public Liability Insurance

- 10.1 The lessee shall forthwith effect and keep current during the term of this lease in the joint names of the Minister and the lessee for their respective rights and interests with a reputable and solvent insurer first approved by the Minister (which approval shall not be unreasonably withheld) a policy of public risk insurance in respect of the leased area for an amount not less than the amount stipulated in the Schedule in respect of any single claim, accident or event (or such greater amount as the Minister shall from time to time reasonably require) and upon request from or on behalf of the Minister to produce a copy of such policy and a copy of a certificate of currency in respect thereof such policy to indemnify the lessee and the Minister against any and all actions, suits, claims, demands, cost, proceedings, expenses, harm and loss of any kind including arising out of or in connection with:
- 10.1.1 the use of the leased area by the lessee or a licensee under a corresponding licence or its servants, agents and invitees; and/or
- 10.1.2 any death, illness or bodily injury sustained by any person upon the leased area or any damage to property occurring upon the leased area.

Notwithstanding any other provision of this clause the lessee shall satisfy the obligations to effect a policy of public risk insurance if the lessee notes the leased area and the Minister's rights and interests therein and under this lease upon any policy of public risk insurance effected by the lessee in respect of other land or premises within the Commonwealth of Australia provided such policy and such insurer otherwise satisfies the requirements of this clause and the lessee upon request from or on behalf of the Minister produces a copy of such policy and a copy of a Certificate of Currency in respect thereof.

11. *Statutory Requirements*

- 11.1 The lessee must comply with the laws in force in South Australia in the course of any activity undertaken pursuant to this lease, or in relation to or on the leased area.
- 11.2 The lessee shall be liable to indemnify the Minister from and against all actions, proceedings, claims, demands, charges, penalties and expenses arising from any failure to comply with the laws in force in South Australia.

12. *No Nuisance*

- 12.1 The lessee must not do or fail to do anything on or in respect of the leased area (and must ensure that its employees, agents, contractors and invitees and any licensee under a corresponding licence do not do or fail to do anything on or in respect of the leased area):
 - 12.1.1 whereby a nuisance (whether public or private) may arise or continue upon or in connection with the leased area; or
 - 12.1.2 whereby any nuisance or disturbance could arise to any users of land near the leased area or the waters around the leased area or which could interfere with the same.

13. *Indemnities*

The lessee must indemnify and save harmless the Minister against:

- 13.1 all actions, claims, demands, proceedings, suits, costs, damages, expenses and losses which the Minister may suffer or incur as a result of the death of or injury to any person or loss of or damage to the property of any person arising from or out of any occurrence in, upon or about the leased area or any part of it or the use of the leased area by the lessee or a licensee under a corresponding licence or by any employee, agent, contractor or invitee of the lessee or licensee;
- 13.2 all loss or damage to the leased area, and any property on it caused by the lessee or licensee under a corresponding licence or by any employee, agent, contractor, or invitee of the lessee or licensee or other person having business with the lessee or licensee and in particular but without limiting in any way the generality of the foregoing by reason of the use, misuse, waste or abuse of the leased area; and
- 13.3 all fees, costs, liabilities and expenses incurred by the Minister in the exercise or attempted exercise of any of the rights, authorities, powers or remedies which are exercisable by the Minister pursuant to this lease,

except to the extent caused or contributed to by any wilful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

14. *Exclusion of Liability*

The Minister and its servants, employees, agents, contractors and invitees shall have no responsibility or liability to the lessee and the Minister and its employees, agents, contractors and invitees for any loss or injury suffered by the lessee or to the property of the lessee except to the extent caused or contributed to by any unlawful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

15. *Minister's Entry on Leased Area*

- 15.1 The Minister may, on giving reasonable notice, with or without the Minister's officers, employees and/or agents, enter upon and remain on the leased area for the purpose of inspecting the leased area including in respect of the performance of the lessee's obligations and/or for the purpose of remedying any breach of the lessee's obligations under this lease or the Act in respect of the leased area or any breach by any licensee under a corresponding licence of its obligations under and pursuant to the licence or the Act, although the Minister shall be under no obligation to so remedy any such breach.
- 15.2 The Minister shall not be required to give any prior notice to the lessee before exercising its rights under and pursuant to this clause in circumstances where, in the reasonable opinion of the Minister:
 - 15.2.1 it is not practicable to do so, or;
 - 15.2.2 the Minister or any responsible officer, employee or agent of the Minister believes on reasonable grounds that an offence has or is being or is about to be committed on the leased area or that a breach of the terms and conditions of this lease by the lessee or any breach by any licensee of its obligations under and pursuant to the licence, has occurred, is occurring or is about to occur;
 - 15.2.3 in exercising any of its rights under and pursuant to this clause the Minister shall use its reasonable endeavours not to interfere with the lawful and permitted conduct of the lessee's or a licensee's use of the leased area.

16. *Contamination and Contaminating Substances*

- 16.1 The lessee must not bring or permit to be brought upon the leased area any matter in any form which the handling, storage, disposal, dealing with or the escape of which may in any manner result in, cause or contribute to pollution, contamination or degradation on or to the leased area or any land or water adjacent or near to the leased area or exacerbate, add to or compound any pre-existing pollution, contamination or degradation or the feasibility, practicality or cost of its control and/or removal, unless the lessee has obtained the prior written consent of the Minister, (which consent the Minister may grant or withhold or impose conditions on in its absolute unfettered discretion).
- 16.2 Irrespective of whether the Minister gave its consent in respect of such material, compounds or substances pursuant to this clause, if during the term of this lease, or during any subsequent period in which the lessee continues to occupy or control the leased area, any pollution, contamination or degradation occurs or any exacerbation, addition to or compounding of any pollution, contamination or degradation existing prior to the date of commencement of the term of this lease occurs (other than to the extent the result of any wilful or negligent act or omission of the Minister or any agent employee or contractor of the Minister) then:
 - 16.2.1 the lessee must forthwith notify the Minister in writing of the location, nature, extent and quantity of such substance or compound and the pollution, contamination and degradation it might cause and reasonable particulars of the long term effect of the same and likely cost of control, collection, removal and disposal;
 - 16.2.2 the lessee must permit the Minister and any employee, agent, inspector, contractor or invitee of the Minister at all times to enter upon the leased area and to inspect any suspected notified or known pollution, contamination or degradation or any substance or compound capable of causing pollution, contamination and degradation to the leased area or the land or water adjacent to or near the leased area and to abate any actual or

potential danger or hazard in or about the leased area and if such hazard or damage in the reasonable opinion of the Minister is caused by or results from the substance or compound the lessee shall pay to the Minister the costs and expenses incurred in carrying out such work; and

- 16.2.3 the lessee must at its own cost and expense if so required by the Minister remove any and all substances and compounds causing contributing or which could cause or contribute to pollution, contamination or degradation of the leased area (or exacerbate add to or compound any pre-existing similar condition) from all parts of the leased area.
- 16.3 During the term of this lease, the lessee must indemnify and hold harmless the Minister and keep the Minister indemnified from and against all claims, demands, actions, proceedings, judgments, orders, costs, losses, damages and expenses of any nature whatsoever suffered or incurred by the Minister as a result whether directly or otherwise of:
- 16.3.1 any act or omission of the lessee its servants, agents, contractors, licensees or any other person acting with its authority which results in pollution, contamination or degradation on or to the leased area or any part thereof; and
- 16.3.2 any failure of the lessee to comply with observe and perform in respect of the leased area the requirements imposed on tenants or occupiers of the leased area by any laws, statutory enactments or regulations made pursuant thereto (whether Federal, State or municipal) relating to the contamination and/or degradation and/or pollution of the leased area or any part thereof (the 'relevant law').

17. Lease Expiry

The lessee must, at the lessee's cost in all things immediately prior to the expiration or sooner determination of the term of this lease:

- 17.1 remove and carry away from the leased area all improvements, plant, equipment, chattels and property located or brought upon the leased area by or on behalf of the lessee and in such removal cause as little damage to the leased area as practicable;
- 17.2 upon completion of such removal, remove all debris, rubbish and waste from the leased area and rehabilitate the same in respect of any damage caused thereto by the location thereon of such waste and debris; and
- 17.3 reinstate and rehabilitate the leased area and any portions thereof affected by the conduct of the permitted use or the lessee's use of the same to the condition existing prior to commencement of the term of this lease. Such rehabilitation shall be performed by the lessee at its cost in all things to the reasonable satisfaction of the Minister.

18. Occupation

The lessee has the rights of occupation provided in the Act.

19. Default Costs

- 19.1 The lessee is liable to pay the Minister reasonable costs and expenses including but without limiting the generality thereof reasonable professional charges and workmen's wages:
- 19.1.1 of and incidental to the recovery of annual rent due and unpaid interest thereon; and
- 19.1.2 incurred by remedying or attempting to remedy any breach of the lessee's obligations under this lease.
- 19.2 Any amount payable by the lessee under this clause is payable on demand by the Minister.

20. Default Interest

Without prejudice to the rights, powers and remedies of the Minister otherwise under this lease the lessee must pay to the Minister interest at the overdrawn rate charged from time to time by the Minister's Bankers on overdrafts not exceeding \$50 000 on any money due but unpaid after the same fell due and payable by the lessee to the Minister on any account whatsoever under this lease. Interest shall be computed from the due date for the payment of the money in respect of which the interest is chargeable until payment of such money is made in full and shall be recoverable in like manner as rent in arrears.

21. Minister may remedy Default

- 21.1 If the lessee fails or neglects to perform any obligation or to observe any provision to be performed or observed by the lessee under this lease or if any licensee under the licence is in breach or default under the licence and if such failure or neglect shall continue for one month after the Minister has given to the lessee notice in writing requiring the lessee to perform such obligation or to observe such provision then the Minister may (but without being bound so to do and without prejudice to any other right or remedy) perform that obligation or observe that provision and all reasonable costs and expenses including overtime charges, fines, levies and penalties due to such default or incurred by the Minister in remedying the same shall be paid by the lessee to the Minister.

22. Waiver

No forbearance by the Minister in respect of any breach of any obligation contained or implied in this lease shall operate as a waiver of another breach of the same or of any other obligation contained or implied in this lease.

23. Joint Lessees

If the lessee constitutes more than one natural person or bodies corporate or a partnership:

- 23.1 the persons comprising the lessee are jointly and severally bound by the conditions of this lease; and
- 23.2 notice to one of the natural persons or bodies corporate comprising the lessee shall be notice to all persons comprising the lessee.

24. Guarantee or Indemnity

- 24.1 The lessee must within five business days of receipt of this lease but with effect from the date of commencement of the term of this lease either:
- 24.1.1 provide a guarantee from its bankers; or
- 24.1.2 contribute to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry,
- to and in favour of and for the benefit of the Minister by way of security for the due and punctual performance by the lessee of the terms and conditions of this lease and in particular the obligations of the lessee to rehabilitate the leased area immediately prior to the expiration or sooner determination of the term of this lease upon the following terms and conditions:
- 24.1.3 the lessee shall either:

- (a) arrange for the provision from a bank as defined in the Banking Act 1959 or established by an Act of the Parliament of South Australia of an irrevocable and continuing bank guarantee for an amount stipulated from time to time by the Minister (the 'Bank Guarantee'). The Bank Guarantee shall otherwise contain terms and conditions which are reasonably satisfactory to the Minister. The Bank Guarantee shall be continuously in existence until the Minister agrees to release the Bank Guarantee under this clause. The guarantee shall entitle the Minister to make demand on the Bank Guarantee at any time if there has been a failure by the lessee to pay any money at the time specified for such

payment or if there has been any other breach or default by the lessee for the due and punctual performance of the covenants, obligations and provisions on the part of the lessee under this lease. If the Minister makes a demand on the Bank Guarantee either in whole or in part and appropriate such funds then the lessee shall within five days of such demand by the Minister provide the Minister with a fresh Bank Guarantee for an amount equal to the amount so demanded and paid by the Bank to the Minister on the Bank Guarantee and on the same terms and conditions as specified in this clause. The lessee shall not be entitled to a release or a re-delivery nor to request a release or re-delivery of the Bank Guarantee until one month after the expiration of the term of this lease. Notwithstanding any other provisions of this clause the Minister shall be entitled to refuse to release or deliver up to the lessee the Bank Guarantee if the Minister reasonably considers that there may be unremedied breaches or con-tingent obligations under the lease yet to mature and to be performed by the lessee at the time of the request to the Minister to release or re-deliver the Bank Guarantee; or

(b) make such contributions to the indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industries as required by the Minister or the administrator of such scheme, and if required make such contributions on an annual or other basis and in such amounts as required by the Minister or the administrator of such scheme;

24.1.4 the provisions of this clause do not in any way limit, restrict or prejudice the rights of the Minister to exercise such additional rights, remedies and powers as the Minister may consider appropriate as a result of the lessee's default;

24.1.5 notwithstanding any other provision of this clause, if the lessee transfers or assigns its estate and interest in this lease, then upon and as and from the date ('the Date') such transferee or assignee providing to the Minister either a guarantee from its bankers as satisfies the requirements of this clause or evidence of having contributed to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry in such amount as required by this clause, the Minister shall from the date fully free release and discharge the lessee from any and all obligations under and pursuant to this clause and shall release and re-deliver to the lessee any bank.

24.2 If the lessee has already provided a guarantee or contributed to a fund in accordance with obligations under previous arrangements to the extent required under this lease, then the lessee is excused from the initial requirement to provide a guarantee or contribution, but not from subsequent obligations under this clause.

25. Disclaimer

The Minister does not expressly or impliedly warrant that the leased area is now or will remain suitable or adequate for all or any of the purposes of the lessee and all warranties (if any) as to the suitability and adequateness of the leased area that might otherwise be implied are expressly negated.

26. Delegation

Unless expressly excluded by any provision of this lease, any consent, any notice, any consultation or any other thing which pursuant to the terms of this lease is either required to be given, done or performed by the Minister or is permitted to be given, done or performed by the Minister may for the purposes of this lease be properly given, done or performed by a person authorised by the Minister to act on the Minister's behalf.

27. Special Conditions

Incorporated in this lease are any special conditions set out in the Schedule.

28. Notices

28.1 Notice to the lessee is valid if sent by post to the address for notices in the Schedule, or such other address as is notified by the lessee to the Minister in writing.

28.2 The lessee may give notice to the Minister by posting written notice addressed to PIRSA Aquaculture, G.P.O. Box 1625, Adelaide, S.A. 5001.

29. Definitions and Interpretation

In this lease unless inconsistent with the context:

'business days' means Monday to Friday (inclusive) excluding any public holiday;

'corresponding licence' has the meaning attributed in the Act;

'GST' means the tax imposed by the GST Law;

'GST Law' has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999;

'Insolvency Administration' means, if the lessee is a corporation:

- an administrator is appointed to the lessee or action is taken to make such an appointment;
- the lessee resolves to be wound up;
- an application is made to a court for an order or an order is made that the lessee be wound up (whether on grounds of insolvency or otherwise);
- the lessee ceases to carry on business;
- a receiver or a receiver and manager of property of the lessee is appointed whether by a court or other-wise;
- an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the lessee or one of them is appointed, whether or not under an order;
- the lessee enters into a compromise or arrangement with its creditors or a class of them; or
- the lessee is or states that it is unable to pay its debts when they fall due;

'Insolvency Administration' means if the lessee is a natural person:

- the lessee has committed an act of bankruptcy as contemplated by the Bankruptcy Act 1966;
- the lessee is unable to pay his or her debts as and when they become due and payable;
- the court has made a sequestration order against the lessee's estate;
- a creditors' petition has been presented against the lessee;
- the lessee has presented to the Official Receiver a declaration of intention to present a debtor's petition;
- the lessee becomes a bankrupt;
- a meeting of creditors of the lessee is convened; or
- the lessee lodges with his or her trustee a proposal to his or her creditors for a composition in satisfaction of his or her debts or a scheme of arrangement of his or her affairs;

'Lessee' means the party described in this lease and the heirs, executors, administrators and permitted assigns thereof and if a body corporate, its successors and permitted assigns;

'Minister' means the Minister for Agriculture, Food and Fisheries, a body corporate under the Administrative Arrangements Act 1994;

'Permitted Use' means the use of the leased area for such aquaculture purposes as are specified in the Schedule to this lease;

'Leased Area' means the area comprised of State waters or State waters and adjacent land within the meaning of the Harbors and Navigation Act 1993, described in the Schedule to this lease;

'Taxable Supply' has the meaning attributed in the GST Act;

'Tax Invoice' has the meaning attributed in the GST Act;

'Term of this Lease' or the 'Term' means the initial term granted by the Minister (unless sooner determined) and any extension of such initial term.

30. Interpretation

- 30.1 Words importing the singular shall embrace the plural and words importing the masculine gender shall embrace the feminine and neuter genders and *vice versa* respectively.
- 30.2 Any reference to a person shall include a corporate body and *vice versa*.
- 30.3 Where two or more persons are included in the designation the 'lessee' the obligations on the part of the lessee contained in this lease shall bind such persons and any two or greater number of them jointly and each of them severally and the expression the 'lessee' shall include all or any one or more of such persons.
- 30.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for it and the regulations, by-laws or other orders for the time being made under that statute.
- 30.5 Headings are for convenience of reference only and shall not affect the construction or interpretation of the covenants of this lease.

Dated 23 December 2002.

Signed by the General Manager, Aquaculture of the Department for Primary Industries and Resources as delegate of the Minister for Transport (as successor of) the Minister for Transport and Urban Planning, pursuant to a delegation made on 13 March 2000 under section 11 (1) of the Harbors and Navigation Act 1993.

I. NIGHTINGALE, General Manager, Aquaculture

AQUACULTURE ACT 2001

AQUACULTURE LEASE PL00004

Class of Aquaculture (Tuna)

THIS Pilot Lease is granted under the Aquaculture Act 2001 ('the Act') pursuant to section 3 (2) of the Schedule to the Act and Division 4 of Part 6 of the Act.

This lease is granted to the lessee for the term of one year, by the Minister for Agriculture, Food and Fisheries ('the Minister') for the purpose of conducting the Class of Aquaculture nominated in the Schedule ('the permitted use'), subject to the conditions set out in this document.

This lease is granted with the concurrence of the Minister for Transport as required in section 20 of the Aquaculture Act 2001 and section 15 of the Harbours and Navigation Act 1993.

SCHEDULE

Lessee:

Sarin Marine Farm Pty Ltd (29919)
115 Verran Terrace
Port Lincoln, S.A. 5606

Leased Area:

GDA 94—Zone 53
593002E 6172053N
593802E 6172053N
593802E 6171628N
593002E 6171628N

Licensed
Hectares

34

Permitted Class of Aquaculture:

Tuna Aquaculture

Term of the Lease:

Twelve months

Initial Rental:

\$350.00

Marking-off requirements:

The marked-off area must be marked with 30 cm diameter white buoys spaced at 50 m intervals and positioned no more than 50 m from structures located on the site.

Amount of Public Liability Insurance:

\$10 million

Amount of Guarantee or contribution to indemnity fund:

\$10 000

Extent of Leased Area that must be developed:

During the term of this lease at least one cage of at least 20 m diameter must be installed on the site.

1. Term and Renewal

- 1.1 The term of this lease is the term of one year commencing on 1 July 2002 and ending on 30 June 2003 ('the initial term').
- 1.2 The term is renewable in accordance with section 38 of the Act for successive terms, by the lessee giving the Minister notice no earlier than two months before the expiry of the term, and no later than one month before the expiry of the term, unless there is at the expiry of the lease a default under the lease or any corresponding licence.
- 1.3 Any renewal of the term shall be subject to conditions in accordance with standard conditions under aquaculture policies developed under Part 4 of the Act, and such other conditions as are determined by the Minister ('the reviewed conditions').
- 1.4 Upon renewal the Minister may issue either a certificate of renewal, or a new lease, incorporating the reviewed conditions.
- 1.5 The Minister may, at the time of renewal of a term, vary the term subject to the maximum term for a production lease permitted by the Act.

2. Rental

- 2.1 The lessee must pay to the Minister the annual rental, free from exchange, deduction or abatement.
- 2.2 At the commencement of the initial term the annual rental payable under this lease is the initial rental stipulated in the Schedule.
- 2.3 The initial rental payable in respect of the initial term is subject to adjustment during the initial term, as determined by the Minister in accordance with aquaculture policy developed under Part 4 of the Act. The adjusted rental shall be applicable in respect of the entire initial term.

- 2.4 Rental in respect of renewed terms shall be as notified by the Minister before the expiry of the initial term, and adjustments of rental in renewed terms of the lease will be applicable in accordance with the reviewed conditions.
- 2.5 Rental is payable in full within one month of commencement of the lease by direct bank transfer to the credit of a bank account nominated by the Minister, or by cheque payable to the Department for Primary Industry and Resources SA, delivered to the address stipulated by the Minister.

3. GST

- 3.1 The rental payable under this lease is exclusive of GST.
- 3.2 The lease is a taxable supply under GST Law.
- 3.3 Department of Primary Industries and Resources (ABN 53 763 159 658) is the government entity administering this lease on behalf of the Minister and is registered pursuant to the GST Law.
- 3.4 Department of Primary Industries and Resources is entitled to be treated as the maker of any taxable supply and the recipient of any taxable supply pursuant to this lease instead of the Minister for the purposes only of the GST Law.
- 3.5 The lessee must pay to the Minister, together with any payment of rental under this lease, an additional amount in respect of GST (the 'GST payment'). The GST payment is ten per cent of the rental, subject only to any change in the rate of GST under GST Law.
- 3.6 The Minister must issue to the lessee a tax invoice within 10 business days after the lessee has delivered payment of rental and the GST payment.

4. Cancellation

The Minister may cancel this lease by immediate written notice to the lessee:

- 4.1 if the lessee enters into any form of Insolvency Administration;
- 4.2 if the lessee assigns or purports to assign the lease without giving the Minister prior written notice as required by section 39 of the Act;
- 4.3 if any rent or other moneys payable by the lessee are in arrears for more than 14 days whether or not any formal demand has been made for the rent or other moneys;
- 4.4 if the lessee (being a natural person) is convicted of any indictable offence;
- 4.5 if there is any breach of any condition of a corresponding licence in respect of this lease;
- 4.6 if there is a breach of any obligation under the Act by the lessee or a licensee under a corresponding licence;
- 4.7 if a corresponding licence is cancelled; or
- 4.8 if in the opinion of the Minister the use of the leased area by or on behalf of the lessee reveals, indicates or provides reasonable grounds for the Minister to form the view or opinion that degradation or damage of an unacceptable level of coastal land or the surrounding marine environment has or is being caused by the lessee's use of the leased area or the use of the leased area by a licensee under a corresponding licence, or any activity associated with their activities and the lessee fails to comply with a notice requiring the lessee to remedy the degradation or damage, and/or cease or prevent the relevant activity within 30 days after the date the notice is served upon the lessee by or on behalf of the Minister.

5. Dealing with Lease

- 5.1 This lease is transferable in accordance with the Act (see section 39).
- 5.2 Subletting under this lease is not permitted except with the prior written consent of the Minister.

6. Marking-off

The lessee must mark-off the leased area in the manner stipulated in the Schedule.

7. Lessee's Use of Leased Area

The lessee must not use the leased area or permit it to be used for any purpose other than the Permitted Class of Aquaculture.

8. Development Requirement

The lessee must ensure that the leased area is developed and used for the Permitted Class of Aquaculture to the extent stipulated in the Schedule.

9. Consents and Approvals

- 9.1 If the lessee's use of the leased area is permissible only with the consent or approval of any authority under or in pursuance of any law enactment or order of Court the lessee must obtain such consent or approval at its own expense and the lessee shall at no time during the term of this lease do or permit or fail to do or suffer to be done any act, matter or thing whereby such consent or approval shall lapse or be revoked; and
- 9.2 The lessee must keep current during the term of this lease all consents and approvals required under the Development Act 1993 and any other law applicable to the leased area or the permitted use or the lessee's use of the leased area.

10. Public Liability Insurance

- 10.1 The lessee shall forthwith effect and keep current during the term of this lease in the joint names of the Minister and the lessee for their respective rights and interests with a reputable and solvent insurer first approved by the Minister (which approval shall not be unreasonably withheld) a policy of public risk insurance in respect of the leased area for an amount not less than the amount stipulated in the Schedule in respect of any single claim, accident or event (or such greater amount as the Minister shall from time to time reasonably require) and upon request from or on behalf of the Minister to produce a copy of such policy and a copy of a certificate of currency in respect thereof such policy to indemnify the lessee and the Minister against any and all actions, suits, claims, demands, cost, proceedings, expenses, harm and loss of any kind including arising out of or in connection with:
- 10.1.1 the use of the leased area by the lessee or a licensee under a corresponding licence or its servants, agents and invitees; and/or
- 10.1.2 any death, illness or bodily injury sustained by any person upon the leased area or any damage to property occurring upon the leased area.

Notwithstanding any other provision of this clause the lessee shall satisfy the obligations to effect a policy of public risk insurance if the lessee notes the leased area and the Minister's rights and interests therein and under this lease upon any policy of public risk insurance effected by the lessee in respect of other land or premises within the Commonwealth of Australia provided such policy and such insurer otherwise satisfies the requirements of this clause and the lessee upon request from or on behalf of the Minister produces a copy of such policy and a copy of a Certificate of Currency in respect thereof.

11. Statutory Requirements

- 11.1 The lessee must comply with the laws in force in South Australia in the course of any activity undertaken pursuant to this lease, or in relation to or on the leased area.
- 11.2 The lessee shall be liable to indemnify the Minister from and against all actions, proceedings, claims, demands, charges, penalties and expenses arising from any failure to comply with the laws in force in South Australia.

12. *No Nuisance*

- 12.1 The lessee must not do or fail to do anything on or in respect of the leased area (and must ensure that its employees, agents, contractors and invitees and any licensee under a corresponding licence do not do or fail to do anything on or in respect of the leased area):
- 12.1.1 whereby a nuisance (whether public or private) may arise or continue upon or in connection with the leased area; or
- 12.1.2 whereby any nuisance or disturbance could arise to any users of land near the leased area or the waters around the leased area or which could interfere with the same.

13. *Indemnities*

The lessee must indemnify and save harmless the Minister against:

- 13.1 all actions, claims, demands, proceedings, suits, costs, damages, expenses and losses which the Minister may suffer or incur as a result of the death of or injury to any person or loss of or damage to the property of any person arising from or out of any occurrence in, upon or about the leased area or any part of it or the use of the leased area by the lessee or a licensee under a corresponding licence or by any employee, agent, contractor or invitee of the lessee or licensee;
- 13.2 all loss or damage to the leased area, and any property on it caused by the lessee or licensee under a corresponding licence or by any employee, agent, contractor, or invitee of the lessee or licensee or other person having business with the lessee or licensee and in particular but without limiting in any way the generality of the foregoing by reason of the use, misuse, waste or abuse of the leased area; and
- 13.3 all fees, costs, liabilities and expenses incurred by the Minister in the exercise or attempted exercise of any of the rights, authorities, powers or remedies which are exercisable by the Minister pursuant to this lease,

except to the extent caused or contributed to by any wilful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

14. *Exclusion of Liability*

The Minister and its servants, employees, agents, contractors and invitees shall have no responsibility or liability to the lessee and the Minister and its employees, agents, contractors and invitees for any loss or injury suffered by the lessee or to the property of the lessee except to the extent caused or contributed to by any unlawful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

15. *Minister's Entry on Leased Area*

- 15.1 The Minister may, on giving reasonable notice, with or without the Minister's officers, employees and/or agents, enter upon and remain on the leased area for the purpose of inspecting the leased area including in respect of the performance of the lessee's obligations and/or for the purpose of remedying any breach of the lessee's obligations under this lease or the Act in respect of the leased area or any breach by any licensee under a corresponding licence of its obligations under and pursuant to the licence or the Act, although the Minister shall be under no obligation to so remedy any such breach.
- 15.2 The Minister shall not be required to give any prior notice to the lessee before exercising its rights under and pursuant to this clause in circumstances where, in the reasonable opinion of the Minister:
- 15.2.1 it is not practicable to do so, or;

- 15.2.2 the Minister or any responsible officer, employee or agent of the Minister believes on reasonable grounds that an offence has or is being or is about to be committed on the leased area or that a breach of the terms and conditions of this lease by the lessee or any breach by any licensee of its obligations under and pursuant to the licence, has occurred, is occurring or is about to occur;
- 15.2.3 in exercising any of its rights under and pursuant to this clause the Minister shall use its reasonable endeavours not to interfere with the lawful and permitted conduct of the lessee's or a licensee's use of the leased area.

16. *Contamination and Contaminating Substances*

- 16.1 The lessee must not bring or permit to be brought upon the leased area any matter in any form which the handling, storage, disposal, dealing with or the escape of which may in any manner result in, cause or contribute to pollution, contamination or degradation on or to the leased area or any land or water adjacent or near to the leased area or exacerbate, add to or compound any pre-existing pollution, contamination or degradation or the feasibility, practicality or cost of its control and/or removal, unless the lessee has obtained the prior written consent of the Minister, (which consent the Minister may grant or withhold or impose conditions on in its absolute unfettered discretion).
- 16.2 Irrespective of whether the Minister gave its consent in respect of such material, compounds or substances pursuant to this clause, if during the term of this lease, or during any subsequent period in which the lessee continues to occupy or control the leased area, any pollution, contamination or degradation occurs or any exacerbation, addition to or compounding of any pollution, contamination or degradation existing prior to the date of commencement of the term of this lease occurs (other than to the extent the result of any wilful or negligent act or omission of the Minister or any agent employee or contractor of the Minister) then:
- 16.2.1 the lessee must forthwith notify the Minister in writing of the location, nature, extent and quantity of such substance or compound and the pollution, contamination and degradation it might cause and reasonable particulars of the long term effect of the same and likely cost of control, collection, removal and disposal;
- 16.2.2 the lessee must permit the Minister and any employee, agent, inspector, contractor or invitee of the Minister at all times to enter upon the leased area and to inspect any suspected notified or known pollution, contamination or degradation or any substance or compound capable of causing pollution, contamination and degradation to the leased area or the land or water adjacent to or near the leased area and to abate any actual or potential danger or hazard in or about the leased area and if such hazard or damage in the reasonable opinion of the Minister is caused by or results from the substance or compound the lessee shall pay to the Minister the costs and expenses incurred in carrying out such work; and
- 16.2.3 the lessee must at its own cost and expense if so required by the Minister remove any and all substances and compounds causing contributing or which could cause or contribute to pollution, contamination or degradation of the leased area (or exacerbate add to or compound any pre-existing similar condition) from all parts of the leased area.

16.3 During the term of this lease, the lessee must indemnify and hold harmless the Minister and keep the Minister indemnified from and against all claims, demands, actions, proceedings, judgments, orders, costs, losses, damages and expenses of any nature whatsoever suffered or incurred by the Minister as a result whether directly or otherwise of:

- 16.3.1 any act or omission of the lessee its servants, agents, contractors, licensees or any other person acting with its authority which results in pollution, contamination or degradation on or to the leased area or any part thereof; and
- 16.3.2 any failure of the lessee to comply with observe and perform in respect of the leased area the requirements imposed on tenants or occupiers of the leased area by any laws, statutory enactments or regulations made pursuant thereto (whether Federal, State or municipal) relating to the contamination and/or degradation and/or pollution of the leased area or any part thereof (the 'relevant law').

17. Lease Expiry

The lessee must, at the lessee's cost in all things immediately prior to the expiration or sooner determination of the term of this lease:

- 17.1 remove and carry away from the leased area all improvements, plant, equipment, chattels and property located or brought upon the leased area by or on behalf of the lessee and in such removal cause as little damage to the leased area as practicable;
- 17.2 upon completion of such removal, remove all debris, rubbish and waste from the leased area and rehabilitate the same in respect of any damage caused thereto by the location thereon of such waste and debris; and
- 17.3 reinstate and rehabilitate the leased area and any portions thereof affected by the conduct of the permitted use or the lessee's use of the same to the condition existing prior to commencement of the term of this lease. Such rehabilitation shall be performed by the lessee at its cost in all things to the reasonable satisfaction of the Minister.

18. Occupation

The lessee has the rights of occupation provided in the Act.

19. Default Costs

- 19.1 The lessee is liable to pay the Minister reasonable costs and expenses including but without limiting the generality thereof reasonable professional charges and workmen's wages:
- 19.1.1 of and incidental to the recovery of annual rent due and unpaid interest thereon; and
- 19.1.2 incurred by remedying or attempting to remedy any breach of the lessee's obligations under this lease.
- 19.2 Any amount payable by the lessee under this clause is payable on demand by the Minister.

20. Default Interest

Without prejudice to the rights, powers and remedies of the Minister otherwise under this lease the lessee must pay to the Minister interest at the overdrawn rate charged from time to time by the Minister's Bankers on overdrafts not exceeding \$50 000 on any money due but unpaid after the same fell due and payable by the lessee to the Minister on any account whatsoever under this lease. Interest shall be computed from the due date for the payment of the money in respect of which the interest is chargeable until payment of such money is made in full and shall be recoverable in like manner as rent in arrears.

21. Minister may remedy Default

- 21.1 If the lessee fails or neglects to perform any obligation or to observe any provision to be performed or observed by the lessee under this lease or if any licensee under the licence is in breach or default under the licence and if such failure or neglect shall continue for one month after the Minister has given to the lessee notice in writing requiring the lessee to perform such

obligation or to observe such provision then the Minister may (but without being bound so to do and without prejudice to any other right or remedy) perform that obligation or observe that provision and all reasonable costs and expenses including overtime charges, fines, levies and penalties due to such default or incurred by the Minister in remedying the same shall be paid by the lessee to the Minister.

22. Waiver

No forbearance by the Minister in respect of any breach of any obligation contained or implied in this lease shall operate as a waiver of another breach of the same or of any other obligation contained or implied in this lease.

23. Joint Lessees

If the lessee constitutes more than one natural person or bodies corporate or a partnership:

- 23.1 the persons comprising the lessee are jointly and severally bound by the conditions of this lease; and
- 23.2 notice to one of the natural persons or bodies corporate comprising the lessee shall be notice to all persons comprising the lessee.

24. Guarantee or Indemnity

- 24.1 The lessee must within five business days of receipt of this lease but with effect from the date of commencement of the term of this lease either:
- 24.1.1 provide a guarantee from its bankers; or
- 24.1.2 contribute to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry,
- to and in favour of and for the benefit of the Minister by way of security for the due and punctual performance by the lessee of the terms and conditions of this lease and in particular the obligations of the lessee to rehabilitate the leased area immediately prior to the expiration or sooner determination of the term of this lease upon the following terms and conditions:
- 24.1.3 the lessee shall either:

- (a) arrange for the provision from a bank as defined in the Banking Act 1959 or established by an Act of the Parliament of South Australia of an irrevocable and continuing bank guarantee for an amount stipulated from time to time by the Minister (the 'Bank Guarantee'). The Bank Guarantee shall otherwise contain terms and conditions which are reasonably satisfactory to the Minister. The Bank Guarantee shall be continuously in existence until the Minister agrees to release the Bank Guarantee under this clause. The guarantee shall entitle the Minister to make demand on the Bank Guarantee at any time if there has been a failure by the lessee to pay any money at the time specified for such payment or if there has been any other breach or default by the lessee for the due and punctual performance of the covenants, obligations and provisions on the part of the lessee under this lease. If the Minister makes a demand on the Bank Guarantee either in whole or in part and appropriate such funds then the lessee shall within five days of such demand by the Minister provide the Minister with a fresh Bank Guarantee for an amount equal to the amount so demanded and paid by the Bank to the Minister on the Bank Guarantee and on the same terms and conditions as specified in this clause. The lessee shall not be entitled to a release or a re-delivery nor to request a release or re-delivery of the Bank Guarantee until one month after the expiration of the term of this lease. Notwithstanding any other

provisions of this clause the Minister shall be entitled to refuse to release or deliver up to the lessee the Bank Guarantee if the Minister reasonably considers that there may be unremedied breaches or contingent obligations under the lease yet to mature and to be performed by the lessee at the time of the request to the Minister to release or re-deliver the Bank Guarantee; or

- (b) make such contributions to the indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industries as required by the Minister or the administrator of such scheme, and if required make such contributions on an annual or other basis and in such amounts as required by the Minister or the administrator of such scheme;

24.1.4 the provisions of this clause do not in any way limit, restrict or prejudice the rights of the Minister to exercise such additional rights, remedies and powers as the Minister may consider appropriate as a result of the lessee's default;

24.1.5 notwithstanding any other provision of this clause, if the lessee transfers or assigns its estate and interest in this lease, then upon and as and from the date ('the Date') such transferee or assignee providing to the Minister either a guarantee from its bankers as satisfies the requirements of this clause or evidence of having contributed to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry in such amount as required by this clause, the Minister shall from the date fully free release and discharge the lessee from any and all obligations under and pursuant to this clause and shall release and re-deliver to the lessee any bank.

24.2 If the lessee has already provided a guarantee or contributed to a fund in accordance with obligations under previous arrangements to the extent required under this lease, then the lessee is excused from the initial requirement to provide a guarantee or contribution, but not from subsequent obligations under this clause.

25. Disclaimer

The Minister does not expressly or impliedly warrant that the leased area is now or will remain suitable or adequate for all or any of the purposes of the lessee and all warranties (if any) as to the suitability and adequateness of the leased area that might otherwise be implied are expressly negated.

26. Delegation

Unless expressly excluded by any provision of this lease, any consent, any notice, any consultation or any other thing which pursuant to the terms of this lease is either required to be given, done or performed by the Minister or is permitted to be given, done or performed by the Minister may for the purposes of this lease be properly given, done or performed by a person authorised by the Minister to act on the Minister's behalf.

27. Special Conditions

Incorporated in this lease are any special conditions set out in the Schedule.

28. Notices

28.1 Notice to the lessee is valid if sent by post to the address for notices in the Schedule, or such other address as is notified by the lessee to the Minister in writing.

28.2 The lessee may give notice to the Minister by posting written notice addressed to PIRSA Aquaculture, G.P.O. Box 1625, Adelaide, S.A. 5001.

29. Definitions and Interpretation

In this lease unless inconsistent with the context:

'*business days*' means Monday to Friday (inclusive) excluding any public holiday;

'*corresponding licence*' has the meaning attributed in the Act;

'*GST*' means the tax imposed by the GST Law;

'*GST Law*' has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999;

'*Insolvency Administration*' means, if the lessee is a corporation:

- an administrator is appointed to the lessee or action is taken to make such an appointment;
- the lessee resolves to be wound up;
- an application is made to a court for an order or an order is made that the lessee be wound up (whether on grounds of insolvency or otherwise);
- the lessee ceases to carry on business;
- a receiver or a receiver and manager of property of the lessee is appointed whether by a court or otherwise;
- an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the lessee or one of them is appointed, whether or not under an order;
- the lessee enters into a compromise or arrangement with its creditors or a class of them; or
- the lessee is or states that it is unable to pay its debts when they fall due;

'*Insolvency Administration*' means if the lessee is a natural person:

- the lessee has committed an act of bankruptcy as contemplated by the Bankruptcy Act 1966;
- the lessee is unable to pay his or her debts as and when they become due and payable;
- the court has made a sequestration order against the lessee's estate;
- a creditors' petition has been presented against the lessee;
- the lessee has presented to the Official Receiver a declaration of intention to present a debtor's petition;
- the lessee becomes a bankrupt;
- a meeting of creditors of the lessee is convened; or
- the lessee lodges with his or her trustee a proposal to his or her creditors for a composition in satisfaction of his or her debts or a scheme of arrangement of his or her affairs;

'*Lessee*' means the party described in this lease and the heirs, executors, administrators and permitted assigns thereof and if a body corporate, its successors and permitted assigns;

'*Minister*' means the Minister for Agriculture, Food and Fisheries, a body corporate under the Administrative Arrangements Act 1994;

'*Permitted Use*' means the use of the leased area for such aquaculture purposes as are specified in the Schedule to this lease;

'*Leased Area*' means the area comprised of State waters or State waters and adjacent land within the meaning of the Harbors and Navigation Act 1993, described in the Schedule to this lease;

'*Taxable Supply*' has the meaning attributed in the GST Act;

'*Tax Invoice*' has the meaning attributed in the GST Act;

'*Term of this Lease*' or the '*Term*' means the initial term granted by the Minister (unless sooner determined) and any extension of such initial term.

30. Interpretation

30.1 Words importing the singular shall embrace the plural and words importing the masculine gender shall

embrace the feminine and neuter genders and *vice versa* respectively.

- 30.2 Any reference to a person shall include a corporate body and *vice versa*.
- 30.3 Where two or more persons are included in the designation the 'lessee' the obligations on the part of the lessee contained in this lease shall bind such persons and any two or greater number of them jointly and each of them severally and the expression the 'lessee' shall include all or any one or more of such persons.
- 30.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for it and the regulations, by-laws or other orders for the time being made under that statute.
- 30.5 Headings are for convenience of reference only and shall not affect the construction or interpretation of the covenants of this lease.

Dated 23 December 2002.

Signed by the General Manager, Aquaculture of the Department for Primary Industries and Resources as delegate of the Minister for Transport (as successor of) the Minister for Transport and Urban Planning, pursuant to a delegation made on 13 March 2000 under section 11 (1) of the Harbours and Navigation Act 1993.

I. NIGHTINGALE, General Manager, Aquaculture

AQUACULTURE ACT 2001

AQUACULTURE LEASE PL00005

Class of Aquaculture (Tuna)

THIS Pilot Lease is granted under the Aquaculture Act 2001 ('the Act') pursuant to section 3 (2) of the Schedule to the Act and Division 4 of Part 6 of the Act.

This lease is granted to the lessee for the term of one year, by the Minister for Agriculture, Food and Fisheries ('the Minister') for the purpose of conducting the Class of Aquaculture nominated in the Schedule ('the permitted use'), subject to the conditions set out in this document.

This lease is granted with the concurrence of the Minister for Transport as required in section 20 of the Aquaculture Act 2001 and section 15 of the Harbours and Navigation Act 1993.

SCHEDULE

Lessee:

Blaslov Fishing Pty Ltd (14231)
86 Ocean Avenue
Port Lincoln, S.A. 5606

Leased Area:

GDA 94—Zone 53
595157E 6172309N
596600E 6171982N
596491E 6171501N
595048E 6171828N

Licensed Hectares

73

Permitted Class of Aquaculture:

Tuna Aquaculture

Term of the Lease:

Twelve months

Initial Rental:

\$350.00

Marking-off requirements:

The marked-off area must be marked with 30 cm diameter white buoys spaced at 50 m intervals and positioned no more than 50 m from structures located on the site.

Amount of Public Liability Insurance:

\$10 million

Amount of Guarantee or contribution to indemnity fund:

\$10 000

Extent of Leased Area that must be developed:

During the term of this lease at least one cage of at least 20 m diameter must be installed on the site.

1. Term and Renewal

- 1.1 The term of this lease is the term of one year commencing on 1 July 2002 and ending on 30 June 2003 ('the initial term').
- 1.2 The term is renewable in accordance with section 38 of the Act for successive terms, by the lessee giving the Minister notice no earlier than two months before the expiry of the term, and no later than one month before the expiry of the term, unless there is at the expiry of the lease a default under the lease or any corresponding licence.
- 1.3 Any renewal of the term shall be subject to conditions in accordance with standard conditions under aquaculture policies developed under Part 4 of the Act, and such other conditions as are determined by the Minister ('the reviewed conditions').
- 1.4 Upon renewal the Minister may issue either a certificate of renewal, or a new lease, incorporating the reviewed conditions.
- 1.5 The Minister may, at the time of renewal of a term, vary the term subject to the maximum term for a production lease permitted by the Act.

2. Rental

- 2.1 The lessee must pay to the Minister the annual rental, free from exchange, deduction or abatement.
- 2.2 At the commencement of the initial term the annual rental payable under this lease is the initial rental stipulated in the Schedule.
- 2.3 The initial rental payable in respect of the initial term is subject to adjustment during the initial term, as determined by the Minister in accordance with aquaculture policy developed under Part 4 of the Act. The adjusted rental shall be applicable in respect of the entire initial term.
- 2.4 Rental in respect of renewed terms shall be as notified by the Minister before the expiry of the initial term, and adjustments of rental in renewed terms of the lease will be applicable in accordance with the reviewed conditions.
- 2.5 Rental is payable in full within one month of commencement of the lease by direct bank transfer to the credit of a bank account nominated by the Minister, or by cheque payable to the Department for Primary Industry and Resources SA, delivered to the address stipulated by the Minister.

3. GST

- 3.1 The rental payable under this lease is exclusive of GST.
- 3.2 The lease is a taxable supply under GST Law.
- 3.3 Department of Primary Industries and Resources (ABN 53 763 159 658) is the government entity administering this lease on behalf of the Minister and is registered pursuant to the GST Law.
- 3.4 Department of Primary Industries and Resources is entitled to be treated as the maker of any taxable supply and the recipient of any taxable supply pursuant to this lease instead of the Minister for the purposes only of the GST Law.
- 3.5 The lessee must pay to the Minister, together with any payment of rental under this lease, an additional amount in respect of GST (the 'GST payment'). The GST payment is ten per cent of the rental, subject only to any change in the rate of GST under GST Law.

- 3.6 The Minister must issue to the lessee a tax invoice within 10 business days after the lessee has delivered payment of rental and the GST payment.

4. Cancellation

The Minister may cancel this lease by immediate written notice to the lessee:

- 4.1 if the lessee enters into any form of Insolvency Administration;
- 4.2 if the lessee assigns or purports to assign the lease without giving the Minister prior written notice as required by section 39 of the Act;
- 4.3 if any rent or other moneys payable by the lessee are in arrears for more than 14 days whether or not any formal demand has been made for the rent or other moneys;
- 4.4 if the lessee (being a natural person) is convicted of any indictable offence;
- 4.5 if there is any breach of any condition of a corresponding licence in respect of this lease;
- 4.6 if there is a breach of any obligation under the Act by the lessee or a licensee under a corresponding licence;
- 4.7 if a corresponding licence is cancelled; or
- 4.8 if in the opinion of the Minister the use of the leased area by or on behalf of the lessee reveals, indicates or provides reasonable grounds for the Minister to form the view or opinion that degradation or damage of an unacceptable level of coastal land or the surrounding marine environment has or is being caused by the lessee's use of the leased area or the use of the leased area by a licensee under a corresponding licence, or any activity associated with their activities and the lessee fails to comply with a notice requiring the lessee to remedy the degradation or damage, and/or cease or prevent the relevant activity within 30 days after the date the notice is served upon the lessee by or on behalf of the Minister.

5. Dealing with Lease

- 5.1 This lease is transferable in accordance with the Act (see section 39).
- 5.2 Subletting under this lease is not permitted except with the prior written consent of the Minister.

6. Marking-off

The lessee must mark-off the leased area in the manner stipulated in the Schedule.

7. Lessee's Use of Leased Area

The lessee must not use the leased area or permit it to be used for any purpose other than the Permitted Class of Aquaculture.

8. Development Requirement

The lessee must ensure that the leased area is developed and used for the Permitted Class of Aquaculture to the extent stipulated in the Schedule.

9. Consents and Approvals

- 9.1 If the lessee's use of the leased area is permissible only with the consent or approval of any authority under or in pursuance of any law enactment or order of Court the lessee must obtain such consent or approval at its own expense and the lessee shall at no time during the term of this lease do or permit or fail to do or suffer to be done any act, matter or thing whereby such consent or approval shall lapse or be revoked; and
- 9.2 The lessee must keep current during the term of this lease all consents and approvals required under the Development Act 1993 and any other law applicable to the leased area or the permitted use or the lessee's use of the leased area.

10. Public Liability Insurance

- 10.1 The lessee shall forthwith effect and keep current during the term of this lease in the joint names of the Minister and the lessee for their respective rights and interests with a reputable and solvent insurer first approved by the Minister (which approval shall not be unreasonably withheld) a policy of public risk insurance in respect of the leased area for an amount not less than the amount stipulated in the Schedule in respect of any single claim, accident or event (or such greater amount as the Minister shall from time to time reasonably require) and upon request from or on behalf of the Minister to produce a copy of such policy and a copy of a certificate of currency in respect thereof such policy to indemnify the lessee and the Minister against any and all actions, suits, claims, demands, cost, proceedings, expenses, harm and loss of any kind including arising out of or in connection with:
 - 10.1.1 the use of the leased area by the lessee or a licensee under a corresponding licence or its servants, agents and invitees; and/or
 - 10.1.2 any death, illness or bodily injury sustained by any person upon the leased area or any damage to property occurring upon the leased area.

Notwithstanding any other provision of this clause the lessee shall satisfy the obligations to effect a policy of public risk insurance if the lessee notes the leased area and the Minister's rights and interests therein and under this lease upon any policy of public risk insurance effected by the lessee in respect of other land or premises within the Commonwealth of Australia provided such policy and such insurer otherwise satisfies the requirements of this clause and the lessee upon request from or on behalf of the Minister produces a copy of such policy and a copy of a Certificate of Currency in respect thereof.

11. Statutory Requirements

- 11.1 The lessee must comply with the laws in force in South Australia in the course of any activity undertaken pursuant to this lease, or in relation to or on the leased area.
- 11.2 The lessee shall be liable to indemnify the Minister from and against all actions, proceedings, claims, demands, charges, penalties and expenses arising from any failure to comply with the laws in force in South Australia.

12. No Nuisance

- 12.1 The lessee must not do or fail to do anything on or in respect of the leased area (and must ensure that its employees, agents, contractors and invitees and any licensee under a corresponding licence do not do or fail to do anything on or in respect of the leased area):
 - 12.1.1 whereby a nuisance (whether public or private) may arise or continue upon or in connection with the leased area; or
 - 12.1.2 whereby any nuisance or disturbance could arise to any users of land near the leased area or the waters around the leased area or which could interfere with the same.

13. Indemnities

The lessee must indemnify and save harmless the Minister against:

- 13.1 all actions, claims, demands, proceedings, suits, costs, damages, expenses and losses which the Minister may suffer or incur as a result of the death of or injury to any person or loss of or damage to the property of any person arising from or out of any

occurrence in, upon or about the leased area or any part of it or the use of the leased area by the lessee or a licensee under a corresponding licence or by any employee, agent, contractor or invitee of the lessee or licensee;

- 13.2 all loss or damage to the leased area, and any property on it caused by the lessee or licensee under a corresponding licence or by any employee, agent, contractor, or invitee of the lessee or licensee or other person having business with the lessee or licensee and in particular but without limiting in any way the generality of the foregoing by reason of the use, misuse, waste or abuse of the leased area; and
- 13.3 all fees, costs, liabilities and expenses incurred by the Minister in the exercise or attempted exercise of any of the rights, authorities, powers or remedies which are exercisable by the Minister pursuant to this lease,

except to the extent caused or contributed to by any wilful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

14. Exclusion of Liability

The Minister and its servants, employees, agents, contractors and invitees shall have no responsibility or liability to the lessee and the Minister and its employees, agents, contractors and invitees for any loss or injury suffered by the lessee or to the property of the lessee except to the extent caused or contributed to by any unlawful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

15. Minister's Entry on Leased Area

- 15.1 The Minister may, on giving reasonable notice, with or without the Minister's officers, employees and/or agents, enter upon and remain on the leased area for the purpose of inspecting the leased area including in respect of the performance of the lessee's obligations and/or for the purpose of remedying any breach of the lessee's obligations under this lease or the Act in respect of the leased area or any breach by any licensee under a corresponding licence of its obligations under and pursuant to the licence or the Act, although the Minister shall be under no obligation to so remedy any such breach.
- 15.2 The Minister shall not be required to give any prior notice to the lessee before exercising its rights under and pursuant to this clause in circumstances where, in the reasonable opinion of the Minister:
- 15.2.1 it is not practicable to do so, or;
- 15.2.2 the Minister or any responsible officer, employee or agent of the Minister believes on reasonable grounds that an offence has or is being or is about to be committed on the leased area or that a breach of the terms and conditions of this lease by the lessee or any breach by any licensee of its obligations under and pursuant to the licence, has occurred, is occurring or is about to occur;
- 15.2.3 in exercising any of its rights under and pursuant to this clause the Minister shall use its reasonable endeavours not to interfere with the lawful and permitted conduct of the lessee's or a licensee's use of the leased area.

16. Contamination and Contaminating Substances

- 16.1 The lessee must not bring or permit to be brought upon the leased area any matter in any form which the handling, storage, disposal, dealing with or the escape of which may in any manner result in, cause or contribute to pollution, contamination or degradation on or to the leased area or any land or water adjacent or near to the leased area or exacerbate, add to or compound any pre-existing pollution, contamination or degradation or the feasibility, practicality or cost of its control and/or removal, unless the lessee has obtained the prior written consent of the Minister, (which consent the Minister may grant or withhold or impose conditions on in its absolute unfettered discretion).

- 16.2 Irrespective of whether the Minister gave its consent in respect of such material, compounds or substances pursuant to this clause, if during the term of this lease, or during any subsequent period in which the lessee continues to occupy or control the leased area, any pollution, contamination or degradation occurs or any exacerbation, addition to or compounding of any pollution, contamination or degradation existing prior to the date of commencement of the term of this lease occurs (other than to the extent the result of any wilful or negligent act or omission of the Minister or any agent employee or contractor of the Minister) then:

16.2.1 the lessee must forthwith notify the Minister in writing of the location, nature, extent and quantity of such substance or compound and the pollution, contamination and degradation it might cause and reasonable particulars of the long term effect of the same and likely cost of control, collection, removal and disposal;

16.2.2 the lessee must permit the Minister and any employee, agent, inspector, contractor or invitee of the Minister at all times to enter upon the leased area and to inspect any suspected notified or known pollution, contamination or degradation or any substance or compound capable of causing pollution, contamination and degradation to the leased area or the land or water adjacent to or near the leased area and to abate any actual or potential danger or hazard in or about the leased area and if such hazard or damage in the reasonable opinion of the Minister is caused by or results from the substance or compound the lessee shall pay to the Minister the costs and expenses incurred in carrying out such work; and

16.2.3 the lessee must at its own cost and expense if so required by the Minister remove any and all substances and compounds causing contributing or which could cause or contribute to pollution, contamination or degradation of the leased area (or exacerbate add to or compound any pre-existing similar condition) from all parts of the leased area.

- 16.3 During the term of this lease, the lessee must indemnify and hold harmless the Minister and keep the Minister indemnified from and against all claims, demands, actions, proceedings, judgments, orders, costs, losses, damages and expenses of any nature whatsoever suffered or incurred by the Minister as a result whether directly or otherwise of:

16.3.1 any act or omission of the lessee its servants, agents, contractors, licensees or any other person acting with its authority which results in pollution, contamination or degradation on or to the leased area or any part thereof; and

16.3.2 any failure of the lessee to comply with observe and perform in respect of the leased area the requirements imposed on tenants or occupiers of the leased area by any laws, statutory enactments or regulations made pursuant thereto (whether Federal, State or municipal) relating to the contamination and/or degradation and/or pollution of the leased area or any part thereof (the 'relevant law').

17. Lease Expiry

The lessee must, at the lessee's cost in all things immediately prior to the expiration or sooner determination of the term of this lease:

- 17.1 remove and carry away from the leased area all improvements, plant, equipment, chattels and property located or brought upon the leased area by or on behalf of the lessee and in such removal cause as little damage to the leased area as practicable;
- 17.2 upon completion of such removal, remove all debris, rubbish and waste from the leased area and rehabilitate

the same in respect of any damage caused thereto by the location thereon of such waste and debris; and

- 17.3 reinstate and rehabilitate the leased area and any portions thereof affected by the conduct of the permitted use or the lessee's use of the same to the condition existing prior to commencement of the term of this lease. Such rehabilitation shall be performed by the lessee at its cost in all things to the reasonable satisfaction of the Minister.

18. Occupation

The lessee has the rights of occupation provided in the Act.

19. Default Costs

- 19.1 The lessee is liable to pay the Minister reasonable costs and expenses including but without limiting the generality thereof reasonable professional charges and workmen's wages:

- 19.1.1 of and incidental to the recovery of annual rent due and unpaid interest thereon; and
- 19.1.2 incurred by remedying or attempting to remedy any breach of the lessee's obligations under this lease.

- 19.2 Any amount payable by the lessee under this clause is payable on demand by the Minister.

20. Default Interest

Without prejudice to the rights, powers and remedies of the Minister otherwise under this lease the lessee must pay to the Minister interest at the overdrawn rate charged from time to time by the Minister's Bankers on overdrafts not exceeding \$50 000 on any money due but unpaid after the same fell due and payable by the lessee to the Minister on any account whatsoever under this lease. Interest shall be computed from the due date for the payment of the money in respect of which the interest is chargeable until payment of such money is made in full and shall be recoverable in like manner as rent in arrears.

21. Minister may remedy Default

- 21.1 If the lessee fails or neglects to perform any obligation or to observe any provision to be performed or observed by the lessee under this lease or if any licensee under the licence is in breach or default under the licence and if such failure or neglect shall continue for one month after the Minister has given to the lessee notice in writing requiring the lessee to perform such obligation or to observe such provision then the Minister may (but without being bound so to do and without prejudice to any other right or remedy) perform that obligation or observe that provision and all reasonable costs and expenses including overtime charges, fines, levies and penalties due to such default or incurred by the Minister in remedying the same shall be paid by the lessee to the Minister.

22. Waiver

No forbearance by the Minister in respect of any breach of any obligation contained or implied in this lease shall operate as a waiver of another breach of the same or of any other obligation contained or implied in this lease.

23. Joint Lessees

If the lessee constitutes more than one natural person or bodies corporate or a partnership:

- 23.1 the persons comprising the lessee are jointly and severally bound by the conditions of this lease; and
- 23.2 notice to one of the natural persons or bodies corporate comprising the lessee shall be notice to all persons comprising the lessee.

24. Guarantee or Indemnity

- 24.1 The lessee must within five business days of receipt of this lease but with effect from the date of commencement of the term of this lease either:

- 24.1.1 provide a guarantee from its bankers; or
- 24.1.2 contribute to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry,

to and in favour of and for the benefit of the Minister by way of security for the due and punctual performance by the lessee of the terms and conditions of this lease and in particular the obligations of the lessee to rehabilitate the leased area immediately prior to the expiration or sooner determination of the term of this lease upon the following terms and conditions:

- 24.1.3 the lessee shall either:

- (a) arrange for the provision from a bank as defined in the Banking Act 1959 or established by an Act of the Parliament of South Australia of an irrevocable and continuing bank guarantee for an amount stipulated from time to time by the Minister (the 'Bank Guarantee'). The Bank Guarantee shall otherwise contain terms and conditions which are reasonably satisfactory to the Minister. The Bank Guarantee shall be continuously in existence until the Minister agrees to release the Bank Guarantee under this clause. The guarantee shall entitle the Minister to make demand on the Bank Guarantee at any time if there has been a failure by the lessee to pay any money at the time specified for such payment or if there has been any other breach or default by the lessee for the due and punctual performance of the covenants, obligations and provisions on the part of the lessee under this lease. If the Minister makes a demand on the Bank Guarantee either in whole or in part and appropriate such funds then the lessee shall within five days of such demand by the Minister provide the Minister with a fresh Bank Guarantee for an amount equal to the amount so demanded and paid by the Bank to the Minister on the Bank Guarantee and on the same terms and conditions as specified in this clause. The lessee shall not be entitled to a release or a re-delivery nor to request a release or re-delivery of the Bank Guarantee until one month after the expiration of the term of this lease. Notwithstanding any other provisions of this clause the Minister shall be entitled to refuse to release or deliver up to the lessee the Bank Guarantee if the Minister reasonably considers that there may be unremedied breaches or contingent obligations under the lease yet to mature and to be performed by the lessee at the time of the request to the Minister to release or re-deliver the Bank Guarantee; or

- (b) make such contributions to the indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industries as required by the Minister or the administrator of such scheme, and if required make such contributions on an annual or other basis and in such amounts as required by the Minister or the administrator of such scheme;

- 24.1.4 the provisions of this clause do not in any way limit, restrict or prejudice the rights of the Minister to exercise such additional rights, remedies and powers as the Minister may consider appropriate as a result of the lessee's default;

24.1.5 notwithstanding any other provision of this clause, if the lessee transfers or assigns its estate and interest in this lease, then upon and as and from the date ('the Date') such transferee or assignee providing to the Minister either a guarantee from its bankers as satisfies the requirements of this clause or evidence of having contributed to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry in such amount as required by this clause, the Minister shall from the date fully free release and discharge the lessee from any and all obligations under and pursuant to this clause and shall release and re-deliver to the lessee any bank.

24.2 If the lessee has already provided a guarantee or contributed to a fund in accordance with obligations under previous arrangements to the extent required under this lease, then the lessee is excused from the initial requirement to provide a guarantee or contribution, but not from subsequent obligations under this clause.

25. Disclaimer

The Minister does not expressly or impliedly warrant that the leased area is now or will remain suitable or adequate for all or any of the purposes of the lessee and all warranties (if any) as to the suitability and adequateness of the leased area that might otherwise be implied are expressly negated.

26. Delegation

Unless expressly excluded by any provision of this lease, any consent, any notice, any consultation or any other thing which pursuant to the terms of this lease is either required to be given, done or performed by the Minister or is permitted to be given, done or performed by the Minister may for the purposes of this lease be properly given, done or performed by a person authorised by the Minister to act on the Minister's behalf.

27. Special Conditions

Incorporated in this lease are any special conditions set out in the Schedule.

28. Notices

- 28.1 Notice to the lessee is valid if sent by post to the address for notices in the Schedule, or such other address as is notified by the lessee to the Minister in writing.
- 28.2 The lessee may give notice to the Minister by posting written notice addressed to PIRSA Aquaculture, G.P.O. Box 1625, Adelaide, S.A. 5001.

29. Definitions and Interpretation

In this lease unless inconsistent with the context:

- 'business days' means Monday to Friday (inclusive) excluding any public holiday;
- 'corresponding licence' has the meaning attributed in the Act;
- 'GST' means the tax imposed by the GST Law;
- 'GST Law' has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999;
- 'Insolvency Administration' means, if the lessee is a corporation:
 - an administrator is appointed to the lessee or action is taken to make such an appointment;
 - the lessee resolves to be wound up;
 - an application is made to a court for an order or an order is made that the lessee be wound up (whether on grounds of insolvency or otherwise);
 - the lessee ceases to carry on business;
 - a receiver or a receiver and manager of property of the lessee is appointed whether by a court or other-wise;

- an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the lessee or one of them is appointed, whether or not under an order;
- the lessee enters into a compromise or arrangement with its creditors or a class of them; or
- the lessee is or states that it is unable to pay its debts when they fall due;

'Insolvency Administration' means if the lessee is a natural person:

- the lessee has committed an act of bankruptcy as contemplated by the Bankruptcy Act 1966;
- the lessee is unable to pay his or her debts as and when they become due and payable;
- the court has made a sequestration order against the lessee's estate;
- a creditors' petition has been presented against the lessee;
- the lessee has presented to the Official Receiver a declaration of intention to present a debtor's petition;
- the lessee becomes a bankrupt;
- a meeting of creditors of the lessee is convened; or
- the lessee lodges with his or her trustee a proposal to his or her creditors for a composition in satisfaction of his or her debts or a scheme of arrangement of his or her affairs;

'Lessee' means the party described in this lease and the heirs, executors, administrators and permitted assigns thereof and if a body corporate, its successors and permitted assigns;

'Minister' means the Minister for Agriculture, Food and Fisheries, a body corporate under the Administrative Arrangements Act 1994;

'Permitted Use' means the use of the leased area for such aquaculture purposes as are specified in the Schedule to this lease;

'Leased Area' means the area comprised of State waters or State waters and adjacent land within the meaning of the Harbors and Navigation Act 1993, described in the Schedule to this lease;

'Taxable Supply' has the meaning attributed in the GST Act;

'Tax Invoice' has the meaning attributed in the GST Act;

'Term of this Lease' or the 'Term' means the initial term granted by the Minister (unless sooner determined) and any extension of such initial term.

30. Interpretation

- 30.1 Words importing the singular shall embrace the plural and words importing the masculine gender shall embrace the feminine and neuter genders and *vice versa* respectively.
- 30.2 Any reference to a person shall include a corporate body and *vice versa*.
- 30.3 Where two or more persons are included in the designation the 'lessee' the obligations on the part of the lessee contained in this lease shall bind such persons and any two or greater number of them jointly and each of them severally and the expression the 'lessee' shall include all or any one or more of such persons.
- 30.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for it and the regulations, by-laws or other orders for the time being made under that statute.
- 30.5 Headings are for convenience of reference only and shall not affect the construction or interpretation of the covenants of this lease.

Dated 23 December 2002.

Signed by the General Manager, Aquaculture of the Department for Primary Industries and Resources as delegate of the Minister for Transport (as successor of) the Minister for Transport and Urban Planning, pursuant to a delegation made on 13 March 2000 under section 11 (1) of the Harbours and Navigation Act 1993.

I. NIGHTINGALE, General Manager, Aquaculture

AQUACULTURE ACT 2001

AQUACULTURE LEASE PL00006

Class of Aquaculture (Tuna)

THIS Pilot Lease is granted under the Aquaculture Act 2001 ('the Act') pursuant to section 3 (2) of the Schedule to the Act and Division 4 of Part 6 of the Act.

This lease is granted to the lessee for the term of one year, by the Minister for Agriculture, Food and Fisheries ('the Minister') for the purpose of conducting the Class of Aquaculture nominated in the Schedule ('the permitted use'), subject to the conditions set out in this document.

This lease is granted with the concurrence of the Minister for Transport as required in section 20 of the Aquaculture Act 2001 and section 15 of the Harbours and Navigation Act 1993.

SCHEDULE

Lessee:

Sarunic & Sons Pty Ltd (14034)
7 Jordan Court
Port Lincoln, S.A. 5606

Leased Area:

GDA 94—Zone 53
593851E 6171999N
594650E 6171999N
594651E 6171649N
593851E 6171649N

Licensed Hectares

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Permitted Class of Aquaculture:

Tuna Aquaculture

Term of the Lease:

Twelve months

Initial Rental:

\$350.00

Marking-off requirements:

The marked-off area must be marked with 30 cm diameter white buoys spaced at 50 m intervals and positioned no more than 50 m from structures located on the site.

Amount of Public Liability Insurance:

\$10 million

Amount of Guarantee or contribution to indemnity fund:

\$10 000

Extent of Leased Area that must be developed:

During the term of this lease at least one cage of at least 20 m diameter must be installed on the site.

1. Term and Renewal

- 1.1 The term of this lease is the term of one year commencing on 1 July 2002 and ending on 30 June 2003 ('the initial term').
- 1.2 The term is renewable in accordance with section 38 of the Act for successive terms, by the lessee giving the Minister notice no earlier than two months before the expiry of the term, and no later than one month before the expiry of the term, unless there is at the expiry of the lease a default under the lease or any corresponding licence.
- 1.3 Any renewal of the term shall be subject to conditions in accordance with standard conditions under aquaculture policies developed under Part 4 of the Act, and such other conditions as are determined by the Minister ('the reviewed conditions').
- 1.4 Upon renewal the Minister may issue either a certificate of renewal, or a new lease, incorporating the reviewed conditions.

- 1.5 The Minister may, at the time of renewal of a term, vary the term subject to the maximum term for a production lease permitted by the Act.

2. Rental

- 2.1 The lessee must pay to the Minister the annual rental, free from exchange, deduction or abatement.
- 2.2 At the commencement of the initial term the annual rental payable under this lease is the initial rental stipulated in the Schedule.
- 2.3 The initial rental payable in respect of the initial term is subject to adjustment during the initial term, as determined by the Minister in accordance with aquaculture policy developed under Part 4 of the Act. The adjusted rental shall be applicable in respect of the entire initial term.
- 2.4 Rental in respect of renewed terms shall be as notified by the Minister before the expiry of the initial term, and adjustments of rental in renewed terms of the lease will be applicable in accordance with the reviewed conditions.
- 2.5 Rental is payable in full within one month of commencement of the lease by direct bank transfer to the credit of a bank account nominated by the Minister, or by cheque payable to the Department for Primary Industry and Resources SA, delivered to the address stipulated by the Minister.

3. GST

- 3.1 The rental payable under this lease is exclusive of GST.
- 3.2 The lease is a taxable supply under GST Law.
- 3.3 Department of Primary Industries and Resources (ABN 53 763 159 658) is the government entity administering this lease on behalf of the Minister and is registered pursuant to the GST Law.
- 3.4 Department of Primary Industries and Resources is entitled to be treated as the maker of any taxable supply and the recipient of any taxable supply pursuant to this lease instead of the Minister for the purposes only of the GST Law.
- 3.5 The lessee must pay to the Minister, together with any payment of rental under this lease, an additional amount in respect of GST (the 'GST payment'). The GST payment is ten per cent of the rental, subject only to any change in the rate of GST under GST Law.
- 3.6 The Minister must issue to the lessee a tax invoice within 10 business days after the lessee has delivered payment of rental and the GST payment.

4. Cancellation

The Minister may cancel this lease by immediate written notice to the lessee:

- 4.1 if the lessee enters into any form of Insolvency Administration;
- 4.2 if the lessee assigns or purports to assign the lease without giving the Minister prior written notice as required by section 39 of the Act;
- 4.3 if any rent or other moneys payable by the lessee are in arrears for more than 14 days whether or not any formal demand has been made for the rent or other moneys;
- 4.4 if the lessee (being a natural person) is convicted of any indictable offence;
- 4.5 if there is any breach of any condition of a corresponding licence in respect of this lease;
- 4.6 if there is a breach of any obligation under the Act by the lessee or a licensee under a corresponding licence;
- 4.7 if a corresponding licence is cancelled; or
- 4.8 if in the opinion of the Minister the use of the leased area by or on behalf of the lessee reveals, indicates or provides reasonable grounds for the Minister to form the view or opinion that degradation or damage of an unacceptable level of coastal land or the surrounding marine environment has or is being caused by the

lessee's use of the leased area or the use of the leased area by a licensee under a corresponding licence, or any activity associated with their activities and the lessee fails to comply with a notice requiring the lessee to remedy the degradation or damage, and/or cease or prevent the relevant activity within 30 days after the date the notice is served upon the lessee by or on behalf of the Minister.

5. *Dealing with Lease*

- 5.1 This lease is transferable in accordance with the Act (see section 39).
- 5.2 Subletting under this lease is not permitted except with the prior written consent of the Minister.

6. *Marking-off*

The lessee must mark-off the leased area in the manner stipulated in the Schedule.

7. *Lessee's Use of Leased Area*

The lessee must not use the leased area or permit it to be used for any purpose other than the Permitted Class of Aquaculture.

8. *Development Requirement*

The lessee must ensure that the leased area is developed and used for the Permitted Class of Aquaculture to the extent stipulated in the Schedule.

9. *Consents and Approvals*

- 9.1 If the lessee's use of the leased area is permissible only with the consent or approval of any authority under or in pursuance of any law enactment or order of Court the lessee must obtain such consent or approval at its own expense and the lessee shall at no time during the term of this lease do or permit or fail to do or suffer to be done any act, matter or thing whereby such consent or approval shall lapse or be revoked; and
- 9.2 The lessee must keep current during the term of this lease all consents and approvals required under the Development Act 1993 and any other law applicable to the leased area or the permitted use or the lessee's use of the leased area.

10. *Public Liability Insurance*

- 10.1 The lessee shall forthwith effect and keep current during the term of this lease in the joint names of the Minister and the lessee for their respective rights and interests with a reputable and solvent insurer first approved by the Minister (which approval shall not be unreasonably withheld) a policy of public risk insurance in respect of the leased area for an amount not less than the amount stipulated in the Schedule in respect of any single claim, accident or event (or such greater amount as the Minister shall from time to time reasonably require) and upon request from or on behalf of the Minister to produce a copy of such policy and a copy of a certificate of currency in respect thereof such policy to indemnify the lessee and the Minister against any and all actions, suits, claims, demands, cost, proceedings, expenses, harm and loss of any kind including arising out of or in connection with:
- 10.1.1 the use of the leased area by the lessee or a licensee under a corresponding licence or its servants, agents and invitees; and/or
- 10.1.2 any death, illness or bodily injury sustained by any person upon the leased area or any damage to property occurring upon the leased area.

Notwithstanding any other provision of this clause the lessee shall satisfy the obligations to effect a policy of public risk insurance if the lessee notes the leased area and the Minister's rights and interests therein and under this lease upon any policy of public risk insurance effected by the lessee in respect of other land or premises within the Commonwealth of Australia provided such policy and such insurer

otherwise satisfies the requirements of this clause and the lessee upon request from or on behalf of the Minister produces a copy of such policy and a copy of a Certificate of Currency in respect thereof.

11. *Statutory Requirements*

- 11.1 The lessee must comply with the laws in force in South Australia in the course of any activity undertaken pursuant to this lease, or in relation to or on the leased area.
- 11.2 The lessee shall be liable to indemnify the Minister from and against all actions, proceedings, claims, demands, charges, penalties and expenses arising from any failure to comply with the laws in force in South Australia.

12. *No Nuisance*

- 12.1 The lessee must not do or fail to do anything on or in respect of the leased area (and must ensure that its employees, agents, contractors and invitees and any licensee under a corresponding licence do not do or fail to do anything on or in respect of the leased area):
- 12.1.1 whereby a nuisance (whether public or private) may arise or continue upon or in connection with the leased area; or
- 12.1.2 whereby any nuisance or disturbance could arise to any users of land near the leased area or the waters around the leased area or which could interfere with the same.

13. *Indemnities*

The lessee must indemnify and save harmless the Minister against:

- 13.1 all actions, claims, demands, proceedings, suits, costs, damages, expenses and losses which the Minister may suffer or incur as a result of the death of or injury to any person or loss of or damage to the property of any person arising from or out of any occurrence in, upon or about the leased area or any part of it or the use of the leased area by the lessee or a licensee under a corresponding licence or by any employee, agent, contractor or invitee of the lessee or licensee;
- 13.2 all loss or damage to the leased area, and any property on it caused by the lessee or licensee under a corresponding licence or by any employee, agent, contractor, or invitee of the lessee or licensee or other person having business with the lessee or licensee and in particular but without limiting in any way the generality of the foregoing by reason of the use, misuse, waste or abuse of the leased area; and
- 13.3 all fees, costs, liabilities and expenses incurred by the Minister in the exercise or attempted exercise of any of the rights, authorities, powers or remedies which are exercisable by the Minister pursuant to this lease,

except to the extent caused or contributed to by any wilful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

14. *Exclusion of Liability*

The Minister and its servants, employees, agents, contractors and invitees shall have no responsibility or liability to the lessee and the Minister and its employees, agents, contractors and invitees for any loss or injury suffered by the lessee or to the property of the lessee except to the extent caused or contributed to by any unlawful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

15. *Minister's Entry on Leased Area*

- 15.1 The Minister may, on giving reasonable notice, with or without the Minister's officers, employees and/or agents, enter upon and remain on the leased area for the purpose of inspecting the leased area including in respect of the performance of the lessee's obligations and/or for the purpose of remedying any breach of

the lessee's obligations under this lease or the Act in respect of the leased area or any breach by any licensee under a corresponding licence of its obligations under and pursuant to the licence or the Act, although the Minister shall be under no obligation to so remedy any such breach.

- 15.2 The Minister shall not be required to give any prior notice to the lessee before exercising its rights under and pursuant to this clause in circumstances where, in the reasonable opinion of the Minister:

15.2.1 it is not practicable to do so, or;

15.2.2 the Minister or any responsible officer, employee or agent of the Minister believes on reasonable grounds that an offence has or is being or is about to be committed on the leased area or that a breach of the terms and conditions of this lease by the lessee or any breach by any licensee of its obligations under and pursuant to the licence, has occurred, is occurring or is about to occur;

15.2.3 in exercising any of its rights under and pursuant to this clause the Minister shall use its reasonable endeavours not to interfere with the lawful and permitted conduct of the lessee's or a licensee's use of the leased area.

16. Contamination and Contaminating Substances

- 16.1 The lessee must not bring or permit to be brought upon the leased area any matter in any form which the handling, storage, disposal, dealing with or the escape of which may in any manner result in, cause or contribute to pollution, contamination or degradation on or to the leased area or any land or water adjacent or near to the leased area or exacerbate, add to or compound any pre-existing pollution, contamination or degradation or the feasibility, practicality or cost of its control and/or removal, unless the lessee has obtained the prior written consent of the Minister, (which consent the Minister may grant or withhold or impose conditions on in its absolute unfettered discretion).

- 16.2 Irrespective of whether the Minister gave its consent in respect of such material, compounds or substances pursuant to this clause, if during the term of this lease, or during any subsequent period in which the lessee continues to occupy or control the leased area, any pollution, contamination or degradation occurs or any exacerbation, addition to or compounding of any pollution, contamination or degradation existing prior to the date of commencement of the term of this lease occurs (other than to the extent the result of any wilful or negligent act or omission of the Minister or any agent employee or contractor of the Minister) then:

16.2.1 the lessee must forthwith notify the Minister in writing of the location, nature, extent and quantity of such substance or compound and the pollution, contamination and degradation it might cause and reasonable particulars of the long term effect of the same and likely cost of control, collection, removal and disposal;

16.2.2 the lessee must permit the Minister and any employee, agent, inspector, contractor or invitee of the Minister at all times to enter upon the leased area and to inspect any suspected notified or known pollution, contamination or degradation or any substance or compound capable of causing pollution, contamination and degradation to the leased area or the land or water adjacent to or near the leased area and to abate any actual or potential danger or hazard in or about the leased area and if such hazard or damage in

the reasonable opinion of the Minister is caused by or results from the substance or compound the lessee shall pay to the Minister the costs and expenses incurred in carrying out such work; and

16.2.3 the lessee must at its own cost and expense if so required by the Minister remove any and all substances and compounds causing contributing or which could cause or contribute to pollution, contamination or degradation of the leased area (or exacerbate add to or compound any pre-existing similar condition) from all parts of the leased area.

- 16.3 During the term of this lease, the lessee must indemnify and hold harmless the Minister and keep the Minister indemnified from and against all claims, demands, actions, proceedings, judgments, orders, costs, losses, damages and expenses of any nature whatsoever suffered or incurred by the Minister as a result whether directly or otherwise of:

16.3.1 any act or omission of the lessee its servants, agents, contractors, licensees or any other person acting with its authority which results in pollution, contamination or degradation on or to the leased area or any part thereof; and

16.3.2 any failure of the lessee to comply with observe and perform in respect of the leased area the requirements imposed on tenants or occupiers of the leased area by any laws, statutory enactments or regulations made pursuant thereto (whether Federal, State or municipal) relating to the contamination and/or degradation and/or pollution of the leased area or any part thereof (the 'relevant law').

17. Lease Expiry

The lessee must, at the lessee's cost in all things immediately prior to the expiration or sooner determination of the term of this lease:

17.1 remove and carry away from the leased area all improvements, plant, equipment, chattels and property located or brought upon the leased area by or on behalf of the lessee and in such removal cause as little damage to the leased area as practicable;

17.2 upon completion of such removal, remove all debris, rubbish and waste from the leased area and rehabilitate the same in respect of any damage caused thereto by the location thereon of such waste and debris; and

17.3 reinstate and rehabilitate the leased area and any portions thereof affected by the conduct of the permitted use or the lessee's use of the same to the condition existing prior to commencement of the term of this lease. Such rehabilitation shall be performed by the lessee at its cost in all things to the reasonable satisfaction of the Minister.

18. Occupation

The lessee has the rights of occupation provided in the Act.

19. Default Costs

19.1 The lessee is liable to pay the Minister reasonable costs and expenses including but without limiting the generality thereof reasonable professional charges and workmen's wages:

19.1.1 of and incidental to the recovery of annual rent due and unpaid interest thereon; and

19.1.2 incurred by remedying or attempting to remedy any breach of the lessee's obligations under this lease.

19.2 Any amount payable by the lessee under this clause is payable on demand by the Minister.

20. *Default Interest*

Without prejudice to the rights, powers and remedies of the Minister otherwise under this lease the lessee must pay to the Minister interest at the overdrawn rate charged from time to time by the Minister's Bankers on overdrafts not exceeding \$50 000 on any money due but unpaid after the same fell due and payable by the lessee to the Minister on any account whatsoever under this lease. Interest shall be computed from the due date for the payment of the money in respect of which the interest is chargeable until payment of such money is made in full and shall be recoverable in like manner as rent in arrears.

21. *Minister may remedy Default*

- 21.1 If the lessee fails or neglects to perform any obligation or to observe any provision to be performed or observed by the lessee under this lease or if any licensee under the licence is in breach or default under the licence and if such failure or neglect shall continue for one month after the Minister has given to the lessee notice in writing requiring the lessee to perform such obligation or to observe such provision then the Minister may (but without being bound so to do and without prejudice to any other right or remedy) perform that obligation or observe that provision and all reasonable costs and expenses including overtime charges, fines, levies and penalties due to such default or incurred by the Minister in remedying the same shall be paid by the lessee to the Minister.

22. *Waiver*

No forbearance by the Minister in respect of any breach of any obligation contained or implied in this lease shall operate as a waiver of another breach of the same or of any other obligation contained or implied in this lease.

23. *Joint Lessees*

If the lessee constitutes more than one natural person or bodies corporate or a partnership:

- 23.1 the persons comprising the lessee are jointly and severally bound by the conditions of this lease; and
 23.2 notice to one of the natural persons or bodies corporate comprising the lessee shall be notice to all persons comprising the lessee.

24. *Guarantee or Indemnity*

- 24.1 The lessee must within five business days of receipt of this lease but with effect from the date of commencement of the term of this lease either:

- 24.1.1 provide a guarantee from its bankers; or
 24.1.2 contribute to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry,

to and in favour of and for the benefit of the Minister by way of security for the due and punctual performance by the lessee of the terms and conditions of this lease and in particular the obligations of the lessee to rehabilitate the leased area immediately prior to the expiration or sooner determination of the term of this lease upon the following terms and conditions:

- 24.1.3 the lessee shall either:

- (a) arrange for the provision from a bank as defined in the Banking Act 1959 or established by an Act of the Parliament of South Australia of an irrevocable and continuing bank guarantee for an amount stipulated from time to time by the Minister (the 'Bank Guarantee'). The Bank Guarantee shall otherwise contain terms and conditions which are reasonably satisfactory to the Minister. The Bank Guarantee shall be continuously in existence until the Minister agrees to release the Bank Guarantee under this clause. The guarantee shall entitle the Minister to make demand on the Bank Guarantee at any time if there

has been a failure by the lessee to pay any money at the time specified for such payment or if there has been any other breach or default by the lessee for the due and punctual performance of the covenants, obligations and provisions on the part of the lessee under this lease. If the Minister makes a demand on the Bank Guarantee either in whole or in part and appropriate such funds then the lessee shall within five days of such demand by the Minister provide the Minister with a fresh Bank Guarantee for an amount equal to the amount so demanded and paid by the Bank to the Minister on the Bank Guarantee and on the same terms and conditions as specified in this clause. The lessee shall not be entitled to a release or a re-delivery nor to request a release or re-delivery of the Bank Guarantee until one month after the expiration of the term of this lease. Notwithstanding any other provisions of this clause the Minister shall be entitled to refuse to release or deliver up to the lessee the Bank Guarantee if the Minister reasonably considers that there may be unremedied breaches or contingent obligations under the lease yet to mature and to be performed by the lessee at the time of the request to the Minister to release or re-deliver the Bank Guarantee; or

- (b) make such contributions to the indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industries as required by the Minister or the administrator of such scheme, and if required make such contributions on an annual or other basis and in such amounts as required by the Minister or the administrator of such scheme;

24.1.4 the provisions of this clause do not in any way limit, restrict or prejudice the rights of the Minister to exercise such additional rights, remedies and powers as the Minister may consider appropriate as a result of the lessee's default;

24.1.5 notwithstanding any other provision of this clause, if the lessee transfers or assigns its estate and interest in this lease, then upon and as and from the date ('the Date') such transferee or assignee providing to the Minister either a guarantee from its bankers as satisfies the requirements of this clause or evidence of having contributed to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry in such amount as required by this clause, the Minister shall from the date fully free release and discharge the lessee from any and all obligations under and pursuant to this clause and shall release and re-deliver to the lessee any bank.

- 24.2 If the lessee has already provided a guarantee or contributed to a fund in accordance with obligations under previous arrangements to the extent required under this lease, then the lessee is excused from the initial requirement to provide a guarantee or contribution, but not from subsequent obligations under this clause.

25. *Disclaimer*

The Minister does not expressly or impliedly warrant that the leased area is now or will remain suitable or adequate for all or any of the purposes of the lessee and all warranties (if any) as to the suitability and adequateness of the leased area that might otherwise be implied are expressly negated.

26. Delegation

Unless expressly excluded by any provision of this lease, any consent, any notice, any consultation or any other thing which pursuant to the terms of this lease is either required to be given, done or performed by the Minister or is permitted to be given, done or performed by the Minister may for the purposes of this lease be properly given, done or performed by a person authorised by the Minister to act on the Minister's behalf.

27. Special Conditions

Incorporated in this lease are any special conditions set out in the Schedule.

28. Notices

- 28.1 Notice to the lessee is valid if sent by post to the address for notices in the Schedule, or such other address as is notified by the lessee to the Minister in writing.
- 28.2 The lessee may give notice to the Minister by posting written notice addressed to PIRSA Aquaculture, G.P.O. Box 1625, Adelaide, S.A. 5001.

29. Definitions and Interpretation

In this lease unless inconsistent with the context:

- 'business days' means Monday to Friday (inclusive) excluding any public holiday;
- 'corresponding licence' has the meaning attributed in the Act;
- 'GST' means the tax imposed by the GST Law;
- 'GST Law' has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999;
- 'Insolvency Administration' means, if the lessee is a corporation:
- an administrator is appointed to the lessee or action is taken to make such an appointment;
 - the lessee resolves to be wound up;
 - an application is made to a court for an order or an order is made that the lessee be wound up (whether on grounds of insolvency or otherwise);
 - the lessee ceases to carry on business;
 - a receiver or a receiver and manager of property of the lessee is appointed whether by a court or other-wise;
 - an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the lessee or one of them is appointed, whether or not under an order;
 - the lessee enters into a compromise or arrangement with its creditors or a class of them; or
 - the lessee is or states that it is unable to pay its debts when they fall due;
- 'Insolvency Administration' means if the lessee is a natural person:
- the lessee has committed an act of bankruptcy as contemplated by the Bankruptcy Act 1966;
 - the lessee is unable to pay his or her debts as and when they become due and payable;
 - the court has made a sequestration order against the lessee's estate;
 - a creditors' petition has been presented against the lessee;
 - the lessee has presented to the Official Receiver a declaration of intention to present a debtor's petition;
 - the lessee becomes a bankrupt;
 - a meeting of creditors of the lessee is convened; or

- the lessee lodges with his or her trustee a proposal to his or her creditors for a composition in satisfaction of his or her debts or a scheme of arrangement of his or her affairs;

'Lessee' means the party described in this lease and the heirs, executors, administrators and permitted assigns thereof and if a body corporate, its successors and permitted assigns;

'Minister' means the Minister for Agriculture, Food and Fisheries, a body corporate under the Administrative Arrangements Act 1994;

'Permitted Use' means the use of the leased area for such aquaculture purposes as are specified in the Schedule to this lease;

'Leased Area' means the area comprised of State waters or State waters and adjacent land within the meaning of the Harbors and Navigation Act 1993, described in the Schedule to this lease;

'Taxable Supply' has the meaning attributed in the GST Act;

'Tax Invoice' has the meaning attributed in the GST Act;

'Term of this Lease' or the 'Term' means the initial term granted by the Minister (unless sooner determined) and any extension of such initial term.

30. Interpretation

- 30.1 Words importing the singular shall embrace the plural and words importing the masculine gender shall embrace the feminine and neuter genders and *vice versa* respectively.
- 30.2 Any reference to a person shall include a corporate body and *vice versa*.
- 30.3 Where two or more persons are included in the designation the 'lessee' the obligations on the part of the lessee contained in this lease shall bind such persons and any two or greater number of them jointly and each of them severally and the expression the 'lessee' shall include all or any one or more of such persons.
- 30.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for it and the regulations, by-laws or other orders for the time being made under that statute.
- 30.5 Headings are for convenience of reference only and shall not affect the construction or interpretation of the covenants of this lease.

Dated 23 December 2002.

Signed by the General Manager, Aquaculture of the Department for Primary Industries and Resources as delegate of the Minister for Transport (as successor of) the Minister for Transport and Urban Planning, pursuant to a delegation made on 13 March 2000 under section 11 (1) of the Harbors and Navigation Act 1993.

I. NIGHTINGALE, General Manager, Aquaculture

AQUACULTURE ACT 2001
AQUACULTURE LEASE PL00007
Class of Aquaculture (Tuna)

THIS Pilot Lease is granted under the Aquaculture Act 2001 ('the Act') pursuant to section 3 (2) of the Schedule to the Act and Division 4 of Part 6 of the Act.

This lease is granted to the lessee for the term of one year, by the Minister for Agriculture, Food and Fisheries ('the Minister') for the purpose of conducting the Class of Aquaculture nominated in the Schedule ('the permitted use'), subject to the conditions set out in this document.

This lease is granted with the concurrence of the Minister for Transport as required in section 20 of the Aquaculture Act 2001 and section 15 of the Harbours and Navigation Act 1993.

SCHEDULE

Lessee:

Lucky S. Fishing Pty Ltd (30683)
38 Parnkalla Avenue
Port Lincoln, S.A. 5606

Leased Area:

Licensed
Hectares

GDA 94—Zone 53
595917E 6170338N
596291E 6170338N
596291E 6169616N
595917E 6169616N

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Permitted Class of Aquaculture:

Tuna Aquaculture

Term of the Lease:

Twelve months

Initial Rental:

\$350.00

Marking-off requirements:

The marked-off area must be marked with 30 cm diameter white buoys spaced at 50 m intervals and positioned no more than 50 m from structures located on the site.

Amount of Public Liability Insurance:

\$10 million

Amount of Guarantee or contribution to indemnity fund:

\$10 000

Extent of Leased Area that must be developed:

During the term of this lease at least one cage of at least 20 m diameter must be installed on the site.

1. *Term and Renewal*

- 1.1 The term of this lease is the term of one year commencing on 1 July 2002 and ending on 30 June 2003 ('the initial term').
- 1.2 The term is renewable in accordance with section 38 of the Act for successive terms, by the lessee giving the Minister notice no earlier than two months before the expiry of the term, and no later than one month before the expiry of the term, unless there is at the expiry of the lease a default under the lease or any corresponding licence.
- 1.3 Any renewal of the term shall be subject to conditions in accordance with standard conditions under aquaculture policies developed under Part 4 of the Act, and such other conditions as are determined by the Minister ('the reviewed conditions').
- 1.4 Upon renewal the Minister may issue either a certificate of renewal, or a new lease, incorporating the reviewed conditions.
- 1.5 The Minister may, at the time of renewal of a term, vary the term subject to the maximum term for a production lease permitted by the Act.

2. *Rental*

- 2.1 The lessee must pay to the Minister the annual rental, free from exchange, deduction or abatement.
- 2.2 At the commencement of the initial term the annual rental payable under this lease is the initial rental stipulated in the Schedule.
- 2.3 The initial rental payable in respect of the initial term is subject to adjustment during the initial term, as determined by the Minister in accordance with aquaculture policy developed under Part 4 of the Act. The adjusted rental shall be applicable in respect of the entire initial term.
- 2.4 Rental in respect of renewed terms shall be as notified by the Minister before the expiry of the initial term, and adjustments of rental in renewed terms of the lease will be applicable in accordance with the reviewed conditions.

2.5 Rental is payable in full within one month of commencement of the lease by direct bank transfer to the credit of a bank account nominated by the Minister, or by cheque payable to the Department for Primary Industry and Resources SA, delivered to the address stipulated by the Minister.

3. *GST*

- 3.1 The rental payable under this lease is exclusive of GST.
- 3.2 The lease is a taxable supply under GST Law.
- 3.3 Department of Primary Industries and Resources (ABN 53 763 159 658) is the government entity administering this lease on behalf of the Minister and is registered pursuant to the GST Law.
- 3.4 Department of Primary Industries and Resources is entitled to be treated as the maker of any taxable supply and the recipient of any taxable supply pursuant to this lease instead of the Minister for the purposes only of the GST Law.
- 3.5 The lessee must pay to the Minister, together with any payment of rental under this lease, an additional amount in respect of GST (the 'GST payment'). The GST payment is ten per cent of the rental, subject only to any change in the rate of GST under GST Law.
- 3.6 The Minister must issue to the lessee a tax invoice within 10 business days after the lessee has delivered payment of rental and the GST payment.

4. *Cancellation*

The Minister may cancel this lease by immediate written notice to the lessee:

- 4.1 if the lessee enters into any form of Insolvency Administration;
- 4.2 if the lessee assigns or purports to assign the lease without giving the Minister prior written notice as required by section 39 of the Act;
- 4.3 if any rent or other moneys payable by the lessee are in arrears for more than 14 days whether or not any formal demand has been made for the rent or other moneys;
- 4.4 if the lessee (being a natural person) is convicted of any indictable offence;
- 4.5 if there is any breach of any condition of a corresponding licence in respect of this lease;
- 4.6 if there is a breach of any obligation under the Act by the lessee or a licensee under a corresponding licence;
- 4.7 if a corresponding licence is cancelled; or
- 4.8 if in the opinion of the Minister the use of the leased area by or on behalf of the lessee reveals, indicates or provides reasonable grounds for the Minister to form the view or opinion that degradation or damage of an unacceptable level of coastal land or the surrounding marine environment has or is being caused by the lessee's use of the leased area or the use of the leased area by a licensee under a corresponding licence, or any activity associated with their activities and the lessee fails to comply with a notice requiring the lessee to remedy the degradation or damage, and/or cease or prevent the relevant activity within 30 days after the date the notice is served upon the lessee by or on behalf of the Minister.

5. *Dealing with Lease*

- 5.1 This lease is transferable in accordance with the Act (see section 39).
- 5.2 Subletting under this lease is not permitted except with the prior written consent of the Minister.

6. *Marking-off*

The lessee must mark-off the leased area in the manner stipulated in the Schedule.

7. Lessee's Use of Leased Area

The lessee must not use the leased area or permit it to be used for any purpose other than the Permitted Class of Aquaculture.

8. Development Requirement

The lessee must ensure that the leased area is developed and used for the Permitted Class of Aquaculture to the extent stipulated in the Schedule.

9. Consents and Approvals

9.1 If the lessee's use of the leased area is permissible only with the consent or approval of any authority under or in pursuance of any law enactment or order of Court the lessee must obtain such consent or approval at its own expense and the lessee shall at no time during the term of this lease do or permit or fail to do or suffer to be done any act, matter or thing whereby such consent or approval shall lapse or be revoked; and

9.2 The lessee must keep current during the term of this lease all consents and approvals required under the Development Act 1993 and any other law applicable to the leased area or the permitted use or the lessee's use of the leased area.

10. Public Liability Insurance

10.1 The lessee shall forthwith effect and keep current during the term of this lease in the joint names of the Minister and the lessee for their respective rights and interests with a reputable and solvent insurer first approved by the Minister (which approval shall not be unreasonably withheld) a policy of public risk insurance in respect of the leased area for an amount not less than the amount stipulated in the Schedule in respect of any single claim, accident or event (or such greater amount as the Minister shall from time to time reasonably require) and upon request from or on behalf of the Minister to produce a copy of such policy and a copy of a certificate of currency in respect thereof such policy to indemnify the lessee and the Minister against any and all actions, suits, claims, demands, cost, proceedings, expenses, harm and loss of any kind including arising out of or in connection with:

10.1.1 the use of the leased area by the lessee or a licensee under a corresponding licence or its servants, agents and invitees; and/or

10.1.2 any death, illness or bodily injury sustained by any person upon the leased area or any damage to property occurring upon the leased area.

Notwithstanding any other provision of this clause the lessee shall satisfy the obligations to effect a policy of public risk insurance if the lessee notes the leased area and the Minister's rights and interests therein and under this lease upon any policy of public risk insurance effected by the lessee in respect of other land or premises within the Commonwealth of Australia provided such policy and such insurer otherwise satisfies the requirements of this clause and the lessee upon request from or on behalf of the Minister produces a copy of such policy and a copy of a Certificate of Currency in respect thereof.

11. Statutory Requirements

11.1 The lessee must comply with the laws in force in South Australia in the course of any activity undertaken pursuant to this lease, or in relation to or on the leased area.

11.2 The lessee shall be liable to indemnify the Minister from and against all actions, proceedings, claims, demands, charges, penalties and expenses arising from any failure to comply with the laws in force in South Australia.

12. No Nuisance

12.1 The lessee must not do or fail to do anything on or in respect of the leased area (and must ensure that its employees, agents, contractors and invitees and any licensee under a corresponding licence do not do or fail to do anything on or in respect of the leased area):

12.1.1 whereby a nuisance (whether public or private) may arise or continue upon or in connection with the leased area; or

12.1.2 whereby any nuisance or disturbance could arise to any users of land near the leased area or the waters around the leased area or which could interfere with the same.

13. Indemnities

The lessee must indemnify and save harmless the Minister against:

13.1 all actions, claims, demands, proceedings, suits, costs, damages, expenses and losses which the Minister may suffer or incur as a result of the death of or injury to any person or loss of or damage to the property of any person arising from or out of any occurrence in, upon or about the leased area or any part of it or the use of the leased area by the lessee or a licensee under a corresponding licence or by any employee, agent, contractor or invitee of the lessee or licensee;

13.2 all loss or damage to the leased area, and any property on it caused by the lessee or licensee under a corresponding licence or by any employee, agent, contractor, or invitee of the lessee or licensee or other person having business with the lessee or licensee and in particular but without limiting in any way the generality of the foregoing by reason of the use, misuse, waste or abuse of the leased area; and

13.3 all fees, costs, liabilities and expenses incurred by the Minister in the exercise or attempted exercise of any of the rights, authorities, powers or remedies which are exercisable by the Minister pursuant to this lease,

except to the extent caused or contributed to by any wilful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

14. Exclusion of Liability

The Minister and its servants, employees, agents, contractors and invitees shall have no responsibility or liability to the lessee and the Minister and its employees, agents, contractors and invitees for any loss or injury suffered by the lessee or to the property of the lessee except to the extent caused or contributed to by any unlawful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

15. Minister's Entry on Leased Area

15.1 The Minister may, on giving reasonable notice, with or without the Minister's officers, employees and/or agents, enter upon and remain on the leased area for the purpose of inspecting the leased area including in respect of the performance of the lessee's obligations and/or for the purpose of remedying any breach of the lessee's obligations under this lease or the Act in respect of the leased area or any breach by any licensee under a corresponding licence of its obligations under and pursuant to the licence or the Act, although the Minister shall be under no obligation to so remedy any such breach.

15.2 The Minister shall not be required to give any prior notice to the lessee before exercising its rights under and pursuant to this clause in circumstances where, in the reasonable opinion of the Minister:

15.2.1 it is not practicable to do so, or;

- 15.2.2 the Minister or any responsible officer, employee or agent of the Minister believes on reasonable grounds that an offence has or is being or is about to be committed on the leased area or that a breach of the terms and conditions of this lease by the lessee or any breach by any licensee of its obligations under and pursuant to the licence, has occurred, is occurring or is about to occur;
- 15.2.3 in exercising any of its rights under and pursuant to this clause the Minister shall use its reasonable endeavours not to interfere with the lawful and permitted conduct of the lessee's or a licensee's use of the leased area.

16. Contamination and Contaminating Substances

- 16.1 The lessee must not bring or permit to be brought upon the leased area any matter in any form which the handling, storage, disposal, dealing with or the escape of which may in any manner result in, cause or contribute to pollution, contamination or degradation on or to the leased area or any land or water adjacent or near to the leased area or exacerbate, add to or compound any pre-existing pollution, contamination or degradation or the feasibility, practicality or cost of its control and/or removal, unless the lessee has obtained the prior written consent of the Minister, (which consent the Minister may grant or withhold or impose conditions on in its absolute unfettered discretion).
- 16.2 Irrespective of whether the Minister gave its consent in respect of such material, compounds or substances pursuant to this clause, if during the term of this lease, or during any subsequent period in which the lessee continues to occupy or control the leased area, any pollution, contamination or degradation occurs or any exacerbation, addition to or compounding of any pollution, contamination or degradation existing prior to the date of commencement of the term of this lease occurs (other than to the extent the result of any wilful or negligent act or omission of the Minister or any agent employee or contractor of the Minister) then:
- 16.2.1 the lessee must forthwith notify the Minister in writing of the location, nature, extent and quantity of such substance or compound and the pollution, contamination and degradation it might cause and reasonable particulars of the long term effect of the same and likely cost of control, collection, removal and disposal;
- 16.2.2 the lessee must permit the Minister and any employee, agent, inspector, contractor or invitee of the Minister at all times to enter upon the leased area and to inspect any suspected notified or known pollution, contamination or degradation or any substance or compound capable of causing pollution, contamination and degradation to the leased area or the land or water adjacent to or near the leased area and to abate any actual or potential danger or hazard in or about the leased area and if such hazard or damage in the reasonable opinion of the Minister is caused by or results from the substance or compound the lessee shall pay to the Minister the costs and expenses incurred in carrying out such work; and
- 16.2.3 the lessee must at its own cost and expense if so required by the Minister remove any and all substances and compounds causing contributing or which could cause or contribute to pollution, contamination or degradation of the leased area (or exacerbate add to or compound any pre-existing similar condition) from all parts of the leased area.

- 16.3 During the term of this lease, the lessee must indemnify and hold harmless the Minister and keep the Minister indemnified from and against all claims, demands, actions, proceedings, judgments, orders, costs, losses, damages and expenses of any nature whatsoever suffered or incurred by the Minister as a result whether directly or otherwise of:

- 16.3.1 any act or omission of the lessee its servants, agents, contractors, licensees or any other person acting with its authority which results in pollution, contamination or degradation on or to the leased area or any part thereof; and
- 16.3.2 any failure of the lessee to comply with observe and perform in respect of the leased area the requirements imposed on tenants or occupiers of the leased area by any laws, statutory enactments or regulations made pursuant thereto (whether Federal, State or municipal) relating to the contamination and/or degradation and/or pollution of the leased area or any part thereof (the 'relevant law').

17. Lease Expiry

The lessee must, at the lessee's cost in all things immediately prior to the expiration or sooner determination of the term of this lease:

- 17.1 remove and carry away from the leased area all improvements, plant, equipment, chattels and property located or brought upon the leased area by or on behalf of the lessee and in such removal cause as little damage to the leased area as practicable;
- 17.2 upon completion of such removal, remove all debris, rubbish and waste from the leased area and rehabilitate the same in respect of any damage caused thereto by the location thereon of such waste and debris; and
- 17.3 reinstate and rehabilitate the leased area and any portions thereof affected by the conduct of the permitted use or the lessee's use of the same to the condition existing prior to commencement of the term of this lease. Such rehabilitation shall be performed by the lessee at its cost in all things to the reasonable satisfaction of the Minister.

18. Occupation

The lessee has the rights of occupation provided in the Act.

19. Default Costs

- 19.1 The lessee is liable to pay the Minister reasonable costs and expenses including but without limiting the generality thereof reasonable professional charges and workmen's wages:
- 19.1.1 of and incidental to the recovery of annual rent due and unpaid interest thereon; and
- 19.1.2 incurred by remedying or attempting to remedy any breach of the lessee's obligations under this lease.
- 19.2 Any amount payable by the lessee under this clause is payable on demand by the Minister.

20. Default Interest

Without prejudice to the rights, powers and remedies of the Minister otherwise under this lease the lessee must pay to the Minister interest at the overdrawn rate charged from time to time by the Minister's Bankers on overdrafts not exceeding \$50 000 on any money due but unpaid after the same fell due and payable by the lessee to the Minister on any account whatsoever under this lease. Interest shall be computed from the due date for the payment of the money in respect of which the interest is chargeable until payment of such money is made in full and shall be recoverable in like manner as rent in arrears.

21. Minister may remedy Default

- 21.1 If the lessee fails or neglects to perform any obligation or to observe any provision to be performed or observed by the lessee under this lease or if any licensee under the licence is in breach or default under the licence and if such failure or neglect shall continue for one month after the Minister has given to the lessee

notice in writing requiring the lessee to perform such obligation or to observe such provision then the Minister may (but without being bound so to do and without prejudice to any other right or remedy) perform that obligation or observe that provision and all reasonable costs and expenses including overtime charges, fines, levies and penalties due to such default or incurred by the Minister in remedying the same shall be paid by the lessee to the Minister.

22. *Waiver*

No forbearance by the Minister in respect of any obligation contained or implied in this lease shall operate as a waiver of another breach of the same or of any other obligation contained or implied in this lease.

23. *Joint Lessees*

If the lessee constitutes more than one natural person or bodies corporate or a partnership:

- 23.1 the persons comprising the lessee are jointly and severally bound by the conditions of this lease; and
- 23.2 notice to one of the natural persons or bodies corporate comprising the lessee shall be notice to all persons comprising the lessee.

24. *Guarantee or Indemnity*

- 24.1 The lessee must within five business days of receipt of this lease but with effect from the date of commencement of the term of this lease either:
 - 24.1.1 provide a guarantee from its bankers; or
 - 24.1.2 contribute to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry,

to and in favour of and for the benefit of the Minister by way of security for the due and punctual performance by the lessee of the terms and conditions of this lease and in particular the obligations of the lessee to rehabilitate the leased area immediately prior to the expiration or sooner determination of the term of this lease upon the following terms and conditions:

- 24.1.3 the lessee shall either:
 - (a) arrange for the provision from a bank as defined in the Banking Act 1959 or established by an Act of the Parliament of South Australia of an irrevocable and continuing bank guarantee for an amount stipulated from time to time by the Minister (the 'Bank Guarantee'). The Bank Guarantee shall otherwise contain terms and conditions which are reasonably satisfactory to the Minister. The Bank Guarantee shall be continuously in existence until the Minister agrees to release the Bank Guarantee under this clause. The guarantee shall entitle the Minister to make demand on the Bank Guarantee at any time if there has been a failure by the lessee to pay any money at the time specified for such payment or if there has been any other breach or default by the lessee for the due and punctual performance of the covenants, obligations and provisions on the part of the lessee under this lease. If the Minister makes a demand on the Bank Guarantee either in whole or in part and appropriate such funds then the lessee shall within five days of such demand by the Minister provide the Minister with a fresh Bank Guarantee for an amount equal to the amount so demanded and paid by the Bank to the Minister on the Bank Guarantee and on the same terms and conditions as specified in this clause. The lessee shall not be entitled to a release or a re-delivery nor to request a release or re-delivery of the Bank Guarantee until one month after the expiration of the term of

this lease. Notwithstanding any other provisions of this clause the Minister shall be entitled to refuse to release or deliver up to the lessee the Bank Guarantee if the Minister reasonably considers that there may be unremedied breaches or contingent obligations under the lease yet to mature and to be performed by the lessee at the time of the request to the Minister to release or re-deliver the Bank Guarantee; or

- (b) make such contributions to the indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industries as required by the Minister or the administrator of such scheme, and if required make such contributions on an annual or other basis and in such amounts as required by the Minister or the administrator of such scheme;
- 24.1.4 the provisions of this clause do not in any way limit, restrict or prejudice the rights of the Minister to exercise such additional rights, remedies and powers as the Minister may consider appropriate as a result of the lessee's default;
- 24.1.5 notwithstanding any other provision of this clause, if the lessee transfers or assigns its estate and interest in this lease, then upon and as and from the date ('the Date') such transferee or assignee providing to the Minister either a guarantee from its bankers as satisfies the requirements of this clause or evidence of having contributed to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry in such amount as required by this clause, the Minister shall from the date fully free release and discharge the lessee from any and all obligations under and pursuant to this clause and shall release and re-deliver to the lessee any bank.
- 24.2 If the lessee has already provided a guarantee or contributed to a fund in accordance with obligations under previous arrangements to the extent required under this lease, then the lessee is excused from the initial requirement to provide a guarantee or contribution, but not from subsequent obligations under this clause.

25. *Disclaimer*

The Minister does not expressly or impliedly warrant that the leased area is now or will remain suitable or adequate for all or any of the purposes of the lessee and all warranties (if any) as to the suitability and adequateness of the leased area that might otherwise be implied are expressly negated.

26. *Delegation*

Unless expressly excluded by any provision of this lease, any consent, any notice, any consultation or any other thing which pursuant to the terms of this lease is either required to be given, done or performed by the Minister or is permitted to be given, done or performed by the Minister may for the purposes of this lease be properly given, done or performed by a person authorised by the Minister to act on the Minister's behalf.

27. *Special Conditions*

Incorporated in this lease are any special conditions set out in the Schedule.

28. *Notices*

- 28.1 Notice to the lessee is valid if sent by post to the address for notices in the Schedule, or such other address as is notified by the lessee to the Minister in writing.
- 28.2 The lessee may give notice to the Minister by posting written notice addressed to PIRSA Aquaculture, G.P.O. Box 1625, Adelaide, S.A. 5001.

29. *Definitions and Interpretation*

In this lease unless inconsistent with the context:

'*business days*' means Monday to Friday (inclusive) excluding any public holiday;

'*corresponding licence*' has the meaning attributed in the Act;

'*GST*' means the tax imposed by the GST Law;

'*GST Law*' has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999;

'*Insolvency Administration*' means, if the lessee is a corporation:

- an administrator is appointed to the lessee or action is taken to make such an appointment;
- the lessee resolves to be wound up;
- an application is made to a court for an order or an order is made that the lessee be wound up (whether on grounds of insolvency or otherwise);
- the lessee ceases to carry on business;
- a receiver or a receiver and manager of property of the lessee is appointed whether by a court or other-wise;
- an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the lessee or one of them is appointed, whether or not under an order;
- the lessee enters into a compromise or arrangement with its creditors or a class of them; or
- the lessee is or states that it is unable to pay its debts when they fall due;

'*Insolvency Administration*' means if the lessee is a natural person:

- the lessee has committed an act of bankruptcy as contemplated by the Bankruptcy Act 1966;
- the lessee is unable to pay his or her debts as and when they become due and payable;
- the court has made a sequestration order against the lessee's estate;
- a creditors' petition has been presented against the lessee;
- the lessee has presented to the Official Receiver a declaration of intention to present a debtor's petition;
- the lessee becomes a bankrupt;
- a meeting of creditors of the lessee is convened; or
- the lessee lodges with his or her trustee a proposal to his or her creditors for a composition in satisfaction of his or her debts or a scheme of arrangement of his or her affairs;

'*Lessee*' means the party described in this lease and the heirs, executors, administrators and permitted assigns thereof and if a body corporate, its successors and permitted assigns;

'*Minister*' means the Minister for Agriculture, Food and Fisheries, a body corporate under the Administrative Arrangements Act 1994;

'*Permitted Use*' means the use of the leased area for such aquaculture purposes as are specified in the Schedule to this lease;

'*Leased Area*' means the area comprised of State waters or State waters and adjacent land within the meaning of the Harbors and Navigation Act 1993, described in the Schedule to this lease;

'*Taxable Supply*' has the meaning attributed in the GST Act;

'*Tax Invoice*' has the meaning attributed in the GST Act;

'*Term of this Lease*' or the '*Term*' means the initial term granted by the Minister (unless sooner determined) and any extension of such initial term.

30. *Interpretation*

30.1 Words importing the singular shall embrace the plural and words importing the masculine gender shall

embrace the feminine and neuter genders and *vice versa* respectively.

30.2 Any reference to a person shall include a corporate body and *vice versa*.

30.3 Where two or more persons are included in the designation the 'lessee' the obligations on the part of the lessee contained in this lease shall bind such persons and any two or greater number of them jointly and each of them severally and the expression the 'lessee' shall include all or any one or more of such persons.

30.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for it and the regulations, by-laws or other orders for the time being made under that statute.

30.5 Headings are for convenience of reference only and shall not affect the construction or interpretation of the covenants of this lease.

Dated 23 December 2002.

Signed by the General Manager, Aquaculture of the Department for Primary Industries and Resources as delegate of the Minister for Transport (as successor of) the Minister for Transport and Urban Planning, pursuant to a delegation made on 13 March 2000 under section 11 (1) of the Harbors and Navigation Act 1993.

I. NIGHTINGALE, General Manager, Aquaculture

AQUACULTURE ACT 2001

AQUACULTURE LEASE PL00008

Class of Aquaculture (Tuna)

THIS Pilot Lease is granted under the Aquaculture Act 2001 ('the Act') pursuant to section 3 (2) of the Schedule to the Act and Division 4 of Part 6 of the Act.

This lease is granted to the lessee for the term of one year, by the Minister for Agriculture, Food and Fisheries ('the Minister') for the purpose of conducting the Class of Aquaculture nominated in the Schedule ('the permitted use'), subject to the conditions set out in this document.

This lease is granted with the concurrence of the Minister for Transport as required in section 20 of the Aquaculture Act 2001 and section 15 of the Harbours and Navigation Act 1993.

SCHEDULE

Lessee:

Australian Fishing Enterprises Pty Ltd (13227)
Billy Lights Point
Port Lincoln, S.A. 5606

Leased Area:

GDA 94—Zone 53
591797E 6171549N
593026E 6171549N
593026E 6170972N
591797E 6170972N

Licensed
Hectares

70

Permitted Class of Aquaculture:

Tuna Aquaculture

Term of the Lease:

Twelve months

Initial Rental:

\$350.00

Marking-off requirements:

The marked-off area must be marked with 30 cm diameter white buoys spaced at 50 m intervals and positioned no more than 50 m from structures located on the site.

Amount of Public Liability Insurance:

\$10 million

Amount of Guarantee or contribution to indemnity fund:

\$10 000

Extent of Leased Area that must be developed:

During the term of this lease at least one cage of at least 20 m diameter must be installed on the site.

1. Term and Renewal

- 1.1 The term of this lease is the term of one year commencing on 1 July 2002 and ending on 30 June 2003 ('the initial term').
- 1.2 The term is renewable in accordance with section 38 of the Act for successive terms, by the lessee giving the Minister notice no earlier than two months before the expiry of the term, and no later than one month before the expiry of the term, unless there is at the expiry of the lease a default under the lease or any corresponding licence.
- 1.3 Any renewal of the term shall be subject to conditions in accordance with standard conditions under aquaculture policies developed under Part 4 of the Act, and such other conditions as are determined by the Minister ('the reviewed conditions').
- 1.4 Upon renewal the Minister may issue either a certificate of renewal, or a new lease, incorporating the reviewed conditions.
- 1.5 The Minister may, at the time of renewal of a term, vary the term subject to the maximum term for a production lease permitted by the Act.

2. Rental

- 2.1 The lessee must pay to the Minister the annual rental, free from exchange, deduction or abatement.
- 2.2 At the commencement of the initial term the annual rental payable under this lease is the initial rental stipulated in the Schedule.
- 2.3 The initial rental payable in respect of the initial term is subject to adjustment during the initial term, as determined by the Minister in accordance with aquaculture policy developed under Part 4 of the Act. The adjusted rental shall be applicable in respect of the entire initial term.
- 2.4 Rental in respect of renewed terms shall be as notified by the Minister before the expiry of the initial term, and adjustments of rental in renewed terms of the lease will be applicable in accordance with the reviewed conditions.
- 2.5 Rental is payable in full within one month of commencement of the lease by direct bank transfer to the credit of a bank account nominated by the Minister, or by cheque payable to the Department for Primary Industry and Resources SA, delivered to the address stipulated by the Minister.

3. GST

- 3.1 The rental payable under this lease is exclusive of GST.
- 3.2 The lease is a taxable supply under GST Law.
- 3.3 Department of Primary Industries and Resources (ABN 53 763 159 658) is the government entity administering this lease on behalf of the Minister and is registered pursuant to the GST Law.
- 3.4 Department of Primary Industries and Resources is entitled to be treated as the maker of any taxable supply and the recipient of any taxable supply pursuant to this lease instead of the Minister for the purposes only of the GST Law.
- 3.5 The lessee must pay to the Minister, together with any payment of rental under this lease, an additional amount in respect of GST (the 'GST payment'). The GST payment is ten per cent of the rental, subject only to any change in the rate of GST under GST Law.

- 3.6 The Minister must issue to the lessee a tax invoice within 10 business days after the lessee has delivered payment of rental and the GST payment.

4. Cancellation

The Minister may cancel this lease by immediate written notice to the lessee:

- 4.1 if the lessee enters into any form of Insolvency Administration;
- 4.2 if the lessee assigns or purports to assign the lease without giving the Minister prior written notice as required by section 39 of the Act;
- 4.3 if any rent or other moneys payable by the lessee are in arrears for more than 14 days whether or not any formal demand has been made for the rent or other moneys;
- 4.4 if the lessee (being a natural person) is convicted of any indictable offence;
- 4.5 if there is any breach of any condition of a corresponding licence in respect of this lease;
- 4.6 if there is a breach of any obligation under the Act by the lessee or a licensee under a corresponding licence;
- 4.7 if a corresponding licence is cancelled; or
- 4.8 if in the opinion of the Minister the use of the leased area by or on behalf of the lessee reveals, indicates or provides reasonable grounds for the Minister to form the view or opinion that degradation or damage of an unacceptable level of coastal land or the surrounding marine environment has or is being caused by the lessee's use of the leased area or the use of the leased area by a licensee under a corresponding licence, or any activity associated with their activities and the lessee fails to comply with a notice requiring the lessee to remedy the degradation or damage, and/or cease or prevent the relevant activity within 30 days after the date the notice is served upon the lessee by or on behalf of the Minister.

5. Dealing with Lease

- 5.1 This lease is transferable in accordance with the Act (see section 39).
- 5.2 Subletting under this lease is not permitted except with the prior written consent of the Minister.

6. Marking-off

The lessee must mark-off the leased area in the manner stipulated in the Schedule.

7. Lessee's Use of Leased Area

The lessee must not use the leased area or permit it to be used for any purpose other than the Permitted Class of Aquaculture.

8. Development Requirement

The lessee must ensure that the leased area is developed and used for the Permitted Class of Aquaculture to the extent stipulated in the Schedule.

9. Consents and Approvals

- 9.1 If the lessee's use of the leased area is permissible only with the consent or approval of any authority under or in pursuance of any law enactment or order of Court the lessee must obtain such consent or approval at its own expense and the lessee shall at no time during the term of this lease do or permit or fail to do or suffer to be done any act, matter or thing whereby such consent or approval shall lapse or be revoked; and
- 9.2 The lessee must keep current during the term of this lease all consents and approvals required under the Development Act 1993 and any other law applicable to the leased area or the permitted use or the lessee's use of the leased area.

10. Public Liability Insurance

- 10.1 The lessee shall forthwith effect and keep current during the term of this lease in the joint names of the Minister and the lessee for their respective rights and interests with a reputable and solvent insurer first approved by the Minister (which approval shall not be

unreasonably withheld) a policy of public risk insurance in respect of the leased area for an amount not less than the amount stipulated in the Schedule in respect of any single claim, accident or event (or such greater amount as the Minister shall from time to time reasonably require) and upon request from or on behalf of the Minister to produce a copy of such policy and a copy of a certificate of currency in respect thereof such policy to indemnify the lessee and the Minister against any and all actions, suits, claims, demands, cost, proceedings, expenses, harm and loss of any kind including arising out of or in connection with:

- 10.1.1 the use of the leased area by the lessee or a licensee under a corresponding licence or its servants, agents and invitees; and/or
- 10.1.2 any death, illness or bodily injury sustained by any person upon the leased area or any damage to property occurring upon the leased area.

Notwithstanding any other provision of this clause the lessee shall satisfy the obligations to effect a policy of public risk insurance if the lessee notes the leased area and the Minister's rights and interests therein and under this lease upon any policy of public risk insurance effected by the lessee in respect of other land or premises within the Commonwealth of Australia provided such policy and such insurer otherwise satisfies the requirements of this clause and the lessee upon request from or on behalf of the Minister produces a copy of such policy and a copy of a Certificate of Currency in respect thereof.

11. Statutory Requirements

- 11.1 The lessee must comply with the laws in force in South Australia in the course of any activity undertaken pursuant to this lease, or in relation to or on the leased area.
- 11.2 The lessee shall be liable to indemnify the Minister from and against all actions, proceedings, claims, demands, charges, penalties and expenses arising from any failure to comply with the laws in force in South Australia.

12. No Nuisance

- 12.1 The lessee must not do or fail to do anything on or in respect of the leased area (and must ensure that its employees, agents, contractors and invitees and any licensee under a corresponding licence do not do or fail to do anything on or in respect of the leased area):
 - 12.1.1 whereby a nuisance (whether public or private) may arise or continue upon or in connection with the leased area; or
 - 12.1.2 whereby any nuisance or disturbance could arise to any users of land near the leased area or the waters around the leased area or which could interfere with the same.

13. Indemnities

The lessee must indemnify and save harmless the Minister against:

- 13.1 all actions, claims, demands, proceedings, suits, costs, damages, expenses and losses which the Minister may suffer or incur as a result of the death of or injury to any person or loss of or damage to the property of any person arising from or out of any occurrence in, upon or about the leased area or any part of it or the use of the leased area by the lessee or a licensee under a corresponding licence or by any employee, agent, contractor or invitee of the lessee or licensee;

- 13.2 all loss or damage to the leased area, and any property on it caused by the lessee or licensee under a corresponding licence or by any employee, agent, contractor, or invitee of the lessee or licensee or other person having business with the lessee or licensee and in particular but without limiting in any way the generality of the foregoing by reason of the use, misuse, waste or abuse of the leased area; and

- 13.3 all fees, costs, liabilities and expenses incurred by the Minister in the exercise or attempted exercise of any of the rights, authorities, powers or remedies which are exercisable by the Minister pursuant to this lease,

except to the extent caused or contributed to by any wilful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

14. Exclusion of Liability

The Minister and its servants, employees, agents, contractors and invitees shall have no responsibility or liability to the lessee and the Minister and its employees, agents, contractors and invitees for any loss or injury suffered by the lessee or to the property of the lessee except to the extent caused or contributed to by any unlawful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

15. Minister's Entry on Leased Area

- 15.1 The Minister may, on giving reasonable notice, with or without the Minister's officers, employees and/or agents, enter upon and remain on the leased area for the purpose of inspecting the leased area including in respect of the performance of the lessee's obligations and/or for the purpose of remedying any breach of the lessee's obligations under this lease or the Act in respect of the leased area or any breach by any licensee under a corresponding licence of its obligations under and pursuant to the licence or the Act, although the Minister shall be under no obligation to so remedy any such breach.

- 15.2 The Minister shall not be required to give any prior notice to the lessee before exercising its rights under and pursuant to this clause in circumstances where, in the reasonable opinion of the Minister:

- 15.2.1 it is not practicable to do so, or;
- 15.2.2 the Minister or any responsible officer, employee or agent of the Minister believes on reasonable grounds that an offence has or is being or is about to be committed on the leased area or that a breach of the terms and conditions of this lease by the lessee or any breach by any licensee of its obligations under and pursuant to the licence, has occurred, is occurring or is about to occur;

- 15.2.3 in exercising any of its rights under and pursuant to this clause the Minister shall use its reasonable endeavours not to interfere with the lawful and permitted conduct of the lessee's or a licensee's use of the leased area.

16. Contamination and Contaminating Substances

- 16.1 The lessee must not bring or permit to be brought upon the leased area any matter in any form which the handling, storage, disposal, dealing with or the escape of which may in any manner result in, cause or contribute to pollution, contamination or degradation on or to the leased area or any land or water adjacent or near to the leased area or exacerbate, add to or compound any pre-existing pollution, contamination or degradation or the feasibility, practicality or cost of its control and/or removal, unless the lessee has obtained the prior written consent of the Minister, (which consent the Minister may grant or withhold or impose conditions on in its absolute unfettered discretion).

- 16.2 Irrespective of whether the Minister gave its consent in respect of such material, compounds or substances pursuant to this clause, if during the term of this lease, or during any subsequent period in which the lessee continues to occupy or control the leased area, any pollution, contamination or degradation occurs or any exacerbation, addition to or compounding of any pollution, contamination or degradation existing prior to the date of commencement of the term of this lease occurs (other than to the extent the result of any wilful or negligent act or omission of the Minister or any agent employee or contractor of the Minister) then:
- 16.2.1 the lessee must forthwith notify the Minister in writing of the location, nature, extent and quantity of such substance or compound and the pollution, contamination and degradation it might cause and reasonable particulars of the long term effect of the same and likely cost of control, collection, removal and disposal;
- 16.2.2 the lessee must permit the Minister and any employee, agent, inspector, contractor or invitee of the Minister at all times to enter upon the leased area and to inspect any suspected notified or known pollution, contamination or degradation or any substance or compound capable of causing pollution, contamination and degradation to the leased area or the land or water adjacent to or near the leased area and to abate any actual or potential danger or hazard in or about the leased area and if such hazard or damage in the reasonable opinion of the Minister is caused by or results from the substance or compound the lessee shall pay to the Minister the costs and expenses incurred in carrying out such work; and
- 16.2.3 the lessee must at its own cost and expense if so required by the Minister remove any and all substances and compounds causing contributing or which could cause or contribute to pollution, contamination or degradation of the leased area (or exacerbate add to or compound any pre-existing similar condition) from all parts of the leased area.
- 16.3 During the term of this lease, the lessee must indemnify and hold harmless the Minister and keep the Minister indemnified from and against all claims, demands, actions, proceedings, judgments, orders, costs, losses, damages and expenses of any nature whatsoever suffered or incurred by the Minister as a result whether directly or otherwise of:
- 16.3.1 any act or omission of the lessee its servants, agents, contractors, licensees or any other person acting with its authority which results in pollution, contamination or degradation on or to the leased area or any part thereof; and
- 16.3.2 any failure of the lessee to comply with observe and perform in respect of the leased area the requirements imposed on tenants or occupiers of the leased area by any laws, statutory enactments or regulations made pursuant thereto (whether Federal, State or municipal) relating to the contamination and/or degradation and/or pollution of the leased area or any part thereof (the 'relevant law').
17. *Lease Expiry*
- The lessee must, at the lessee's cost in all things immediately prior to the expiration or sooner determination of the term of this lease:
- 17.1 remove and carry away from the leased area all improvements, plant, equipment, chattels and property located or brought upon the leased area by or on behalf of the lessee and in such removal cause as little damage to the leased area as practicable;
- 17.2 upon completion of such removal, remove all debris, rubbish and waste from the leased area and rehabilitate the same in respect of any damage caused thereto by the location thereon of such waste and debris; and
- 17.3 reinstate and rehabilitate the leased area and any portions thereof affected by the conduct of the permitted use or the lessee's use of the same to the condition existing prior to commencement of the term of this lease. Such rehabilitation shall be performed by the lessee at its cost in all things to the reasonable satisfaction of the Minister.
18. *Occupation*
- The lessee has the rights of occupation provided in the Act.
19. *Default Costs*
- 19.1 The lessee is liable to pay the Minister reasonable costs and expenses including but without limiting the generality thereof reasonable professional charges and workmen's wages:
- 19.1.1 of and incidental to the recovery of annual rent due and unpaid interest thereon; and
- 19.1.2 incurred by remedying or attempting to remedy any breach of the lessee's obligations under this lease.
- 19.2 Any amount payable by the lessee under this clause is payable on demand by the Minister.
20. *Default Interest*
- Without prejudice to the rights, powers and remedies of the Minister otherwise under this lease the lessee must pay to the Minister interest at the overdrawn rate charged from time to time by the Minister's Bankers on overdrafts not exceeding \$50 000 on any money due but unpaid after the same fell due and payable by the lessee to the Minister on any account whatsoever under this lease. Interest shall be computed from the due date for the payment of the money in respect of which the interest is chargeable until payment of such money is made in full and shall be recoverable in like manner as rent in arrears.
21. *Minister may remedy Default*
- 21.1 If the lessee fails or neglects to perform any obligation or to observe any provision to be performed or observed by the lessee under this lease or if any licensee under the licence is in breach or default under the licence and if such failure or neglect shall continue for one month after the Minister has given to the lessee notice in writing requiring the lessee to perform such obligation or to observe such provision then the Minister may (but without being bound so to do and without prejudice to any other right or remedy) perform that obligation or observe that provision and all reasonable costs and expenses including overtime charges, fines, levies and penalties due to such default or incurred by the Minister in remedying the same shall be paid by the lessee to the Minister.
22. *Waiver*
- No forbearance by the Minister in respect of any breach of any obligation contained or implied in this lease shall operate as a waiver of another breach of the same or of any other obligation contained or implied in this lease.
23. *Joint Lessees*
- If the lessee constitutes more than one natural person or bodies corporate or a partnership:
- 23.1 the persons comprising the lessee are jointly and severally bound by the conditions of this lease; and
- 23.2 notice to one of the natural persons or bodies corporate comprising the lessee shall be notice to all persons comprising the lessee.
24. *Guarantee or Indemnity*
- 24.1 The lessee must within five business days of receipt of this lease but with effect from the date of commencement of the term of this lease either:
- 24.1.1 provide a guarantee from its bankers; or
- 24.1.2 contribute to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry,

to and in favour of and for the benefit of the Minister by way of security for the due and punctual performance by the lessee of the terms and conditions of this lease and in particular the obligations of the lessee to rehabilitate the leased area immediately prior to the expiration or sooner determination of the term of this lease upon the following terms and conditions:

24.1.3 the lessee shall either:

- (a) arrange for the provision from a bank as defined in the Banking Act 1959 or established by an Act of the Parliament of South Australia of an irrevocable and continuing bank guarantee for an amount stipulated from time to time by the Minister (the 'Bank Guarantee'). The Bank Guarantee shall otherwise contain terms and conditions which are reasonably satisfactory to the Minister. The Bank Guarantee shall be continuously in existence until the Minister agrees to release the Bank Guarantee under this clause. The guarantee shall entitle the Minister to make demand on the Bank Guarantee at any time if there has been a failure by the lessee to pay any money at the time specified for such payment or if there has been any other breach or default by the lessee for the due and punctual performance of the covenants, obligations and provisions on the part of the lessee under this lease. If the Minister makes a demand on the Bank Guarantee either in whole or in part and appropriate such funds then the lessee shall within five days of such demand by the Minister provide the Minister with a fresh Bank Guarantee for an amount equal to the amount so demanded and paid by the Bank to the Minister on the Bank Guarantee and on the same terms and conditions as specified in this clause. The lessee shall not be entitled to a release or a re-delivery nor to request a release or re-delivery of the Bank Guarantee until one month after the expiration of the term of this lease. Notwithstanding any other provisions of this clause the Minister shall be entitled to refuse to release or deliver up to the lessee the Bank Guarantee if the Minister reasonably considers that there may be unremedied breaches or con-tingent obligations under the lease yet to mature and to be performed by the lessee at the time of the request to the Minister to release or re-deliver the Bank Guarantee; or

- (b) make such contributions to the indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industries as required by the Minister or the administrator of such scheme, and if required make such contributions on an annual or other basis and in such amounts as required by the Minister or the administrator of such scheme;

24.1.4 the provisions of this clause do not in any way limit, restrict or prejudice the rights of the Minister to exercise such additional rights, remedies and powers as the Minister may consider appropriate as a result of the lessee's default;

24.1.5 notwithstanding any other provision of this clause, if the lessee transfers or assigns its estate and interest in this lease, then upon and as and from the date ('the Date') such transferee or assignee providing to the Minister either a guarantee from its bankers as satisfies the requirements of this clause or evidence of having contributed to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry in such amount as required by this clause, the Minister shall from the date fully free release and discharge the lessee from any and all obligations under and pursuant to this clause and shall release and re-deliver to the lessee any bank.

24.2 If the lessee has already provided a guarantee or contributed to a fund in accordance with obligations under previous arrangements to the extent required under this lease, then the lessee is excused from the initial requirement to provide a guarantee or contribution, but not from subsequent obligations under this clause.

25. *Disclaimer*

The Minister does not expressly or impliedly warrant that the leased area is now or will remain suitable or adequate for all or any of the purposes of the lessee and all warranties (if any) as to the suitability and adequateness of the leased area that might otherwise be implied are expressly negated.

26. *Delegation*

Unless expressly excluded by any provision of this lease, any consent, any notice, any consultation or any other thing which pursuant to the terms of this lease is either required to be given, done or performed by the Minister or is permitted to be given, done or performed by the Minister may for the purposes of this lease be properly given, done or performed by a person authorised by the Minister to act on the Minister's behalf.

27. *Special Conditions*

Incorporated in this lease are any special conditions set out in the Schedule.

28. *Notices*

28.1 Notice to the lessee is valid if sent by post to the address for notices in the Schedule, or such other address as is notified by the lessee to the Minister in writing.

28.2 The lessee may give notice to the Minister by posting written notice addressed to PIRSA Aquaculture, G.P.O. Box 1625, Adelaide, S.A. 5001.

29. *Definitions and Interpretation*

In this lease unless inconsistent with the context:

'*business days*' means Monday to Friday (inclusive) excluding any public holiday;

'*corresponding licence*' has the meaning attributed in the Act;

'*GST*' means the tax imposed by the GST Law;

'*GST Law*' has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999;

'*Insolvency Administration*' means, if the lessee is a corporation:

- an administrator is appointed to the lessee or action is taken to make such an appointment;
- the lessee resolves to be wound up;
- an application is made to a court for an order or an order is made that the lessee be wound up (whether on grounds of insolvency or otherwise);
- the lessee ceases to carry on business;
- a receiver or a receiver and manager of property of the lessee is appointed whether by a court or other-wise;

- an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the lessee or one of them is appointed, whether or not under an order;
- the lessee enters into a compromise or arrangement with its creditors or a class of them; or
- the lessee is or states that it is unable to pay its debts when they fall due;

'*Insolvency Administration*' means if the lessee is a natural person:

- the lessee has committed an act of bankruptcy as contemplated by the Bankruptcy Act 1966;
- the lessee is unable to pay his or her debts as and when they become due and payable;
- the court has made a sequestration order against the lessee's estate;
- a creditors' petition has been presented against the lessee;
- the lessee has presented to the Official Receiver a declaration of intention to present a debtor's petition;
- the lessee becomes a bankrupt;
- a meeting of creditors of the lessee is convened; or
- the lessee lodges with his or her trustee a proposal to his or her creditors for a composition in satisfaction of his or her debts or a scheme of arrangement of his or her affairs;

'*Lessee*' means the party described in this lease and the heirs, executors, administrators and permitted assigns thereof and if a body corporate, its successors and permitted assigns;

'*Minister*' means the Minister for Agriculture, Food and Fisheries, a body corporate under the Administrative Arrangements Act 1994;

'*Permitted Use*' means the use of the leased area for such aquaculture purposes as are specified in the Schedule to this lease;

'*Leased Area*' means the area comprised of State waters or State waters and adjacent land within the meaning of the Harbors and Navigation Act 1993, described in the Schedule to this lease;

'*Taxable Supply*' has the meaning attributed in the GST Act;

'*Tax Invoice*' has the meaning attributed in the GST Act;

'*Term of this Lease*' or the '*Term*' means the initial term granted by the Minister (unless sooner determined) and any extension of such initial term.

30. Interpretation

- 30.1 Words importing the singular shall embrace the plural and words importing the masculine gender shall embrace the feminine and neuter genders and *vice versa* respectively.
- 30.2 Any reference to a person shall include a corporate body and *vice versa*.
- 30.3 Where two or more persons are included in the designation the 'lessee' the obligations on the part of the lessee contained in this lease shall bind such persons and any two or greater number of them jointly and each of them severally and the expression the 'lessee' shall include all or any one or more of such persons.
- 30.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for it and the regulations, by-laws or other orders for the time being made under that statute.
- 30.5 Headings are for convenience of reference only and shall not affect the construction or interpretation of the covenants of this lease.

Dated 23 December 2002.

Signed by the General Manager, Aquaculture of the Department for Primary Industries and Resources as delegate of the Minister for Transport (as successor of) the Minister for Transport and Urban Planning, pursuant to a delegation made on 13 March 2000 under section 11 (1) of the Harbors and Navigation Act 1993.

I. NIGHTINGALE, General Manager, Aquaculture

AQUACULTURE ACT 2001

AQUACULTURE LEASE PL00009

Class of Aquaculture (Tuna)

THIS Pilot Lease is granted under the Aquaculture Act 2001 ('the Act') pursuant to section 3 (2) of the Schedule to the Act and Division 4 of Part 6 of the Act.

This lease is granted to the lessee for the term of one year, by the Minister for Agriculture, Food and Fisheries ('the Minister') for the purpose of conducting the Class of Aquaculture nominated in the Schedule ('the permitted use'), subject to the conditions set out in this document.

This lease is granted with the concurrence of the Minister for Transport as required in section 20 of the Aquaculture Act 2001 and section 15 of the Harbors and Navigation Act 1993.

SCHEDULE

Lessee:

Australian Fishing Enterprises Pty Ltd (13227)
Billy Lights Point
Port Lincoln, S.A. 5606

Leased Area:

GDA 94—Zone 53
592158E 6170770N
593370E 6170770N
593370E 6170193N
592158E 6170193N

Licensed Hectares

70

Permitted Class of Aquaculture:

Tuna Aquaculture

Term of the Lease:

Twelve months

Initial Rental:

\$350.00

Marking-off requirements:

The marked-off area must be marked with 30 cm diameter white buoys spaced at 50 m intervals and positioned no more than 50 m from structures located on the site.

Amount of Public Liability Insurance:

\$10 million

Amount of Guarantee or contribution to indemnity fund:

\$10 000

Extent of Leased Area that must be developed:

During the term of this lease at least one cage of at least 20 m diameter must be installed on the site.

1. Term and Renewal

1.1 The term of this lease is the term of one year commencing on 1 July 2002 and ending on 30 June 2003 ('the initial term').

1.2 The term is renewable in accordance with section 38 of the Act for successive terms, by the lessee giving the Minister notice no earlier than two months before the expiry of the term, and no later than one month before the expiry of the term, unless there is at the expiry of the lease a default under the lease or any corresponding licence.

1.3 Any renewal of the term shall be subject to conditions in accordance with standard conditions under aquaculture policies developed under Part 4 of the Act, and such other conditions as are determined by the Minister ('the reviewed conditions').

- 1.4 Upon renewal the Minister may issue either a certificate of renewal, or a new lease, incorporating the reviewed conditions.
- 1.5 The Minister may, at the time of renewal of a term, vary the term subject to the maximum term for a production lease permitted by the Act.

2. Rental

- 2.1 The lessee must pay to the Minister the annual rental, free from exchange, deduction or abatement.
- 2.2 At the commencement of the initial term the annual rental payable under this lease is the initial rental stipulated in the Schedule.
- 2.3 The initial rental payable in respect of the initial term is subject to adjustment during the initial term, as determined by the Minister in accordance with aquaculture policy developed under Part 4 of the Act. The adjusted rental shall be applicable in respect of the entire initial term.
- 2.4 Rental in respect of renewed terms shall be as notified by the Minister before the expiry of the initial term, and adjustments of rental in renewed terms of the lease will be applicable in accordance with the reviewed conditions.
- 2.5 Rental is payable in full within one month of commencement of the lease by direct bank transfer to the credit of a bank account nominated by the Minister, or by cheque payable to the Department for Primary Industry and Resources SA, delivered to the address stipulated by the Minister.

3. GST

- 3.1 The rental payable under this lease is exclusive of GST.
- 3.2 The lease is a taxable supply under GST Law.
- 3.3 Department of Primary Industries and Resources (ABN 53 763 159 658) is the government entity administering this lease on behalf of the Minister and is registered pursuant to the GST Law.
- 3.4 Department of Primary Industries and Resources is entitled to be treated as the maker of any taxable supply and the recipient of any taxable supply pursuant to this lease instead of the Minister for the purposes only of the GST Law.
- 3.5 The lessee must pay to the Minister, together with any payment of rental under this lease, an additional amount in respect of GST (the 'GST payment'). The GST payment is ten per cent of the rental, subject only to any change in the rate of GST under GST Law.
- 3.6 The Minister must issue to the lessee a tax invoice within 10 business days after the lessee has delivered payment of rental and the GST payment.

4. Cancellation

The Minister may cancel this lease by immediate written notice to the lessee:

- 4.1 if the lessee enters into any form of Insolvency Administration;
- 4.2 if the lessee assigns or purports to assign the lease without giving the Minister prior written notice as required by section 39 of the Act;
- 4.3 if any rent or other moneys payable by the lessee are in arrears for more than 14 days whether or not any formal demand has been made for the rent or other moneys;
- 4.4 if the lessee (being a natural person) is convicted of any indictable offence;
- 4.5 if there is any breach of any condition of a corresponding licence in respect of this lease;
- 4.6 if there is a breach of any obligation under the Act by the lessee or a licensee under a corresponding licence;

- 4.7 if a corresponding licence is cancelled; or
- 4.8 if in the opinion of the Minister the use of the leased area by or on behalf of the lessee reveals, indicates or provides reasonable grounds for the Minister to form the view or opinion that degradation or damage of an unacceptable level of coastal land or the surrounding marine environment has or is being caused by the lessee's use of the leased area or the use of the leased area by a licensee under a corresponding licence, or any activity associated with their activities and the lessee fails to comply with a notice requiring the lessee to remedy the degradation or damage, and/or cease or prevent the relevant activity within 30 days after the date the notice is served upon the lessee by or on behalf of the Minister.

5. Dealing with Lease

- 5.1 This lease is transferable in accordance with the Act (see section 39).
- 5.2 Subletting under this lease is not permitted except with the prior written consent of the Minister.

6. Marking-off

The lessee must mark-off the leased area in the manner stipulated in the Schedule.

7. Lessee's Use of Leased Area

The lessee must not use the leased area or permit it to be used for any purpose other than the Permitted Class of Aquaculture.

8. Development Requirement

The lessee must ensure that the leased area is developed and used for the Permitted Class of Aquaculture to the extent stipulated in the Schedule.

9. Consents and Approvals

- 9.1 If the lessee's use of the leased area is permissible only with the consent or approval of any authority under or in pursuance of any law enactment or order of Court the lessee must obtain such consent or approval at its own expense and the lessee shall at no time during the term of this lease do or permit or fail to do or suffer to be done any act, matter or thing whereby such consent or approval shall lapse or be revoked; and
- 9.2 The lessee must keep current during the term of this lease all consents and approvals required under the Development Act 1993 and any other law applicable to the leased area or the permitted use or the lessee's use of the leased area.

10. Public Liability Insurance

- 10.1 The lessee shall forthwith effect and keep current during the term of this lease in the joint names of the Minister and the lessee for their respective rights and interests with a reputable and solvent insurer first approved by the Minister (which approval shall not be unreasonably withheld) a policy of public risk insurance in respect of the leased area for an amount not less than the amount stipulated in the Schedule in respect of any single claim, accident or event (or such greater amount as the Minister shall from time to time reasonably require) and upon request from or on behalf of the Minister to produce a copy of such policy and a copy of a certificate of currency in respect thereof such policy to indemnify the lessee and the Minister against any and all actions, suits, claims, demands, cost, proceedings, expenses, harm and loss of any kind including arising out of or in connection with:
 - 10.1.1 the use of the leased area by the lessee or a licensee under a corresponding licence or its servants, agents and invitees; and/or
 - 10.1.2 any death, illness or bodily injury sustained by any person upon the leased area or any damage to property occurring upon the leased area.

Notwithstanding any other provision of this clause the lessee shall satisfy the obligations to effect a policy of public risk insurance if the lessee notes the leased area and the Minister's rights and interests therein and under this lease upon any policy of public risk insurance effected by the lessee in respect of other land or premises within the Commonwealth of Australia provided such policy and such insurer otherwise satisfies the requirements of this clause and the lessee upon request from or on behalf of the Minister produces a copy of such policy and a copy of a Certificate of Currency in respect thereof.

11. Statutory Requirements

- 11.1 The lessee must comply with the laws in force in South Australia in the course of any activity undertaken pursuant to this lease, or in relation to or on the leased area.
- 11.2 The lessee shall be liable to indemnify the Minister from and against all actions, proceedings, claims, demands, charges, penalties and expenses arising from any failure to comply with the laws in force in South Australia.

12. No Nuisance

- 12.1 The lessee must not do or fail to do anything on or in respect of the leased area (and must ensure that its employees, agents, contractors and invitees and any licensee under a corresponding licence do not do or fail to do anything on or in respect of the leased area):
 - 12.1.1 whereby a nuisance (whether public or private) may arise or continue upon or in connection with the leased area; or
 - 12.1.2 whereby any nuisance or disturbance could arise to any users of land near the leased area or the waters around the leased area or which could interfere with the same.

13. Indemnities

The lessee must indemnify and save harmless the Minister against:

- 13.1 all actions, claims, demands, proceedings, suits, costs, damages, expenses and losses which the Minister may suffer or incur as a result of the death of or injury to any person or loss of or damage to the property of any person arising from or out of any occurrence in, upon or about the leased area or any part of it or the use of the leased area by the lessee or a licensee under a corresponding licence or by any employee, agent, contractor or invitee of the lessee or licensee;
- 13.2 all loss or damage to the leased area, and any property on it caused by the lessee or licensee under a corresponding licence or by any employee, agent, contractor, or invitee of the lessee or licensee or other person having business with the lessee or licensee and in particular but without limiting in any way the generality of the foregoing by reason of the use, misuse, waste or abuse of the leased area; and
- 13.3 all fees, costs, liabilities and expenses incurred by the Minister in the exercise or attempted exercise of any of the rights, authorities, powers or remedies which are exercisable by the Minister pursuant to this lease,

except to the extent caused or contributed to by any wilful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

14. Exclusion of Liability

The Minister and its servants, employees, agents, contractors and invitees shall have no responsibility or liability to the lessee and the Minister and its employees, agents, contractors and invitees for any loss or injury suffered by the lessee or to the property of the lessee except to the extent caused or contributed to by any unlawful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

15. Minister's Entry on Leased Area

- 15.1 The Minister may, on giving reasonable notice, with or without the Minister's officers, employees and/or agents, enter upon and remain on the leased area for the purpose of inspecting the leased area including in respect of the performance of the lessee's obligations and/or for the purpose of remedying any breach of the lessee's obligations under this lease or the Act in respect of the leased area or any breach by any licensee under a corresponding licence of its obligations under and pursuant to the licence or the Act, although the Minister shall be under no obligation to so remedy any such breach.
- 15.2 The Minister shall not be required to give any prior notice to the lessee before exercising its rights under and pursuant to this clause in circumstances where, in the reasonable opinion of the Minister:
 - 15.2.1 it is not practicable to do so, or;
 - 15.2.2 the Minister or any responsible officer, employee or agent of the Minister believes on reasonable grounds that an offence has or is being or is about to be committed on the leased area or that a breach of the terms and conditions of this lease by the lessee or any breach by any licensee of its obligations under and pursuant to the licence, has occurred, is occurring or is about to occur;
 - 15.2.3 in exercising any of its rights under and pursuant to this clause the Minister shall use its reasonable endeavours not to interfere with the lawful and permitted conduct of the lessee's or a licensee's use of the leased area.

16. Contamination and Contaminating Substances

- 16.1 The lessee must not bring or permit to be brought upon the leased area any matter in any form which the handling, storage, disposal, dealing with or the escape of which may in any manner result in, cause or contribute to pollution, contamination or degradation on or to the leased area or any land or water adjacent or near to the leased area or exacerbate, add to or compound any pre-existing pollution, contamination or degradation or the feasibility, practicality or cost of its control and/or removal, unless the lessee has obtained the prior written consent of the Minister, (which consent the Minister may grant or withhold or impose conditions on in its absolute unfettered discretion).
- 16.2 Irrespective of whether the Minister gave its consent in respect of such material, compounds or substances pursuant to this clause, if during the term of this lease, or during any subsequent period in which the lessee continues to occupy or control the leased area, any pollution, contamination or degradation occurs or any exacerbation, addition to or compounding of any pollution, contamination or degradation existing prior to the date of commencement of the term of this lease occurs (other than to the extent the result of any wilful or negligent act or omission of the Minister or any agent employee or contractor of the Minister) then:
 - 16.2.1 the lessee must forthwith notify the Minister in writing of the location, nature, extent and quantity of such substance or compound and the pollution, contamination and degradation it might cause and reasonable particulars of the long term effect of the same and likely cost of control, collection, removal and disposal;
 - 16.2.2 the lessee must permit the Minister and any employee, agent, inspector, contractor or invitee of the Minister at all times to enter upon the leased area and to inspect any suspected notified or known pollution, contamination or degradation or any substance

or compound capable of causing pollution, contamination and degradation to the leased area or the land or water adjacent to or near the leased area and to abate any actual or potential danger or hazard in or about the leased area and if such hazard or damage in the reasonable opinion of the Minister is caused by or results from the substance or compound the lessee shall pay to the Minister the costs and expenses incurred in carrying out such work; and

16.2.3 the lessee must at its own cost and expense if so required by the Minister remove any and all substances and compounds causing contributing or which could cause or contribute to pollution, contamination or degradation of the leased area (or exacerbate add to or compound any pre-existing similar condition) from all parts of the leased area.

16.3 During the term of this lease, the lessee must indemnify and hold harmless the Minister and keep the Minister indemnified from and against all claims, demands, actions, proceedings, judgments, orders, costs, losses, damages and expenses of any nature whatsoever suffered or incurred by the Minister as a result whether directly or otherwise of:

16.3.1 any act or omission of the lessee its servants, agents, contractors, licensees or any other person acting with its authority which results in pollution, contamination or degradation on or to the leased area or any part thereof; and

16.3.2 any failure of the lessee to comply with observe and perform in respect of the leased area the requirements imposed on tenants or occupiers of the leased area by any laws, statutory enactments or regulations made pursuant thereto (whether Federal, State or municipal) relating to the contamination and/or degradation and/or pollution of the leased area or any part thereof (the 'relevant law').

17. Lease Expiry

The lessee must, at the lessee's cost in all things immediately prior to the expiration or sooner determination of the term of this lease:

17.1 remove and carry away from the leased area all improvements, plant, equipment, chattels and property located or brought upon the leased area by or on behalf of the lessee and in such removal cause as little damage to the leased area as practicable;

17.2 upon completion of such removal, remove all debris, rubbish and waste from the leased area and rehabilitate the same in respect of any damage caused thereto by the location thereon of such waste and debris; and

17.3 reinstate and rehabilitate the leased area and any portions thereof affected by the conduct of the permitted use or the lessee's use of the same to the condition existing prior to commencement of the term of this lease. Such rehabilitation shall be performed by the lessee at its cost in all things to the reasonable satisfaction of the Minister.

18. Occupation

The lessee has the rights of occupation provided in the Act.

19. Default Costs

19.1 The lessee is liable to pay the Minister reasonable costs and expenses including but without limiting the generality thereof reasonable professional charges and workmen's wages:

19.1.1 of and incidental to the recovery of annual rent due and unpaid interest thereon; and

19.1.2 incurred by remedying or attempting to remedy any breach of the lessee's obligations under this lease.

19.2 Any amount payable by the lessee under this clause is payable on demand by the Minister.

20. Default Interest

Without prejudice to the rights, powers and remedies of the Minister otherwise under this lease the lessee must pay to the Minister interest at the overdrawn rate charged from time to time by the Minister's Bankers on overdrafts not exceeding \$50 000 on any money due but unpaid after the same fell due and payable by the lessee to the Minister on any account whatsoever under this lease. Interest shall be computed from the due date for the payment of the money in respect of which the interest is chargeable until payment of such money is made in full and shall be recoverable in like manner as rent in arrears.

21. Minister may remedy Default

21.1 If the lessee fails or neglects to perform any obligation or to observe any provision to be performed or observed by the lessee under this lease or if any licensee under the licence is in breach or default under the licence and if such failure or neglect shall continue for one month after the Minister has given to the lessee notice in writing requiring the lessee to perform such obligation or to observe such provision then the Minister may (but without being bound so to do and without prejudice to any other right or remedy) perform that obligation or observe that provision and all reasonable costs and expenses including overtime charges, fines, levies and penalties due to such default or incurred by the Minister in remedying the same shall be paid by the lessee to the Minister.

22. Waiver

No forbearance by the Minister in respect of any breach of any obligation contained or implied in this lease shall operate as a waiver of another breach of the same or of any other obligation contained or implied in this lease.

23. Joint Lessees

If the lessee constitutes more than one natural person or bodies corporate or a partnership:

23.1 the persons comprising the lessee are jointly and severally bound by the conditions of this lease; and

23.2 notice to one of the natural persons or bodies corporate comprising the lessee shall be notice to all persons comprising the lessee.

24. Guarantee or Indemnity

24.1 The lessee must within five business days of receipt of this lease but with effect from the date of commencement of the term of this lease either:

24.1.1 provide a guarantee from its bankers; or

24.1.2 contribute to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry,

to and in favour of and for the benefit of the Minister by way of security for the due and punctual performance by the lessee of the terms and conditions of this lease and in particular the obligations of the lessee to rehabilitate the leased area immediately prior to the expiration or sooner determination of the term of this lease upon the following terms and conditions:

24.1.3 the lessee shall either:

(a) arrange for the provision from a bank as defined in the Banking Act 1959 or established by an Act of the Parliament of South Australia of an irrevocable and continuing bank guarantee for an amount stipulated from time to time by the Minister (the 'Bank Guarantee'). The Bank Guarantee shall otherwise contain terms and conditions which are reasonably satisfactory to the Minister. The Bank Guarantee shall be continuously in existence until the Minister agrees to release the Bank Guarantee under this clause. The guarantee shall entitle the Minister to make demand on the Bank Guarantee at any time if there has been a failure by the lessee to pay any money at the time specified for such

payment or if there has been any other breach or default by the lessee for the due and punctual performance of the covenants, obligations and provisions on the part of the lessee under this lease. If the Minister makes a demand on the Bank Guarantee either in whole or in part and appropriate such funds then the lessee shall within five days of such demand by the Minister provide the Minister with a fresh Bank Guarantee for an amount equal to the amount so demanded and paid by the Bank to the Minister on the Bank Guarantee and on the same terms and conditions as specified in this clause. The lessee shall not be entitled to a release or a re-delivery nor to request a release or re-delivery of the Bank Guarantee until one month after the expiration of the term of this lease. Notwithstanding any other provisions of this clause the Minister shall be entitled to refuse to release or deliver up to the lessee the Bank Guarantee if the Minister reasonably considers that there may be unremedied breaches or con-tingent obligations under the lease yet to mature and to be performed by the lessee at the time of the request to the Minister to release or re-deliver the Bank Guarantee; or

- (b) make such contributions to the indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industries as required by the Minister or the administrator of such scheme, and if required make such contributions on an annual or other basis and in such amounts as required by the Minister or the administrator of such scheme;

24.1.4 the provisions of this clause do not in any way limit, restrict or prejudice the rights of the Minister to exercise such additional rights, remedies and powers as the Minister may consider appropriate as a result of the lessee's default;

24.1.5 notwithstanding any other provision of this clause, if the lessee transfers or assigns its estate and interest in this lease, then upon and as and from the date ('the Date') such transferee or assignee providing to the Minister either a guarantee from its bankers as satisfies the requirements of this clause or evidence of having contributed to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry in such amount as required by this clause, the Minister shall from the date fully free release and discharge the lessee from any and all obligations under and pursuant to this clause and shall release and re-deliver to the lessee any bank.

24.2 If the lessee has already provided a guarantee or contributed to a fund in accordance with obligations under previous arrangements to the extent required under this lease, then the lessee is excused from the initial requirement to provide a guarantee or contribution, but not from subsequent obligations under this clause.

25. *Disclaimer*

The Minister does not expressly or impliedly warrant that the leased area is now or will remain suitable or adequate for all or any of the purposes of the lessee and all warranties (if any) as to the suitability and adequateness of the leased area that might otherwise be implied are expressly negated.

26. *Delegation*

Unless expressly excluded by any provision of this lease, any consent, any notice, any consultation or any other thing which pursuant to the terms of this lease is either required to be given, done or performed by the Minister or is permitted to be given, done or performed by the Minister may for the purposes of this lease be properly given, done or performed by a person authorised by the Minister to act on the Minister's behalf.

27. *Special Conditions*

Incorporated in this lease are any special conditions set out in the Schedule.

28. *Notices*

28.1 Notice to the lessee is valid if sent by post to the address for notices in the Schedule, or such other address as is notified by the lessee to the Minister in writing.

28.2 The lessee may give notice to the Minister by posting written notice addressed to PIRSA Aquaculture, G.P.O. Box 1625, Adelaide, S.A. 5001.

29. *Definitions and Interpretation*

In this lease unless inconsistent with the context:

'*business days*' means Monday to Friday (inclusive) excluding any public holiday;

'*corresponding licence*' has the meaning attributed in the Act;

'*GST*' means the tax imposed by the GST Law;

'*GST Law*' has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999;

'*Insolvency Administration*' means, if the lessee is a corporation:

- an administrator is appointed to the lessee or action is taken to make such an appointment;
- the lessee resolves to be wound up;
- an application is made to a court for an order or an order is made that the lessee be wound up (whether on grounds of insolvency or otherwise);
- the lessee ceases to carry on business;
- a receiver or a receiver and manager of property of the lessee is appointed whether by a court or other-wise;
- an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the lessee or one of them is appointed, whether or not under an order;
- the lessee enters into a compromise or arrangement with its creditors or a class of them; or
- the lessee is or states that it is unable to pay its debts when they fall due;

'*Insolvency Administration*' means if the lessee is a natural person:

- the lessee has committed an act of bankruptcy as contemplated by the Bankruptcy Act 1966;
- the lessee is unable to pay his or her debts as and when they become due and payable;
- the court has made a sequestration order against the lessee's estate;
- a creditors' petition has been presented against the lessee;

- the lessee has presented to the Official Receiver a declaration of intention to present a debtor's petition;
- the lessee becomes a bankrupt;
- a meeting of creditors of the lessee is convened; or
- the lessee lodges with his or her trustee a proposal to his or her creditors for a composition in satisfaction of his or her debts or a scheme of arrangement of his or her affairs;

'Lessee' means the party described in this lease and the heirs, executors, administrators and permitted assigns thereof and if a body corporate, its successors and permitted assigns;

'Minister' means the Minister for Agriculture, Food and Fisheries, a body corporate under the Administrative Arrangements Act 1994;

'Permitted Use' means the use of the leased area for such aquaculture purposes as are specified in the Schedule to this lease;

'Leased Area' means the area comprised of State waters or State waters and adjacent land within the meaning of the Harbors and Navigation Act 1993, described in the Schedule to this lease;

'Taxable Supply' has the meaning attributed in the GST Act;

'Tax Invoice' has the meaning attributed in the GST Act;

'Term of this Lease' or the 'Term' means the initial term granted by the Minister (unless sooner determined) and any extension of such initial term.

30. Interpretation

- 30.1 Words importing the singular shall embrace the plural and words importing the masculine gender shall embrace the feminine and neuter genders and *vice versa* respectively.
- 30.2 Any reference to a person shall include a corporate body and *vice versa*.
- 30.3 Where two or more persons are included in the designation the 'lessee' the obligations on the part of the lessee contained in this lease shall bind such persons and any two or greater number of them jointly and each of them severally and the expression the 'lessee' shall include all or any one or more of such persons.
- 30.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for it and the regulations, by-laws or other orders for the time being made under that statute.
- 30.5 Headings are for convenience of reference only and shall not affect the construction or interpretation of the covenants of this lease.

Dated 23 December 2002.

Signed by the General Manager, Aquaculture of the Department for Primary Industries and Resources as delegate of the Minister for Transport (as successor of) the Minister for Transport and Urban Planning, pursuant to a delegation made on 13 March 2000 under section 11 (1) of the Harbors and Navigation Act 1993.

I. NIGHTINGALE, General Manager, Aquaculture

AQUACULTURE ACT 2001

AQUACULTURE LEASE PL00010

Class of Aquaculture (Tuna)

THIS Pilot Lease is granted under the Aquaculture Act 2001 ('the Act') pursuant to section 3 (2) of the Schedule to the Act and Division 4 of Part 6 of the Act.

This lease is granted to the lessee for the term of one year, by the Minister for Agriculture, Food and Fisheries ('the Minister') for the purpose of conducting the Class of Aquaculture nominated in the Schedule ('the permitted use'), subject to the conditions set out in this document.

This lease is granted with the concurrence of the Minister for Transport as required in section 20 of the Aquaculture Act 2001 and section 15 of the Harbours and Navigation Act 1993.

SCHEDULE

Lessee:

Ajka Pty Ltd (1673)
7 Riversdale Avenue
Port Lincoln, S.A. 5606

Leased Area:

GDA 94—Zone 53
593913E 6169837N
594960E 6169837N
594960E 6169140N
593913E 6169140N

Licensed Hectares

73

Permitted Class of Aquaculture:

Tuna Aquaculture

Term of the Lease:

Twelve months

Initial Rental:

\$350.00

Marking-off requirements:

The marked-off area must be marked with 30 cm diameter white buoys spaced at 50 m intervals and positioned no more than 50 m from structures located on the site.

Amount of Public Liability Insurance:

\$10 million

Amount of Guarantee or contribution to indemnity fund:

\$10 000

Extent of Leased Area that must be developed:

During the term of this lease at least one cage of at least 20 m diameter must be installed on the site.

1. Term and Renewal

- 1.1 The term of this lease is the term of one year commencing on 1 July 2002 and ending on 30 June 2003 ('the initial term').
- 1.2 The term is renewable in accordance with section 38 of the Act for successive terms, by the lessee giving the Minister notice no earlier than two months before the expiry of the term, and no later than one month before the expiry of the term, unless there is at the expiry of the lease a default under the lease or any corresponding licence.
- 1.3 Any renewal of the term shall be subject to conditions in accordance with standard conditions under aquaculture policies developed under Part 4 of the Act, and such other conditions as are determined by the Minister ('the reviewed conditions').
- 1.4 Upon renewal the Minister may issue either a certificate of renewal, or a new lease, incorporating the reviewed conditions.
- 1.5 The Minister may, at the time of renewal of a term, vary the term subject to the maximum term for a production lease permitted by the Act.

2. Rental

- 2.1 The lessee must pay to the Minister the annual rental, free from exchange, deduction or abatement.
- 2.2 At the commencement of the initial term the annual rental payable under this lease is the initial rental stipulated in the Schedule.
- 2.3 The initial rental payable in respect of the initial term is subject to adjustment during the initial term, as determined by the Minister in accordance with aquaculture policy developed under Part 4 of the Act. The adjusted rental shall be applicable in respect of the entire initial term.

- 2.4 Rental in respect of renewed terms shall be as notified by the Minister before the expiry of the initial term, and adjustments of rental in renewed terms of the lease will be applicable in accordance with the reviewed conditions.
- 2.5 Rental is payable in full within one month of commencement of the lease by direct bank transfer to the credit of a bank account nominated by the Minister, or by cheque payable to the Department for Primary Industry and Resources SA, delivered to the address stipulated by the Minister.

3. GST

- 3.1 The rental payable under this lease is exclusive of GST.
- 3.2 The lease is a taxable supply under GST Law.
- 3.3 Department of Primary Industries and Resources (ABN 53 763 159 658) is the government entity administering this lease on behalf of the Minister and is registered pursuant to the GST Law.
- 3.4 Department of Primary Industries and Resources is entitled to be treated as the maker of any taxable supply and the recipient of any taxable supply pursuant to this lease instead of the Minister for the purposes only of the GST Law.
- 3.5 The lessee must pay to the Minister, together with any payment of rental under this lease, an additional amount in respect of GST (the 'GST payment'). The GST payment is ten per cent of the rental, subject only to any change in the rate of GST under GST Law.
- 3.6 The Minister must issue to the lessee a tax invoice within 10 business days after the lessee has delivered payment of rental and the GST payment.

4. Cancellation

The Minister may cancel this lease by immediate written notice to the lessee:

- 4.1 if the lessee enters into any form of Insolvency Administration;
- 4.2 if the lessee assigns or purports to assign the lease without giving the Minister prior written notice as required by section 39 of the Act;
- 4.3 if any rent or other moneys payable by the lessee are in arrears for more than 14 days whether or not any formal demand has been made for the rent or other moneys;
- 4.4 if the lessee (being a natural person) is convicted of any indictable offence;
- 4.5 if there is any breach of any condition of a corresponding licence in respect of this lease;
- 4.6 if there is a breach of any obligation under the Act by the lessee or a licensee under a corresponding licence;
- 4.7 if a corresponding licence is cancelled; or
- 4.8 if in the opinion of the Minister the use of the leased area by or on behalf of the lessee reveals, indicates or provides reasonable grounds for the Minister to form the view or opinion that degradation or damage of an unacceptable level of coastal land or the surrounding marine environment has or is being caused by the lessee's use of the leased area or the use of the leased area by a licensee under a corresponding licence, or any activity associated with their activities and the lessee fails to comply with a notice requiring the lessee to remedy the degradation or damage, and/or cease or prevent the relevant activity within 30 days after the date the notice is served upon the lessee by or on behalf of the Minister.

5. Dealing with Lease

- 5.1 This lease is transferable in accordance with the Act (see section 39).
- 5.2 Subletting under this lease is not permitted except with the prior written consent of the Minister.

6. Marking-off

The lessee must mark-off the leased area in the manner stipulated in the Schedule.

7. Lessee's Use of Leased Area

The lessee must not use the leased area or permit it to be used for any purpose other than the Permitted Class of Aquaculture.

8. Development Requirement

The lessee must ensure that the leased area is developed and used for the Permitted Class of Aquaculture to the extent stipulated in the Schedule.

9. Consents and Approvals

- 9.1 If the lessee's use of the leased area is permissible only with the consent or approval of any authority under or in pursuance of any law enactment or order of Court the lessee must obtain such consent or approval at its own expense and the lessee shall at no time during the term of this lease do or permit or fail to do or suffer to be done any act, matter or thing whereby such consent or approval shall lapse or be revoked; and
- 9.2 The lessee must keep current during the term of this lease all consents and approvals required under the Development Act 1993 and any other law applicable to the leased area or the permitted use or the lessee's use of the leased area.

10. Public Liability Insurance

- 10.1 The lessee shall forthwith effect and keep current during the term of this lease in the joint names of the Minister and the lessee for their respective rights and interests with a reputable and solvent insurer first approved by the Minister (which approval shall not be unreasonably withheld) a policy of public risk insurance in respect of the leased area for an amount not less than the amount stipulated in the Schedule in respect of any single claim, accident or event (or such greater amount as the Minister shall from time to time reasonably require) and upon request from or on behalf of the Minister to produce a copy of such policy and a copy of a certificate of currency in respect thereof such policy to indemnify the lessee and the Minister against any and all actions, suits, claims, demands, cost, proceedings, expenses, harm and loss of any kind including arising out of or in connection with:
- 10.1.1 the use of the leased area by the lessee or a licensee under a corresponding licence or its servants, agents and invitees; and/or
- 10.1.2 any death, illness or bodily injury sustained by any person upon the leased area or any damage to property occurring upon the leased area.

Notwithstanding any other provision of this clause the lessee shall satisfy the obligations to effect a policy of public risk insurance if the lessee notes the leased area and the Minister's rights and interests therein and under this lease upon any policy of public risk insurance effected by the lessee in respect of other land or premises within the Commonwealth of Australia provided such policy and such insurer otherwise satisfies the requirements of this clause and the lessee upon request from or on behalf of the Minister produces a copy of such policy and a copy of a Certificate of Currency in respect thereof.

11. Statutory Requirements

- 11.1 The lessee must comply with the laws in force in South Australia in the course of any activity undertaken pursuant to this lease, or in relation to or on the leased area.
- 11.2 The lessee shall be liable to indemnify the Minister from and against all actions, proceedings, claims, demands, charges, penalties and expenses arising from any failure to comply with the laws in force in South Australia.

12. *No Nuisance*

- 12.1 The lessee must not do or fail to do anything on or in respect of the leased area (and must ensure that its employees, agents, contractors and invitees and any licensee under a corresponding licence do not do or fail to do anything on or in respect of the leased area):
- 12.1.1 whereby a nuisance (whether public or private) may arise or continue upon or in connection with the leased area; or
- 12.1.2 whereby any nuisance or disturbance could arise to any users of land near the leased area or the waters around the leased area or which could interfere with the same.

13. *Indemnities*

The lessee must indemnify and save harmless the Minister against:

- 13.1 all actions, claims, demands, proceedings, suits, costs, damages, expenses and losses which the Minister may suffer or incur as a result of the death of or injury to any person or loss of or damage to the property of any person arising from or out of any occurrence in, upon or about the leased area or any part of it or the use of the leased area by the lessee or a licensee under a corresponding licence or by any employee, agent, contractor or invitee of the lessee or licensee;
- 13.2 all loss or damage to the leased area, and any property on it caused by the lessee or licensee under a corresponding licence or by any employee, agent, contractor, or invitee of the lessee or licensee or other person having business with the lessee or licensee and in particular but without limiting in any way the generality of the foregoing by reason of the use, misuse, waste or abuse of the leased area; and
- 13.3 all fees, costs, liabilities and expenses incurred by the Minister in the exercise or attempted exercise of any of the rights, authorities, powers or remedies which are exercisable by the Minister pursuant to this lease,

except to the extent caused or contributed to by any wilful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

14. *Exclusion of Liability*

The Minister and its servants, employees, agents, contractors and invitees shall have no responsibility or liability to the lessee and the Minister and its employees, agents, contractors and invitees for any loss or injury suffered by the lessee or to the property of the lessee except to the extent caused or contributed to by any unlawful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

15. *Minister's Entry on Leased Area*

- 15.1 The Minister may, on giving reasonable notice, with or without the Minister's officers, employees and/or agents, enter upon and remain on the leased area for the purpose of inspecting the leased area including in respect of the performance of the lessee's obligations and/or for the purpose of remedying any breach of the lessee's obligations under this lease or the Act in respect of the leased area or any breach by any licensee under a corresponding licence of its obligations under and pursuant to the licence or the Act, although the Minister shall be under no obligation to so remedy any such breach.
- 15.2 The Minister shall not be required to give any prior notice to the lessee before exercising its rights under and pursuant to this clause in circumstances where, in the reasonable opinion of the Minister:
- 15.2.1 it is not practicable to do so, or;
- 15.2.2 the Minister or any responsible officer, employee or agent of the Minister believes on reasonable grounds that an offence has or is being or is about to be committed on the leased area or that a breach of the terms and conditions of this lease by the lessee or any

breach by any licensee of its obligations under and pursuant to the licence, has occurred, is occurring or is about to occur;

- 15.2.3 in exercising any of its rights under and pursuant to this clause the Minister shall use its reasonable endeavours not to interfere with the lawful and permitted conduct of the lessee's or a licensee's use of the leased area.

16. *Contamination and Contaminating Substances*

- 16.1 The lessee must not bring or permit to be brought upon the leased area any matter in any form which the handling, storage, disposal, dealing with or the escape of which may in any manner result in, cause or contribute to pollution, contamination or degradation on or to the leased area or any land or water adjacent or near to the leased area or exacerbate, add to or compound any pre-existing pollution, contamination or degradation or the feasibility, practicality or cost of its control and/or removal, unless the lessee has obtained the prior written consent of the Minister, (which consent the Minister may grant or withhold or impose conditions on in its absolute unfettered discretion).

- 16.2 Irrespective of whether the Minister gave its consent in respect of such material, compounds or substances pursuant to this clause, if during the term of this lease, or during any subsequent period in which the lessee continues to occupy or control the leased area, any pollution, contamination or degradation occurs or any exacerbation, addition to or compounding of any pollution, contamination or degradation existing prior to the date of commencement of the term of this lease occurs (other than to the extent the result of any wilful or negligent act or omission of the Minister or any agent employee or contractor of the Minister) then:

- 16.2.1 the lessee must forthwith notify the Minister in writing of the location, nature, extent and quantity of such substance or compound and the pollution, contamination and degradation it might cause and reasonable particulars of the long term effect of the same and likely cost of control, collection, removal and disposal;

- 16.2.2 the lessee must permit the Minister and any employee, agent, inspector, contractor or invitee of the Minister at all times to enter upon the leased area and to inspect any suspected notified or known pollution, contamination or degradation or any substance or compound capable of causing pollution, contamination and degradation to the leased area or the land or water adjacent to or near the leased area and to abate any actual or potential danger or hazard in or about the leased area and if such hazard or damage in the reasonable opinion of the Minister is caused by or results from the substance or compound the lessee shall pay to the Minister the costs and expenses incurred in carrying out such work; and

- 16.2.3 the lessee must at its own cost and expense if so required by the Minister remove any and all substances and compounds causing contributing or which could cause or contribute to pollution, contamination or degradation of the leased area (or exacerbate add to or compound any pre-existing similar condition) from all parts of the leased area.

- 16.3 During the term of this lease, the lessee must indemnify and hold harmless the Minister and keep the Minister indemnified from and against all claims, demands, actions, proceedings, judgments, orders, costs, losses, damages and expenses of any nature whatsoever suffered or incurred by the Minister as a result whether directly or otherwise of:

- 16.3.1 any act or omission of the lessee its servants, agents, contractors, licensees or any other person acting with its authority which results in pollution, contamination or degradation on or to the leased area or any part thereof; and
- 16.3.2 any failure of the lessee to comply with observe and perform in respect of the leased area the requirements imposed on tenants or occupiers of the leased area by any laws, statutory enactments or regulations made pursuant thereto (whether Federal, State or municipal) relating to the contamination and/or degradation and/or pollution of the leased area or any part thereof (the 'relevant law').

17. Lease Expiry

The lessee must, at the lessee's cost in all things immediately prior to the expiration or sooner determination of the term of this lease:

- 17.1 remove and carry away from the leased area all improvements, plant, equipment, chattels and property located or brought upon the leased area by or on behalf of the lessee and in such removal cause as little damage to the leased area as practicable;
- 17.2 upon completion of such removal, remove all debris, rubbish and waste from the leased area and rehabilitate the same in respect of any damage caused thereto by the location thereon of such waste and debris; and
- 17.3 reinstate and rehabilitate the leased area and any portions thereof affected by the conduct of the permitted use or the lessee's use of the same to the condition existing prior to commencement of the term of this lease. Such rehabilitation shall be performed by the lessee at its cost in all things to the reasonable satisfaction of the Minister.

18. Occupation

The lessee has the rights of occupation provided in the Act.

19. Default Costs

- 19.1 The lessee is liable to pay the Minister reasonable costs and expenses including but without limiting the generality thereof reasonable professional charges and workmen's wages:
- 19.1.1 of and incidental to the recovery of annual rent due and unpaid interest thereon; and
- 19.1.2 incurred by remedying or attempting to remedy any breach of the lessee's obligations under this lease.
- 19.2 Any amount payable by the lessee under this clause is payable on demand by the Minister.

20. Default Interest

Without prejudice to the rights, powers and remedies of the Minister otherwise under this lease the lessee must pay to the Minister interest at the overdrawn rate charged from time to time by the Minister's Bankers on overdrafts not exceeding \$50 000 on any money due but unpaid after the same fell due and payable by the lessee to the Minister on any account whatsoever under this lease. Interest shall be computed from the due date for the payment of the money in respect of which the interest is chargeable until payment of such money is made in full and shall be recoverable in like manner as rent in arrears.

21. Minister may remedy Default

- 21.1 If the lessee fails or neglects to perform any obligation or to observe any provision to be performed or observed by the lessee under this lease or if any licensee under the licence is in breach or default under the licence and if such failure or neglect shall continue for one month after the Minister has given to the lessee notice in writing requiring the lessee to perform such obligation or to observe such provision then the Minister may (but without being bound so to do and without prejudice to any other right or remedy) perform that obligation or observe that provision and all reasonable costs and expenses including overtime charges, fines, levies and penalties due to such default

or incurred by the Minister in remedying the same shall be paid by the lessee to the Minister.

22. Waiver

No forbearance by the Minister in respect of any breach of any obligation contained or implied in this lease shall operate as a waiver of another breach of the same or of any other obligation contained or implied in this lease.

23. Joint Lessees

If the lessee constitutes more than one natural person or bodies corporate or a partnership:

- 23.1 the persons comprising the lessee are jointly and severally bound by the conditions of this lease; and
- 23.2 notice to one of the natural persons or bodies corporate comprising the lessee shall be notice to all persons comprising the lessee.

24. Guarantee or Indemnity

- 24.1 The lessee must within five business days of receipt of this lease but with effect from the date of commencement of the term of this lease either:

- 24.1.1 provide a guarantee from its bankers; or
- 24.1.2 contribute to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry,

to and in favour of and for the benefit of the Minister by way of security for the due and punctual performance by the lessee of the terms and conditions of this lease and in particular the obligations of the lessee to rehabilitate the leased area immediately prior to the expiration or sooner determination of the term of this lease upon the following terms and conditions:

- 24.1.3 the lessee shall either:

- (a) arrange for the provision from a bank as defined in the Banking Act 1959 or established by an Act of the Parliament of South Australia of an irrevocable and continuing bank guarantee for an amount stipulated from time to time by the Minister (the 'Bank Guarantee'). The Bank Guarantee shall otherwise contain terms and conditions which are reasonably satisfactory to the Minister. The Bank Guarantee shall be continuously in existence until the Minister agrees to release the Bank Guarantee under this clause. The guarantee shall entitle the Minister to make demand on the Bank Guarantee at any time if there has been a failure by the lessee to pay any money at the time specified for such payment or if there has been any other breach or default by the lessee for the due and punctual performance of the covenants, obligations and provisions on the part of the lessee under this lease. If the Minister makes a demand on the Bank Guarantee either in whole or in part and appropriate such funds then the lessee shall within five days of such demand by the Minister provide the Minister with a fresh Bank Guarantee for an amount equal to the amount so demanded and paid by the Bank to the Minister on the Bank Guarantee and on the same terms and conditions as specified in this clause. The lessee shall not be entitled to a release or a re-delivery nor to request a release or re-delivery of the Bank Guarantee until one month after the expiration of the term of this lease. Notwithstanding any other provisions of this clause the Minister shall be entitled to refuse to release or deliver up to the lessee the Bank Guarantee if the Minister reasonably considers that there may be unremedied breaches or con-tigent obligations

under the lease yet to mature and to be performed by the lessee at the time of the request to the Minister to release or re-deliver the Bank Guarantee; or

- (b) make such contributions to the indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industries as required by the Minister or the administrator of such scheme, and if required make such contributions on an annual or other basis and in such amounts as required by the Minister or the administrator of such scheme;

24.1.4 the provisions of this clause do not in any way limit, restrict or prejudice the rights of the Minister to exercise such additional rights, remedies and powers as the Minister may consider appropriate as a result of the lessee's default;

24.1.5 notwithstanding any other provision of this clause, if the lessee transfers or assigns its estate and interest in this lease, then upon and as and from the date ('the Date') such transferee or assignee providing to the Minister either a guarantee from its bankers as satisfies the requirements of this clause or evidence of having contributed to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry in such amount as required by this clause, the Minister shall from the date fully free release and discharge the lessee from any and all obligations under and pursuant to this clause and shall release and re-deliver to the lessee any bank.

24.2 If the lessee has already provided a guarantee or contributed to a fund in accordance with obligations under previous arrangements to the extent required under this lease, then the lessee is excused from the initial requirement to provide a guarantee or contribution, but not from subsequent obligations under this clause.

25. Disclaimer

The Minister does not expressly or impliedly warrant that the leased area is now or will remain suitable or adequate for all or any of the purposes of the lessee and all warranties (if any) as to the suitability and adequateness of the leased area that might otherwise be implied are expressly negated.

26. Delegation

Unless expressly excluded by any provision of this lease, any consent, any notice, any consultation or any other thing which pursuant to the terms of this lease is either required to be given, done or performed by the Minister or is permitted to be given, done or performed by the Minister may for the purposes of this lease be properly given, done or performed by a person authorised by the Minister to act on the Minister's behalf.

27. Special Conditions

Incorporated in this lease are any special conditions set out in the Schedule.

28. Notices

- 28.1 Notice to the lessee is valid if sent by post to the address for notices in the Schedule, or such other address as is notified by the lessee to the Minister in writing.
- 28.2 The lessee may give notice to the Minister by posting written notice addressed to PIRSA Aquaculture, G.P.O. Box 1625, Adelaide, S.A. 5001.

29. Definitions and Interpretation

In this lease unless inconsistent with the context:

'business days' means Monday to Friday (inclusive) excluding any public holiday;

'corresponding licence' has the meaning attributed in the Act;

'GST' means the tax imposed by the GST Law;

'GST Law' has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999;

'Insolvency Administration' means, if the lessee is a corporation:

- an administrator is appointed to the lessee or action is taken to make such an appointment;
- the lessee resolves to be wound up;
- an application is made to a court for an order or an order is made that the lessee be wound up (whether on grounds of insolvency or otherwise);
- the lessee ceases to carry on business;
- a receiver or a receiver and manager of property of the lessee is appointed whether by a court or other-wise;
- an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the lessee or one of them is appointed, whether or not under an order;
- the lessee enters into a compromise or arrangement with its creditors or a class of them; or
- the lessee is or states that it is unable to pay its debts when they fall due;

'Insolvency Administration' means if the lessee is a natural person:

- the lessee has committed an act of bankruptcy as contemplated by the Bankruptcy Act 1966;
- the lessee is unable to pay his or her debts as and when they become due and payable;
- the court has made a sequestration order against the lessee's estate;
- a creditors' petition has been presented against the lessee;
- the lessee has presented to the Official Receiver a declaration of intention to present a debtor's petition;
- the lessee becomes a bankrupt;
- a meeting of creditors of the lessee is convened; or
- the lessee lodges with his or her trustee a proposal to his or her creditors for a composition in satisfaction of his or her debts or a scheme of arrangement of his or her affairs;

'Lessee' means the party described in this lease and the heirs, executors, administrators and permitted assigns thereof and if a body corporate, its successors and permitted assigns;

'Minister' means the Minister for Agriculture, Food and Fisheries, a body corporate under the Administrative Arrangements Act 1994;

'Permitted Use' means the use of the leased area for such aquaculture purposes as are specified in the Schedule to this lease;

'Leased Area' means the area comprised of State waters or State waters and adjacent land within the meaning of the Harbors and Navigation Act 1993, described in the Schedule to this lease;

'Taxable Supply' has the meaning attributed in the GST Act;

'Tax Invoice' has the meaning attributed in the GST Act;

'Term of this Lease' or the 'Term' means the initial term granted by the Minister (unless sooner determined) and any extension of such initial term.

30. Interpretation

- 30.1 Words importing the singular shall embrace the plural and words importing the masculine gender shall embrace the feminine and neuter genders and *vice versa* respectively.
- 30.2 Any reference to a person shall include a corporate body and *vice versa*.
- 30.3 Where two or more persons are included in the designation the 'lessee' the obligations on the part of the lessee contained in this lease shall bind such persons and any two or greater number of them jointly and each of them severally and the expression the 'lessee' shall include all or any one or more of such persons.
- 30.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for it and the regulations, by-laws or other orders for the time being made under that statute.
- 30.5 Headings are for convenience of reference only and shall not affect the construction or interpretation of the covenants of this lease.

Dated 23 December 2002.

Signed by the General Manager, Aquaculture of the Department for Primary Industries and Resources as delegate of the Minister for Transport (as successor of) the Minister for Transport and Urban Planning, pursuant to a delegation made on 13 March 2000 under section 11 (1) of the Harbours and Navigation Act 1993.

I. NIGHTINGALE, General Manager, Aquaculture

AQUACULTURE ACT 2001

AQUACULTURE LEASE PL00011

Class of Aquaculture (Tuna)

THIS Pilot Lease is granted under the Aquaculture Act 2001 ('the Act') pursuant to section 3 (2) of the Schedule to the Act and Division 4 of Part 6 of the Act.

This lease is granted to the lessee for the term of one year, by the Minister for Agriculture, Food and Fisheries ('the Minister') for the purpose of conducting the Class of Aquaculture nominated in the Schedule ('the permitted use'), subject to the conditions set out in this document.

This lease is granted with the concurrence of the Minister for Transport as required in section 20 of the Aquaculture Act 2001 and section 15 of the Harbours and Navigation Act 1993.

SCHEDULE

Lessee:

Fina K. Fisheries Pty Ltd (30684)
8 Surfleet Place
Port Lincoln, S.A. 5606

Leased Area:

GDA 94—Zone 53
595917E 6169116N
596417E 6169116N
596417E 6167897N
595917E 6167897N

Licensed
Hectares

61

Permitted Class of Aquaculture:

Tuna Aquaculture

Term of the Lease:

Twelve months

Initial Rental:

\$350.00

Marking-off requirements:

The marked-off area must be marked with 30 cm diameter white buoys spaced at 50 m intervals and positioned no more than 50 m from structures located on the site.

Amount of Public Liability Insurance:

\$10 million

Amount of Guarantee or contribution to indemnity fund:

\$10 000

Extent of Leased Area that must be developed:

During the term of this lease at least one cage of at least 20 m diameter must be installed on the site.

1. Term and Renewal

- 1.1 The term of this lease is the term of one year commencing on 1 July 2002 and ending on 30 June 2003 ('the initial term').
- 1.2 The term is renewable in accordance with section 38 of the Act for successive terms, by the lessee giving the Minister notice no earlier than two months before the expiry of the term, and no later than one month before the expiry of the term, unless there is at the expiry of the lease a default under the lease or any corresponding licence.
- 1.3 Any renewal of the term shall be subject to conditions in accordance with standard conditions under aquaculture policies developed under Part 4 of the Act, and such other conditions as are determined by the Minister ('the reviewed conditions').
- 1.4 Upon renewal the Minister may issue either a certificate of renewal, or a new lease, incorporating the reviewed conditions.
- 1.5 The Minister may, at the time of renewal of a term, vary the term subject to the maximum term for a production lease permitted by the Act.

2. Rental

- 2.1 The lessee must pay to the Minister the annual rental, free from exchange, deduction or abatement.
- 2.2 At the commencement of the initial term the annual rental payable under this lease is the initial rental stipulated in the Schedule.
- 2.3 The initial rental payable in respect of the initial term is subject to adjustment during the initial term, as determined by the Minister in accordance with aquaculture policy developed under Part 4 of the Act. The adjusted rental shall be applicable in respect of the entire initial term.
- 2.4 Rental in respect of renewed terms shall be as notified by the Minister before the expiry of the initial term, and adjustments of rental in renewed terms of the lease will be applicable in accordance with the reviewed conditions.
- 2.5 Rental is payable in full within one month of commencement of the lease by direct bank transfer to the credit of a bank account nominated by the Minister, or by cheque payable to the Department for Primary Industry and Resources SA, delivered to the address stipulated by the Minister.

3. GST

- 3.1 The rental payable under this lease is exclusive of GST.
- 3.2 The lease is a taxable supply under GST Law.
- 3.3 Department of Primary Industries and Resources (ABN 53 763 159 658) is the government entity administering this lease on behalf of the Minister and is registered pursuant to the GST Law.
- 3.4 Department of Primary Industries and Resources is entitled to be treated as the maker of any taxable supply and the recipient of any taxable supply pursuant to this lease instead of the Minister for the purposes only of the GST Law.
- 3.5 The lessee must pay to the Minister, together with any payment of rental under this lease, an additional amount in respect of GST (the 'GST payment'). The GST payment is ten per cent of the rental, subject only to any change in the rate of GST under GST Law.
- 3.6 The Minister must issue to the lessee a tax invoice within 10 business days after the lessee has delivered payment of rental and the GST payment.

4. Cancellation

The Minister may cancel this lease by immediate written notice to the lessee:

- 4.1 if the lessee enters into any form of Insolvency Administration;
- 4.2 if the lessee assigns or purports to assign the lease without giving the Minister prior written notice as required by section 39 of the Act;
- 4.3 if any rent or other moneys payable by the lessee are in arrears for more than 14 days whether or not any formal demand has been made for the rent or other moneys;
- 4.4 if the lessee (being a natural person) is convicted of any indictable offence;
- 4.5 if there is any breach of any condition of a corresponding licence in respect of this lease;
- 4.6 if there is a breach of any obligation under the Act by the lessee or a licensee under a corresponding licence;
- 4.7 if a corresponding licence is cancelled; or
- 4.8 if in the opinion of the Minister the use of the leased area by or on behalf of the lessee reveals, indicates or provides reasonable grounds for the Minister to form the view or opinion that degradation or damage of an unacceptable level of coastal land or the surrounding marine environment has or is being caused by the lessee's use of the leased area or the use of the leased area by a licensee under a corresponding licence, or any activity associated with their activities and the lessee fails to comply with a notice requiring the lessee to remedy the degradation or damage, and/or cease or prevent the relevant activity within 30 days after the date the notice is served upon the lessee by or on behalf of the Minister.

5. Dealing with Lease

- 5.1 This lease is transferable in accordance with the Act (see section 39).
- 5.2 Subletting under this lease is not permitted except with the prior written consent of the Minister.

6. Marking-off

The lessee must mark-off the leased area in the manner stipulated in the Schedule.

7. Lessee's Use of Leased Area

The lessee must not use the leased area or permit it to be used for any purpose other than the Permitted Class of Aquaculture.

8. Development Requirement

The lessee must ensure that the leased area is developed and used for the Permitted Class of Aquaculture to the extent stipulated in the Schedule.

9. Consents and Approvals

- 9.1 If the lessee's use of the leased area is permissible only with the consent or approval of any authority under or in pursuance of any law enactment or order of Court the lessee must obtain such consent or approval at its own expense and the lessee shall at no time during the term of this lease do or permit or fail to do or suffer to be done any act, matter or thing whereby such consent or approval shall lapse or be revoked; and
- 9.2 The lessee must keep current during the term of this lease all consents and approvals required under the Development Act 1993 and any other law applicable to the leased area or the permitted use or the lessee's use of the leased area.

10. Public Liability Insurance

- 10.1 The lessee shall forthwith effect and keep current during the term of this lease in the joint names of the Minister and the lessee for their respective rights and interests with a reputable and solvent insurer first approved by the Minister (which approval shall not be unreasonably withheld) a policy of public risk insurance in respect of the leased area for an amount not less than the amount stipulated in the Schedule in respect of any single claim, accident or event (or such

greater amount as the Minister shall from time to time reasonably require) and upon request from or on behalf of the Minister to produce a copy of such policy and a copy of a certificate of currency in respect thereof such policy to indemnify the lessee and the Minister against any and all actions, suits, claims, demands, cost, proceedings, expenses, harm and loss of any kind including arising out of or in connection with:

- 10.1.1 the use of the leased area by the lessee or a licensee under a corresponding licence or its servants, agents and invitees; and/or
- 10.1.2 any death, illness or bodily injury sustained by any person upon the leased area or any damage to property occurring upon the leased area.

Notwithstanding any other provision of this clause the lessee shall satisfy the obligations to effect a policy of public risk insurance if the lessee notes the leased area and the Minister's rights and interests therein and under this lease upon any policy of public risk insurance effected by the lessee in respect of other land or premises within the Commonwealth of Australia provided such policy and such insurer otherwise satisfies the requirements of this clause and the lessee upon request from or on behalf of the Minister produces a copy of such policy and a copy of a Certificate of Currency in respect thereof.

11. Statutory Requirements

- 11.1 The lessee must comply with the laws in force in South Australia in the course of any activity undertaken pursuant to this lease, or in relation to or on the leased area.
- 11.2 The lessee shall be liable to indemnify the Minister from and against all actions, proceedings, claims, demands, charges, penalties and expenses arising from any failure to comply with the laws in force in South Australia.

12. No Nuisance

- 12.1 The lessee must not do or fail to do anything on or in respect of the leased area (and must ensure that its employees, agents, contractors and invitees and any licensee under a corresponding licence do not do or fail to do anything on or in respect of the leased area):
 - 12.1.1 whereby a nuisance (whether public or private) may arise or continue upon or in connection with the leased area; or
 - 12.1.2 whereby any nuisance or disturbance could arise to any users of land near the leased area or the waters around the leased area or which could interfere with the same.

13. Indemnities

The lessee must indemnify and save harmless the Minister against:

- 13.1 all actions, claims, demands, proceedings, suits, costs, damages, expenses and losses which the Minister may suffer or incur as a result of the death of or injury to any person or loss of or damage to the property of any person arising from or out of any occurrence in, upon or about the leased area or any part of it or the use of the leased area by the lessee or a licensee under a corresponding licence or by any employee, agent, contractor or invitee of the lessee or licensee;
- 13.2 all loss or damage to the leased area, and any property on it caused by the lessee or licensee under a corresponding licence or by any employee, agent, contractor, or invitee of the lessee or licensee or other person having business with the lessee or licensee and in particular but without limiting in any way the generality of the foregoing by reason of the use, misuse, waste or abuse of the leased area; and

- 13.3 all fees, costs, liabilities and expenses incurred by the Minister in the exercise or attempted exercise of any of the rights, authorities, powers or remedies which are exercisable by the Minister pursuant to this lease,

except to the extent caused or contributed to by any wilful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

14. Exclusion of Liability

The Minister and its servants, employees, agents, contractors and invitees shall have no responsibility or liability to the lessee and the Minister and its employees, agents, contractors and invitees for any loss or injury suffered by the lessee or to the property of the lessee except to the extent caused or contributed to by any unlawful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

15. Minister's Entry on Leased Area

- 15.1 The Minister may, on giving reasonable notice, with or without the Minister's officers, employees and/or agents, enter upon and remain on the leased area for the purpose of inspecting the leased area including in respect of the performance of the lessee's obligations and/or for the purpose of remedying any breach of the lessee's obligations under this lease or the Act in respect of the leased area or any breach by any licensee under a corresponding licence of its obligations under and pursuant to the licence or the Act, although the Minister shall be under no obligation to so remedy any such breach.

- 15.2 The Minister shall not be required to give any prior notice to the lessee before exercising its rights under and pursuant to this clause in circumstances where, in the reasonable opinion of the Minister:

- 15.2.1 it is not practicable to do so, or;
- 15.2.2 the Minister or any responsible officer, employee or agent of the Minister believes on reasonable grounds that an offence has or is being or is about to be committed on the leased area or that a breach of the terms and conditions of this lease by the lessee or any breach by any licensee of its obligations under and pursuant to the licence, has occurred, is occurring or is about to occur;
- 15.2.3 in exercising any of its rights under and pursuant to this clause the Minister shall use its reasonable endeavours not to interfere with the lawful and permitted conduct of the lessee's or a licensee's use of the leased area.

16. Contamination and Contaminating Substances

- 16.1 The lessee must not bring or permit to be brought upon the leased area any matter in any form which the handling, storage, disposal, dealing with or the escape of which may in any manner result in, cause or contribute to pollution, contamination or degradation on or to the leased area or any land or water adjacent or near to the leased area or exacerbate, add to or compound any pre-existing pollution, contamination or degradation or the feasibility, practicality or cost of its control and/or removal, unless the lessee has obtained the prior written consent of the Minister, (which consent the Minister may grant or withhold or impose conditions on in its absolute unfettered discretion).

- 16.2 Irrespective of whether the Minister gave its consent in respect of such material, compounds or substances pursuant to this clause, if during the term of this lease, or during any subsequent period in which the lessee continues to occupy or control the leased area, any pollution, contamination or degradation occurs or any exacerbation, addition to or compounding of any pollution, contamination or degradation existing prior to the date of commencement of the term of this lease occurs (other than to the extent the result of any wilful or negligent act or omission of the Minister or any agent employee or contractor of the Minister) then:

- 16.2.1 the lessee must forthwith notify the Minister in writing of the location, nature, extent and

quantity of such substance or compound and the pollution, contamination and degradation it might cause and reasonable particulars of the long term effect of the same and likely cost of control, collection, removal and disposal;

- 16.2.2 the lessee must permit the Minister and any employee, agent, inspector, contractor or invitee of the Minister at all times to enter upon the leased area and to inspect any suspected notified or known pollution, contamination or degradation or any substance or compound capable of causing pollution, contamination and degradation to the leased area or the land or water adjacent to or near the leased area and to abate any actual or potential danger or hazard in or about the leased area and if such hazard or damage in the reasonable opinion of the Minister is caused by or results from the substance or compound the lessee shall pay to the Minister the costs and expenses incurred in carrying out such work; and

- 16.2.3 the lessee must at its own cost and expense if so required by the Minister remove any and all substances and compounds causing contributing or which could cause or contribute to pollution, contamination or degradation of the leased area (or exacerbate add to or compound any pre-existing similar condition) from all parts of the leased area.

- 16.3 During the term of this lease, the lessee must indemnify and hold harmless the Minister and keep the Minister indemnified from and against all claims, demands, actions, proceedings, judgments, orders, costs, losses, damages and expenses of any nature whatsoever suffered or incurred by the Minister as a result whether directly or otherwise of:

- 16.3.1 any act or omission of the lessee its servants, agents, contractors, licensees or any other person acting with its authority which results in pollution, contamination or degradation on or to the leased area or any part thereof; and

- 16.3.2 any failure of the lessee to comply with observe and perform in respect of the leased area the requirements imposed on tenants or occupiers of the leased area by any laws, statutory enactments or regulations made pursuant thereto (whether Federal, State or municipal) relating to the contamination and/or degradation and/or pollution of the leased area or any part thereof (the 'relevant law').

17. Lease Expiry

The lessee must, at the lessee's cost in all things immediately prior to the expiration or sooner determination of the term of this lease:

- 17.1 remove and carry away from the leased area all improvements, plant, equipment, chattels and property located or brought upon the leased area by or on behalf of the lessee and in such removal cause as little damage to the leased area as practicable;

- 17.2 upon completion of such removal, remove all debris, rubbish and waste from the leased area and rehabilitate the same in respect of any damage caused thereto by the location thereon of such waste and debris; and

- 17.3 reinstate and rehabilitate the leased area and any portions thereof affected by the conduct of the permitted use or the lessee's use of the same to the condition existing prior to commencement of the term of this lease. Such rehabilitation shall be performed by the lessee at its cost in all things to the reasonable satisfaction of the Minister.

18. Occupation

The lessee has the rights of occupation provided in the Act.

19. Default Costs

19.1 The lessee is liable to pay the Minister reasonable costs and expenses including but without limiting the generality thereof reasonable professional charges and workmen's wages:

19.1.1 of and incidental to the recovery of annual rent due and unpaid interest thereon; and

19.1.2 incurred by remedying or attempting to remedy any breach of the lessee's obligations under this lease.

19.2 Any amount payable by the lessee under this clause is payable on demand by the Minister.

20. Default Interest

Without prejudice to the rights, powers and remedies of the Minister otherwise under this lease the lessee must pay to the Minister interest at the overdrawn rate charged from time to time by the Minister's Bankers on overdrafts not exceeding \$50 000 on any money due but unpaid after the same fell due and payable by the lessee to the Minister on any account whatsoever under this lease. Interest shall be computed from the due date for the payment of the money in respect of which the interest is chargeable until payment of such money is made in full and shall be recoverable in like manner as rent in arrears.

21. Minister may remedy Default

21.1 If the lessee fails or neglects to perform any obligation or to observe any provision to be performed or observed by the lessee under this lease or if any licensee under the licence is in breach or default under the licence and if such failure or neglect shall continue for one month after the Minister has given to the lessee notice in writing requiring the lessee to perform such obligation or to observe such provision then the Minister may (but without being bound so to do and without prejudice to any other right or remedy) perform that obligation or observe that provision and all reasonable costs and expenses including overtime charges, fines, levies and penalties due to such default or incurred by the Minister in remedying the same shall be paid by the lessee to the Minister.

22. Waiver

No forbearance by the Minister in respect of any breach of any obligation contained or implied in this lease shall operate as a waiver of another breach of the same or of any other obligation contained or implied in this lease.

23. Joint Lessees

If the lessee constitutes more than one natural person or bodies corporate or a partnership:

23.1 the persons comprising the lessee are jointly and severally bound by the conditions of this lease; and

23.2 notice to one of the natural persons or bodies corporate comprising the lessee shall be notice to all persons comprising the lessee.

24. Guarantee or Indemnity

24.1 The lessee must within five business days of receipt of this lease but with effect from the date of commencement of the term of this lease either:

24.1.1 provide a guarantee from its bankers; or

24.1.2 contribute to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry,

to and in favour of and for the benefit of the Minister by way of security for the due and punctual performance by the lessee of the terms and conditions of this lease and in particular the obligations of the lessee to rehabilitate the leased area immediately prior to the expiration or sooner determination of the term of this lease upon the following terms and conditions:

24.1.3 the lessee shall either:

(a) arrange for the provision from a bank as defined in the Banking Act 1959 or established by an Act of the Parliament of South Australia of an irrevocable and continuing bank guarantee for an amount stipulated from time to time by the Minister (the 'Bank Guarantee'). The Bank Guarantee shall otherwise contain terms and conditions which are reasonably satisfactory to the Minister. The Bank Guarantee shall be continuously in existence until the Minister agrees to release the Bank Guarantee under this clause. The guarantee shall entitle the Minister to make demand on the Bank Guarantee at any time if there has been a failure by the lessee to pay any money at the time specified for such payment or if there has been any other breach or default by the lessee for the due and punctual performance of the covenants, obligations and provisions on the part of the lessee under this lease. If the Minister makes a demand on the Bank Guarantee either in whole or in part and appropriate such funds then the lessee shall within five days of such demand by the Minister provide the Minister with a fresh Bank Guarantee for an amount equal to the amount so demanded and paid by the Bank to the Minister on the Bank Guarantee and on the same terms and conditions as specified in this clause. The lessee shall not be entitled to a release or a re-delivery nor to request a release or re-delivery of the Bank Guarantee until one month after the expiration of the term of this lease. Notwithstanding any other provisions of this clause the Minister shall be entitled to refuse to release or deliver up to the lessee the Bank Guarantee if the Minister reasonably considers that there may be unremedied breaches or contingent obligations under the lease yet to mature and to be performed by the lessee at the time of the request to the Minister to release or re-deliver the Bank Guarantee; or

(b) make such contributions to the indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industries as required by the Minister or the administrator of such scheme, and if required make such contributions on an annual or other basis and in such amounts as required by the Minister or the administrator of such scheme;

24.1.4 the provisions of this clause do not in any way limit, restrict or prejudice the rights of the Minister to exercise such additional rights, remedies and powers as the Minister may consider appropriate as a result of the lessee's default;

24.1.5 notwithstanding any other provision of this clause, if the lessee transfers or assigns its estate and interest in this lease, then upon and as and from the date ('the Date') such transferee or assignee providing to the Minister either a guarantee from its bankers as satisfies the requirements of this clause or evidence of having contributed to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry in such amount as required by this clause, the Minister shall from the

date fully free release and discharge the lessee from any and all obligations under and pursuant to this clause and shall release and re-deliver to the lessee any bank.

- 24.2 If the lessee has already provided a guarantee or contributed to a fund in accordance with obligations under previous arrangements to the extent required under this lease, then the lessee is excused from the initial requirement to provide a guarantee or contribution, but not from subsequent obligations under this clause.

25. Disclaimer

The Minister does not expressly or impliedly warrant that the leased area is now or will remain suitable or adequate for all or any of the purposes of the lessee and all warranties (if any) as to the suitability and adequateness of the leased area that might otherwise be implied are expressly negated.

26. Delegation

Unless expressly excluded by any provision of this lease, any consent, any notice, any consultation or any other thing which pursuant to the terms of this lease is either required to be given, done or performed by the Minister or is permitted to be given, done or performed by the Minister may for the purposes of this lease be properly given, done or performed by a person authorised by the Minister to act on the Minister's behalf.

27. Special Conditions

Incorporated in this lease are any special conditions set out in the Schedule.

28. Notices

- 28.1 Notice to the lessee is valid if sent by post to the address for notices in the Schedule, or such other address as is notified by the lessee to the Minister in writing.
- 28.2 The lessee may give notice to the Minister by posting written notice addressed to PIRSA Aquaculture, G.P.O. Box 1625, Adelaide, S.A. 5001.

29. Definitions and Interpretation

In this lease unless inconsistent with the context:

- '*business days*' means Monday to Friday (inclusive) excluding any public holiday;
- '*corresponding licence*' has the meaning attributed in the Act;
- '*GST*' means the tax imposed by the GST Law;
- '*GST Law*' has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999;
- '*Insolvency Administration*' means, if the lessee is a corporation:
- an administrator is appointed to the lessee or action is taken to make such an appointment;
 - the lessee resolves to be wound up;
 - an application is made to a court for an order or an order is made that the lessee be wound up (whether on grounds of insolvency or otherwise);
 - the lessee ceases to carry on business;
 - a receiver or a receiver and manager of property of the lessee is appointed whether by a court or other-wise;
 - an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the lessee or one of them is appointed, whether or not under an order;
 - the lessee enters into a compromise or arrangement with its creditors or a class of them; or
 - the lessee is or states that it is unable to pay its debts when they fall due;

'*Insolvency Administration*' means if the lessee is a natural person:

- the lessee has committed an act of bankruptcy as contemplated by the Bankruptcy Act 1966;
- the lessee is unable to pay his or her debts as and when they become due and payable;
- the court has made a sequestration order against the lessee's estate;
- a creditors' petition has been presented against the lessee;
- the lessee has presented to the Official Receiver a declaration of intention to present a debtor's petition;
- the lessee becomes a bankrupt;
- a meeting of creditors of the lessee is convened; or
- the lessee lodges with his or her trustee a proposal to his or her creditors for a composition in satisfaction of his or her debts or a scheme of arrangement of his or her affairs;

'*Lessee*' means the party described in this lease and the heirs, executors, administrators and permitted assigns thereof and if a body corporate, its successors and permitted assigns;

'*Minister*' means the Minister for Agriculture, Food and Fisheries, a body corporate under the Administrative Arrangements Act 1994;

'*Permitted Use*' means the use of the leased area for such aquaculture purposes as are specified in the Schedule to this lease;

'*Leased Area*' means the area comprised of State waters or State waters and adjacent land within the meaning of the Harbors and Navigation Act 1993, described in the Schedule to this lease;

'*Taxable Supply*' has the meaning attributed in the GST Act;

'*Tax Invoice*' has the meaning attributed in the GST Act;

'*Term of this Lease*' or the '*Term*' means the initial term granted by the Minister (unless sooner determined) and any extension of such initial term.

30. Interpretation

- 30.1 Words importing the singular shall embrace the plural and words importing the masculine gender shall embrace the feminine and neuter genders and *vice versa* respectively.
- 30.2 Any reference to a person shall include a corporate body and *vice versa*.
- 30.3 Where two or more persons are included in the designation the 'lessee' the obligations on the part of the lessee contained in this lease shall bind such persons and any two or greater number of them jointly and each of them severally and the expression the 'lessee' shall include all or any one or more of such persons.
- 30.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for it and the regulations, by-laws or other orders for the time being made under that statute.
- 30.5 Headings are for convenience of reference only and shall not affect the construction or interpretation of the covenants of this lease.

Dated 23 December 2002.

Signed by the General Manager, Aquaculture of the Department for Primary Industries and Resources as delegate of the Minister for Transport (as successor of) the Minister for Transport and Urban Planning, pursuant to a delegation made on 13 March 2000 under section 11 (1) of the Harbors and Navigation Act 1993.

I. NIGHTINGALE, General Manager, Aquaculture

AQUACULTURE ACT 2001
AQUACULTURE LEASE PL00012
Class of Aquaculture (Tuna)

THIS Pilot Lease is granted under the Aquaculture Act 2001 ('the Act') pursuant to section 3 (2) of the Schedule to the Act and Division 4 of Part 6 of the Act.

This lease is granted to the lessee for the term of one year, by the Minister for Agriculture, Food and Fisheries ('the Minister') for the purpose of conducting the Class of Aquaculture nominated in the Schedule ('the permitted use'), subject to the conditions set out in this document.

This lease is granted with the concurrence of the Minister for Transport as required in section 20 of the Aquaculture Act 2001 and section 15 of the Harbours and Navigation Act 1993.

SCHEDULE

Lessee:

Australian Tuna Fisheries Pty Ltd (13912)
1 North Quay Boulevard
Port Lincoln, S.A. 5606

Leased Area:

GDA 94—Zone 53
597326E 6169528N
598196E 6169528N
598196E 6168551N
597326E 6168551N

Licensed
Hectares

85

Permitted Class of Aquaculture:

Tuna Aquaculture

Term of the Lease:

Twelve months

Initial Rental:

\$350.00

Marking-off requirements:

The marked-off area must be marked with 30 cm diameter white buoys spaced at 50 m intervals and positioned no more than 50 m from structures located on the site.

Amount of Public Liability Insurance:

\$10 million

Amount of Guarantee or contribution to indemnity fund:

\$10 000

Extent of Leased Area that must be developed:

During the term of this lease at least one cage of at least 20 m diameter must be installed on the site.

1. *Term and Renewal*

- 1.1 The term of this lease is the term of one year commencing on 1 July 2002 and ending on 30 June 2003 ('the initial term').
- 1.2 The term is renewable in accordance with section 38 of the Act for successive terms, by the lessee giving the Minister notice no earlier than two months before the expiry of the term, and no later than one month before the expiry of the term, unless there is at the expiry of the lease a default under the lease or any corresponding licence.
- 1.3 Any renewal of the term shall be subject to conditions in accordance with standard conditions under aquaculture policies developed under Part 4 of the Act, and such other conditions as are determined by the Minister ('the reviewed conditions').
- 1.4 Upon renewal the Minister may issue either a certificate of renewal, or a new lease, incorporating the reviewed conditions.
- 1.5 The Minister may, at the time of renewal of a term, vary the term subject to the maximum term for a production lease permitted by the Act.

2. *Rental*

- 2.1 The lessee must pay to the Minister the annual rental, free from exchange, deduction or abatement.

2.2 At the commencement of the initial term the annual rental payable under this lease is the initial rental stipulated in the Schedule.

2.3 The initial rental payable in respect of the initial term is subject to adjustment during the initial term, as determined by the Minister in accordance with aquaculture policy developed under Part 4 of the Act. The adjusted rental shall be applicable in respect of the entire initial term.

2.4 Rental in respect of renewed terms shall be as notified by the Minister before the expiry of the initial term, and adjustments of rental in renewed terms of the lease will be applicable in accordance with the reviewed conditions.

2.5 Rental is payable in full within one month of commencement of the lease by direct bank transfer to the credit of a bank account nominated by the Minister, or by cheque payable to the Department for Primary Industry and Resources SA, delivered to the address stipulated by the Minister.

3. *GST*

3.1 The rental payable under this lease is exclusive of GST.

3.2 The lease is a taxable supply under GST Law.

3.3 Department of Primary Industries and Resources (ABN 53 763 159 658) is the government entity administering this lease on behalf of the Minister and is registered pursuant to the GST Law.

3.4 Department of Primary Industries and Resources is entitled to be treated as the maker of any taxable supply and the recipient of any taxable supply pursuant to this lease instead of the Minister for the purposes only of the GST Law.

3.5 The lessee must pay to the Minister, together with any payment of rental under this lease, an additional amount in respect of GST (the 'GST payment'). The GST payment is ten per cent of the rental, subject only to any change in the rate of GST under GST Law.

3.6 The Minister must issue to the lessee a tax invoice within 10 business days after the lessee has delivered payment of rental and the GST payment.

4. *Cancellation*

The Minister may cancel this lease by immediate written notice to the lessee:

- 4.1 if the lessee enters into any form of Insolvency Administration;
- 4.2 if the lessee assigns or purports to assign the lease without giving the Minister prior written notice as required by section 39 of the Act;
- 4.3 if any rent or other moneys payable by the lessee are in arrears for more than 14 days whether or not any formal demand has been made for the rent or other moneys;
- 4.4 if the lessee (being a natural person) is convicted of any indictable offence;
- 4.5 if there is any breach of any condition of a corresponding licence in respect of this lease;
- 4.6 if there is a breach of any obligation under the Act by the lessee or a licensee under a corresponding licence;
- 4.7 if a corresponding licence is cancelled; or
- 4.8 if in the opinion of the Minister the use of the leased area by or on behalf of the lessee reveals, indicates or provides reasonable grounds for the Minister to form the view or opinion that degradation or damage of an unacceptable level of coastal land or the surrounding marine environment has or is being caused by the lessee's use of the leased area or the use of the leased area by a licensee under a corresponding licence, or any activity associated with their activities and the lessee fails to comply with a notice requiring the lessee to remedy the degradation or damage, and/or cease or prevent the relevant activity within 30 days after the date the notice is served upon the lessee by or on behalf of the Minister.

5. *Dealing with Lease*

- 5.1 This lease is transferable in accordance with the Act (see section 39).
- 5.2 Subletting under this lease is not permitted except with the prior written consent of the Minister.

6. *Marking-off*

The lessee must mark-off the leased area in the manner stipulated in the Schedule.

7. *Lessee's Use of Leased Area*

The lessee must not use the leased area or permit it to be used for any purpose other than the Permitted Class of Aquaculture.

8. *Development Requirement*

The lessee must ensure that the leased area is developed and used for the Permitted Class of Aquaculture to the extent stipulated in the Schedule.

9. *Consents and Approvals*

- 9.1 If the lessee's use of the leased area is permissible only with the consent or approval of any authority under or in pursuance of any law enactment or order of Court the lessee must obtain such consent or approval at its own expense and the lessee shall at no time during the term of this lease do or permit or fail to do or suffer to be done any act, matter or thing whereby such consent or approval shall lapse or be revoked; and
- 9.2 The lessee must keep current during the term of this lease all consents and approvals required under the Development Act 1993 and any other law applicable to the leased area or the permitted use or the lessee's use of the leased area.

10. *Public Liability Insurance*

- 10.1 The lessee shall forthwith effect and keep current during the term of this lease in the joint names of the Minister and the lessee for their respective rights and interests with a reputable and solvent insurer first approved by the Minister (which approval shall not be unreasonably withheld) a policy of public risk insurance in respect of the leased area for an amount not less than the amount stipulated in the Schedule in respect of any single claim, accident or event (or such greater amount as the Minister shall from time to time reasonably require) and upon request from or on behalf of the Minister to produce a copy of such policy and a copy of a certificate of currency in respect thereof such policy to indemnify the lessee and the Minister against any and all actions, suits, claims, demands, cost, proceedings, expenses, harm and loss of any kind including arising out of or in connection with:
- 10.1.1 the use of the leased area by the lessee or a licensee under a corresponding licence or its servants, agents and invitees; and/or
- 10.1.2 any death, illness or bodily injury sustained by any person upon the leased area or any damage to property occurring upon the leased area.

Notwithstanding any other provision of this clause the lessee shall satisfy the obligations to effect a policy of public risk insurance if the lessee notes the leased area and the Minister's rights and interests therein and under this lease upon any policy of public risk insurance effected by the lessee in respect of other land or premises within the Commonwealth of Australia provided such policy and such insurer otherwise satisfies the requirements of this clause and the lessee upon request from or on behalf of the Minister produces a copy of such policy and a copy of a Certificate of Currency in respect thereof.

11. *Statutory Requirements*

- 11.1 The lessee must comply with the laws in force in South Australia in the course of any activity undertaken pursuant to this lease, or in relation to or on the leased area.

- 11.2 The lessee shall be liable to indemnify the Minister from and against all actions, proceedings, claims, demands, charges, penalties and expenses arising from any failure to comply with the laws in force in South Australia.

12. *No Nuisance*

- 12.1 The lessee must not do or fail to do anything on or in respect of the leased area (and must ensure that its employees, agents, contractors and invitees and any licensee under a corresponding licence do not do or fail to do anything on or in respect of the leased area):
- 12.1.1 whereby a nuisance (whether public or private) may arise or continue upon or in connection with the leased area; or
- 12.1.2 whereby any nuisance or disturbance could arise to any users of land near the leased area or the waters around the leased area or which could interfere with the same.

13. *Indemnities*

The lessee must indemnify and save harmless the Minister against:

- 13.1 all actions, claims, demands, proceedings, suits, costs, damages, expenses and losses which the Minister may suffer or incur as a result of the death of or injury to any person or loss of or damage to the property of any person arising from or out of any occurrence in, upon or about the leased area or any part of it or the use of the leased area by the lessee or a licensee under a corresponding licence or by any employee, agent, contractor or invitee of the lessee or licensee;
- 13.2 all loss or damage to the leased area, and any property on it caused by the lessee or licensee under a corresponding licence or by any employee, agent, contractor, or invitee of the lessee or licensee or other person having business with the lessee or licensee and in particular but without limiting in any way the generality of the foregoing by reason of the use, misuse, waste or abuse of the leased area; and
- 13.3 all fees, costs, liabilities and expenses incurred by the Minister in the exercise or attempted exercise of any of the rights, authorities, powers or remedies which are exercisable by the Minister pursuant to this lease,

except to the extent caused or contributed to by any wilful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

14. *Exclusion of Liability*

The Minister and its servants, employees, agents, contractors and invitees shall have no responsibility or liability to the lessee and the Minister and its employees, agents, contractors and invitees for any loss or injury suffered by the lessee or to the property of the lessee except to the extent caused or contributed to by any unlawful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

15. *Minister's Entry on Leased Area*

- 15.1 The Minister may, on giving reasonable notice, with or without the Minister's officers, employees and/or agents, enter upon and remain on the leased area for the purpose of inspecting the leased area including in respect of the performance of the lessee's obligations and/or for the purpose of remedying any breach of the lessee's obligations under this lease or the Act in respect of the leased area or any breach by any licensee under a corresponding licence of its obligations under and pursuant to the licence or the Act, although the Minister shall be under no obligation to so remedy any such breach.
- 15.2 The Minister shall not be required to give any prior notice to the lessee before exercising its rights under and pursuant to this clause in circumstances where, in the reasonable opinion of the Minister:
- 15.2.1 it is not practicable to do so, or;

- 15.2.2 the Minister or any responsible officer, employee or agent of the Minister believes on reasonable grounds that an offence has or is being or is about to be committed on the leased area or that a breach of the terms and conditions of this lease by the lessee or any breach by any licensee of its obligations under and pursuant to the licence, has occurred, is occurring or is about to occur;
- 15.2.3 in exercising any of its rights under and pursuant to this clause the Minister shall use its reasonable endeavours not to interfere with the lawful and permitted conduct of the lessee's or a licensee's use of the leased area.

16. Contamination and Contaminating Substances

- 16.1 The lessee must not bring or permit to be brought upon the leased area any matter in any form which the handling, storage, disposal, dealing with or the escape of which may in any manner result in, cause or contribute to pollution, contamination or degradation on or to the leased area or any land or water adjacent or near to the leased area or exacerbate, add to or compound any pre-existing pollution, contamination or degradation or the feasibility, practicality or cost of its control and/or removal, unless the lessee has obtained the prior written consent of the Minister, (which consent the Minister may grant or withhold or impose conditions on in its absolute unfettered discretion).
- 16.2 Irrespective of whether the Minister gave its consent in respect of such material, compounds or substances pursuant to this clause, if during the term of this lease, or during any subsequent period in which the lessee continues to occupy or control the leased area, any pollution, contamination or degradation occurs or any exacerbation, addition to or compounding of any pollution, contamination or degradation existing prior to the date of commencement of the term of this lease occurs (other than to the extent the result of any wilful or negligent act or omission of the Minister or any agent employee or contractor of the Minister) then:
- 16.2.1 the lessee must forthwith notify the Minister in writing of the location, nature, extent and quantity of such substance or compound and the pollution, contamination and degradation it might cause and reasonable particulars of the long term effect of the same and likely cost of control, collection, removal and disposal;
- 16.2.2 the lessee must permit the Minister and any employee, agent, inspector, contractor or invitee of the Minister at all times to enter upon the leased area and to inspect any suspected notified or known pollution, contamination or degradation or any substance or compound capable of causing pollution, contamination and degradation to the leased area or the land or water adjacent to or near the leased area and to abate any actual or potential danger or hazard in or about the leased area and if such hazard or damage in the reasonable opinion of the Minister is caused by or results from the substance or compound the lessee shall pay to the Minister the costs and expenses incurred in carrying out such work; and
- 16.2.3 the lessee must at its own cost and expense if so required by the Minister remove any and all substances and compounds causing contributing or which could cause or contribute to pollution, contamination or degradation of the leased area (or exacerbate add to or compound any pre-existing similar condition) from all parts of the leased area.

- 16.3 During the term of this lease, the lessee must indemnify and hold harmless the Minister and keep the Minister indemnified from and against all claims, demands, actions, proceedings, judgments, orders, costs, losses, damages and expenses of any nature whatsoever suffered or incurred by the Minister as a result whether directly or otherwise of:

- 16.3.1 any act or omission of the lessee its servants, agents, contractors, licensees or any other person acting with its authority which results in pollution, contamination or degradation on or to the leased area or any part thereof; and
- 16.3.2 any failure of the lessee to comply with observe and perform in respect of the leased area the requirements imposed on tenants or occupiers of the leased area by any laws, statutory enactments or regulations made pursuant thereto (whether Federal, State or municipal) relating to the contamination and/or degradation and/or pollution of the leased area or any part thereof (the 'relevant law').

17. Lease Expiry

The lessee must, at the lessee's cost in all things immediately prior to the expiration or sooner determination of the term of this lease:

- 17.1 remove and carry away from the leased area all improvements, plant, equipment, chattels and property located or brought upon the leased area by or on behalf of the lessee and in such removal cause as little damage to the leased area as practicable;
- 17.2 upon completion of such removal, remove all debris, rubbish and waste from the leased area and rehabilitate the same in respect of any damage caused thereto by the location thereon of such waste and debris; and
- 17.3 reinstate and rehabilitate the leased area and any portions thereof affected by the conduct of the permitted use or the lessee's use of the same to the condition existing prior to commencement of the term of this lease. Such rehabilitation shall be performed by the lessee at its cost in all things to the reasonable satisfaction of the Minister.

18. Occupation

The lessee has the rights of occupation provided in the Act.

19. Default Costs

- 19.1 The lessee is liable to pay the Minister reasonable costs and expenses including but without limiting the generality thereof reasonable professional charges and workmen's wages:
- 19.1.1 of and incidental to the recovery of annual rent due and unpaid interest thereon; and
- 19.1.2 incurred by remedying or attempting to remedy any breach of the lessee's obligations under this lease.
- 19.2 Any amount payable by the lessee under this clause is payable on demand by the Minister.

20. Default Interest

Without prejudice to the rights, powers and remedies of the Minister otherwise under this lease the lessee must pay to the Minister interest at the overdrawn rate charged from time to time by the Minister's Bankers on overdrafts not exceeding \$50 000 on any money due but unpaid after the same fell due and payable by the lessee to the Minister on any account whatsoever under this lease. Interest shall be computed from the due date for the payment of the money in respect of which the interest is chargeable until payment of such money is made in full and shall be recoverable in like manner as rent in arrears.

21. Minister may remedy Default

- 21.1 If the lessee fails or neglects to perform any obligation or to observe any provision to be performed or observed by the lessee under this lease or if any licensee under the licence is in breach or default

under the licence and if such failure or neglect shall continue for one month after the Minister has given to

the lessee notice in writing requiring the lessee to perform such obligation or to observe such provision then the Minister may (but without being bound so to do and without prejudice to any other right or remedy) perform that obligation or observe that provision and all reasonable costs and expenses including overtime charges, fines, levies and penalties due to such default or incurred by the Minister in remedying the same shall be paid by the lessee to the Minister.

22. Waiver

No forbearance by the Minister in respect of any breach of any obligation contained or implied in this lease shall operate as a waiver of another breach of the same or of any other obligation contained or implied in this lease.

23. Joint Lessees

If the lessee constitutes more than one natural person or bodies corporate or a partnership:

- 23.1 the persons comprising the lessee are jointly and severally bound by the conditions of this lease; and
- 23.2 notice to one of the natural persons or bodies corporate comprising the lessee shall be notice to all persons comprising the lessee.

24. Guarantee or Indemnity

- 24.1 The lessee must within five business days of receipt of this lease but with effect from the date of commencement of the term of this lease either:

- 24.1.1 provide a guarantee from its bankers; or
- 24.1.2 contribute to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry,

to and in favour of and for the benefit of the Minister by way of security for the due and punctual performance by the lessee of the terms and conditions of this lease and in particular the obligations of the lessee to rehabilitate the leased area immediately prior to the expiration or sooner determination of the term of this lease upon the following terms and conditions:

- 24.1.3 the lessee shall either:
 - (a) arrange for the provision from a bank as defined in the Banking Act 1959 or established by an Act of the Parliament of South Australia of an irrevocable and continuing bank guarantee for an amount stipulated from time to time by the Minister (the 'Bank Guarantee'). The Bank Guarantee shall otherwise contain terms and conditions which are reasonably satisfactory to the Minister. The Bank Guarantee shall be continuously in existence until the Minister agrees to release the Bank Guarantee under this clause. The guarantee shall entitle the Minister to make demand on the Bank Guarantee at any time if there has been a failure by the lessee to pay any money at the time specified for such payment or if there has been any other breach or default by the lessee for the due and punctual performance of the covenants, obligations and provisions on the part of the lessee under this lease. If the Minister makes a demand on the Bank Guarantee either in whole or in part and appropriate such funds then the lessee shall within five days of such demand by the Minister provide the Minister with a fresh Bank Guarantee for an amount equal to the amount so demanded and paid by the Bank to the Minister on the Bank

Guarantee and on the same terms and conditions as specified in this clause. The lessee shall not be entitled to a release or a re-delivery nor to request a release or re-delivery of the Bank Guarantee until one month after the expiration of the term of this lease. Notwithstanding any other provisions of this clause the Minister shall be entitled to refuse to release or deliver up to the lessee the Bank Guarantee if the Minister reasonably considers that there may be unremedied breaches or contingent obligations under the lease yet to mature and to be performed by the lessee at the time of the request to the Minister to release or re-deliver the Bank Guarantee; or

- (b) make such contributions to the indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industries as required by the Minister or the administrator of such scheme, and if required make such contributions on an annual or other basis and in such amounts as required by the Minister or the administrator of such scheme;

24.1.4 the provisions of this clause do not in any way limit, restrict or prejudice the rights of the Minister to exercise such additional rights, remedies and powers as the Minister may consider appropriate as a result of the lessee's default;

24.1.5 notwithstanding any other provision of this clause, if the lessee transfers or assigns its estate and interest in this lease, then upon and as and from the date ('the Date') such transferee or assignee providing to the Minister either a guarantee from its bankers as satisfies the requirements of this clause or evidence of having contributed to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry in such amount as required by this clause, the Minister shall from the date fully free release and discharge the lessee from any and all obligations under and pursuant to this clause and shall release and re-deliver to the lessee any bank.

- 24.2 If the lessee has already provided a guarantee or contributed to a fund in accordance with obligations under previous arrangements to the extent required under this lease, then the lessee is excused from the initial requirement to provide a guarantee or contribution, but not from subsequent obligations under this clause.

25. Disclaimer

The Minister does not expressly or impliedly warrant that the leased area is now or will remain suitable or adequate for all or any of the purposes of the lessee and all warranties (if any) as to the suitability and adequateness of the leased area that might otherwise be implied are expressly negated.

26. Delegation

Unless expressly excluded by any provision of this lease, any consent, any notice, any consultation or any other thing which pursuant to the terms of this lease is either required to be given, done or performed by the Minister or is permitted to be given, done or performed by the Minister may for the purposes of this lease be properly given, done or performed by a person authorised by the Minister to act on the Minister's behalf.

27. Special Conditions

Incorporated in this lease are any special conditions set out in the Schedule.

28. Notices

- 28.1 Notice to the lessee is valid if sent by post to the address for notices in the Schedule, or such other address as is notified by the lessee to the Minister in writing.
- 28.2 The lessee may give notice to the Minister by posting written notice addressed to PIRSA Aquaculture, G.P.O. Box 1625, Adelaide, S.A. 5001.

29. Definitions and Interpretation

In this lease unless inconsistent with the context:

'business days' means Monday to Friday (inclusive) excluding any public holiday;

'corresponding licence' has the meaning attributed in the Act;

'GST' means the tax imposed by the GST Law;

'GST Law' has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999;

'Insolvency Administration' means, if the lessee is a corporation:

- an administrator is appointed to the lessee or action is taken to make such an appointment;
- the lessee resolves to be wound up;
- an application is made to a court for an order or an order is made that the lessee be wound up (whether on grounds of insolvency or otherwise);
- the lessee ceases to carry on business;
- a receiver or a receiver and manager of property of the lessee is appointed whether by a court or other-wise;
- an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the lessee or one of them is appointed, whether or not under an order;
- the lessee enters into a compromise or arrangement with its creditors or a class of them; or
- the lessee is or states that it is unable to pay its debts when they fall due;

'Insolvency Administration' means if the lessee is a natural person:

- the lessee has committed an act of bankruptcy as contemplated by the Bankruptcy Act 1966;
- the lessee is unable to pay his or her debts as and when they become due and payable;
- the court has made a sequestration order against the lessee's estate;
- a creditors' petition has been presented against the lessee;
- the lessee has presented to the Official Receiver a declaration of intention to present a debtor's petition;
- the lessee becomes a bankrupt;
- a meeting of creditors of the lessee is convened; or
- the lessee lodges with his or her trustee a proposal to his or her creditors for a composition in satisfaction of his or her debts or a scheme of arrangement of his or her affairs;

'Lessee' means the party described in this lease and the heirs, executors, administrators and permitted assigns thereof and if a body corporate, its successors and permitted assigns;

'Minister' means the Minister for Agriculture, Food and Fisheries, a body corporate under the Administrative Arrangements Act 1994;

'Permitted Use' means the use of the leased area for such aquaculture purposes as are specified in the Schedule to this lease;

'Leased Area' means the area comprised of State waters or State waters and adjacent land within the meaning of the Harbors and Navigation Act 1993, described in the Schedule to this lease;

'Taxable Supply' has the meaning attributed in the GST Act;

'Tax Invoice' has the meaning attributed in the GST Act;

'Term of this Lease' or the 'Term' means the initial term granted by the Minister (unless sooner determined) and any extension of such initial term.

30. Interpretation

30.1 Words importing the singular shall embrace the plural and words importing the masculine gender shall embrace the feminine and neuter genders and *vice versa* respectively.

30.2 Any reference to a person shall include a corporate body and *vice versa*.

30.3 Where two or more persons are included in the designation the 'lessee' the obligations on the part of the lessee contained in this lease shall bind such persons and any two or greater number of them jointly and each of them severally and the expression the 'lessee' shall include all or any one or more of such persons.

30.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for it and the regulations, by-laws or other orders for the time being made under that statute.

30.5 Headings are for convenience of reference only and shall not affect the construction or interpretation of the covenants of this lease.

Dated 23 December 2002.

Signed by the General Manager, Aquaculture of the Department for Primary Industries and Resources as delegate of the Minister for Transport (as successor of) the Minister for Transport and Urban Planning, pursuant to a delegation made on 13 March 2000 under section 11 (1) of the Harbors and Navigation Act 1993.

I. NIGHTINGALE, General Manager, Aquaculture

AQUACULTURE ACT 2001

AQUACULTURE LEASE PL00013

Class of Aquaculture (Tuna)

THIS Pilot Lease is granted under the Aquaculture Act 2001 ('the Act') pursuant to section 3 (2) of the Schedule to the Act and Division 4 of Part 6 of the Act.

This lease is granted to the lessee for the term of one year, by the Minister for Agriculture, Food and Fisheries ('the Minister') for the purpose of conducting the Class of Aquaculture nominated in the Schedule ('the permitted use'), subject to the conditions set out in this document.

This lease is granted with the concurrence of the Minister for Transport as required in section 20 of the Aquaculture Act 2001 and section 15 of the Harbors and Navigation Act 1993.

SCHEDULE

Lessee:

Tuna Boat Owners Association of Australia (13090)
P.O. Box 416
Eastwood, S.A. 5063

Leased Area:

GDA 94—Zone 53
597326E 6168351N
597986E 6168351N
597985E 6167897N
597326E 6167897N

Licensed
Hectares

30

Permitted Class of Aquaculture:

Tuna Aquaculture

Term of the Lease:

Twelve months

Initial Rental:

\$350.00

Marking-off requirements:

The marked-off area must be marked with 30 cm diameter white buoys spaced at 50 m intervals and positioned no more than 50 m from structures located on the site.

Amount of Public Liability Insurance:

\$10 million

Amount of Guarantee or contribution to indemnity fund:

\$10 000

Extent of Leased Area that must be developed:

During the term of this lease at least one cage of at least 20 m diameter must be installed on the site.

1. Term and Renewal

- 1.1 The term of this lease is the term of one year commencing on 1 July 2002 and ending on 30 June 2003 ('the initial term').
- 1.2 The term is renewable in accordance with section 38 of the Act for successive terms, by the lessee giving the Minister notice no earlier than two months before the expiry of the term, and no later than one month before the expiry of the term, unless there is at the expiry of the lease a default under the lease or any corresponding licence.
- 1.3 Any renewal of the term shall be subject to conditions in accordance with standard conditions under aquaculture policies developed under Part 4 of the Act, and such other conditions as are determined by the Minister ('the reviewed conditions').
- 1.4 Upon renewal the Minister may issue either a certificate of renewal, or a new lease, incorporating the reviewed conditions.
- 1.5 The Minister may, at the time of renewal of a term, vary the term subject to the maximum term for a production lease permitted by the Act.

2. Rental

- 2.1 The lessee must pay to the Minister the annual rental, free from exchange, deduction or abatement.
- 2.2 At the commencement of the initial term the annual rental payable under this lease is the initial rental stipulated in the Schedule.
- 2.3 The initial rental payable in respect of the initial term is subject to adjustment during the initial term, as determined by the Minister in accordance with aquaculture policy developed under Part 4 of the Act. The adjusted rental shall be applicable in respect of the entire initial term.
- 2.4 Rental in respect of renewed terms shall be as notified by the Minister before the expiry of the initial term, and adjustments of rental in renewed terms of the lease will be applicable in accordance with the reviewed conditions.
- 2.5 Rental is payable in full within one month of commencement of the lease by direct bank transfer to the credit of a bank account nominated by the Minister, or by cheque payable to the Department for Primary Industry and Resources SA, delivered to the address stipulated by the Minister.

3. GST

- 3.1 The rental payable under this lease is exclusive of GST.
- 3.2 The lease is a taxable supply under GST Law.
- 3.3 Department of Primary Industries and Resources (ABN 53 763 159 658) is the government entity administering this lease on behalf of the Minister and is registered pursuant to the GST Law.

3.4 Department of Primary Industries and Resources is entitled to be treated as the maker of any taxable supply and the recipient of any taxable supply pursuant to this lease instead of the Minister for the purposes only of the GST Law.

3.5 The lessee must pay to the Minister, together with any payment of rental under this lease, an additional amount in respect of GST (the 'GST payment'). The GST payment is ten per cent of the rental, subject only to any change in the rate of GST under GST Law.

3.6 The Minister must issue to the lessee a tax invoice within 10 business days after the lessee has delivered payment of rental and the GST payment.

4. Cancellation

The Minister may cancel this lease by immediate written notice to the lessee:

- 4.1 if the lessee enters into any form of Insolvency Administration;
- 4.2 if the lessee assigns or purports to assign the lease without giving the Minister prior written notice as required by section 39 of the Act;
- 4.3 if any rent or other moneys payable by the lessee are in arrears for more than 14 days whether or not any formal demand has been made for the rent or other moneys;
- 4.4 if the lessee (being a natural person) is convicted of any indictable offence;
- 4.5 if there is any breach of any condition of a corresponding licence in respect of this lease;
- 4.6 if there is a breach of any obligation under the Act by the lessee or a licensee under a corresponding licence;
- 4.7 if a corresponding licence is cancelled; or
- 4.8 if in the opinion of the Minister the use of the leased area by or on behalf of the lessee reveals, indicates or provides reasonable grounds for the Minister to form the view or opinion that degradation or damage of an unacceptable level of coastal land or the surrounding marine environment has or is being caused by the lessee's use of the leased area or the use of the leased area by a licensee under a corresponding licence, or any activity associated with their activities and the lessee fails to comply with a notice requiring the lessee to remedy the degradation or damage, and/or cease or prevent the relevant activity within 30 days after the date the notice is served upon the lessee by or on behalf of the Minister.

5. Dealing with Lease

- 5.1 This lease is transferable in accordance with the Act (see section 39).
- 5.2 Subletting under this lease is not permitted except with the prior written consent of the Minister.

6. Marking-off

The lessee must mark-off the leased area in the manner stipulated in the Schedule.

7. Lessee's Use of Leased Area

The lessee must not use the leased area or permit it to be used for any purpose other than the Permitted Class of Aquaculture.

8. Development Requirement

The lessee must ensure that the leased area is developed and used for the Permitted Class of Aquaculture to the extent stipulated in the Schedule.

9. Consents and Approvals

- 9.1 If the lessee's use of the leased area is permissible only with the consent or approval of any authority under or in pursuance of any law enactment or order of Court the lessee must obtain such consent or approval at its own expense and the lessee shall at no time during the term of this lease do or permit or fail to do or suffer to be done any act, matter or thing whereby such consent or approval shall lapse or be revoked; and

9.2 The lessee must keep current during the term of this lease all consents and approvals required under the Development Act 1993 and any other law applicable to the leased area or the permitted use or the lessee's use of the leased area.

10. Public Liability Insurance

10.1 The lessee shall forthwith effect and keep current during the term of this lease in the joint names of the Minister and the lessee for their respective rights and interests with a reputable and solvent insurer first approved by the Minister (which approval shall not be unreasonably withheld) a policy of public risk insurance in respect of the leased area for an amount not less than the amount stipulated in the Schedule in respect of any single claim, accident or event (or such greater amount as the Minister shall from time to time reasonably require) and upon request from or on behalf of the Minister to produce a copy of such policy and a copy of a certificate of currency in respect thereof such policy to indemnify the lessee and the Minister against any and all actions, suits, claims, demands, cost, proceedings, expenses, harm and loss of any kind including arising out of or in connection with:

- 10.1.1 the use of the leased area by the lessee or a licensee under a corresponding licence or its servants, agents and invitees; and/or
- 10.1.2 any death, illness or bodily injury sustained by any person upon the leased area or any damage to property occurring upon the leased area.

Notwithstanding any other provision of this clause the lessee shall satisfy the obligations to effect a policy of public risk insurance if the lessee notes the leased area and the Minister's rights and interests therein and under this lease upon any policy of public risk insurance effected by the lessee in respect of other land or premises within the Commonwealth of Australia provided such policy and such insurer otherwise satisfies the requirements of this clause and the lessee upon request from or on behalf of the Minister produces a copy of such policy and a copy of a Certificate of Currency in respect thereof.

11. Statutory Requirements

- 11.1 The lessee must comply with the laws in force in South Australia in the course of any activity undertaken pursuant to this lease, or in relation to or on the leased area.
- 11.2 The lessee shall be liable to indemnify the Minister from and against all actions, proceedings, claims, demands, charges, penalties and expenses arising from any failure to comply with the laws in force in South Australia.

12. No Nuisance

- 12.1 The lessee must not do or fail to do anything on or in respect of the leased area (and must ensure that its employees, agents, contractors and invitees and any licensee under a corresponding licence do not do or fail to do anything on or in respect of the leased area):
 - 12.1.1 whereby a nuisance (whether public or private) may arise or continue upon or in connection with the leased area; or
 - 12.1.2 whereby any nuisance or disturbance could arise to any users of land near the leased area or the waters around the leased area or which could interfere with the same.

13. Indemnities

The lessee must indemnify and save harmless the Minister against:

- 13.1 all actions, claims, demands, proceedings, suits, costs, damages, expenses and losses which the Minister may suffer or incur as a result of the death of or injury to any person or loss of or damage to the property of any person arising from or out of any occurrence in, upon or about the leased area or any part of it or the use of

the leased area by the lessee or a licensee under a corresponding licence or by any employee, agent, contractor or invitee of the lessee or licensee;

- 13.2 all loss or damage to the leased area, and any property on it caused by the lessee or licensee under a corresponding licence or by any employee, agent, contractor, or invitee of the lessee or licensee or other person having business with the lessee or licensee and in particular but without limiting in any way the generality of the foregoing by reason of the use, misuse, waste or abuse of the leased area; and
- 13.3 all fees, costs, liabilities and expenses incurred by the Minister in the exercise or attempted exercise of any of the rights, authorities, powers or remedies which are exercisable by the Minister pursuant to this lease,

except to the extent caused or contributed to by any wilful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

14. Exclusion of Liability

The Minister and its servants, employees, agents, contractors and invitees shall have no responsibility or liability to the lessee and the Minister and its employees, agents, contractors and invitees for any loss or injury suffered by the lessee or to the property of the lessee except to the extent caused or contributed to by any unlawful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

15. Minister's Entry on Leased Area

- 15.1 The Minister may, on giving reasonable notice, with or without the Minister's officers, employees and/or agents, enter upon and remain on the leased area for the purpose of inspecting the leased area including in respect of the performance of the lessee's obligations and/or for the purpose of remedying any breach of the lessee's obligations under this lease or the Act in respect of the leased area or any breach by any licensee under a corresponding licence of its obligations under and pursuant to the licence or the Act, although the Minister shall be under no obligation to so remedy any such breach.
- 15.2 The Minister shall not be required to give any prior notice to the lessee before exercising its rights under and pursuant to this clause in circumstances where, in the reasonable opinion of the Minister:
 - 15.2.1 it is not practicable to do so, or;
 - 15.2.2 the Minister or any responsible officer, employee or agent of the Minister believes on reasonable grounds that an offence has or is being or is about to be committed on the leased area or that a breach of the terms and conditions of this lease by the lessee or any breach by any licensee of its obligations under and pursuant to the licence, has occurred, is occurring or is about to occur;
 - 15.2.3 in exercising any of its rights under and pursuant to this clause the Minister shall use its reasonable endeavours not to interfere with the lawful and permitted conduct of the lessee's or a licensee's use of the leased area.

16. Contamination and Contaminating Substances

- 16.1 The lessee must not bring or permit to be brought upon the leased area any matter in any form which the handling, storage, disposal, dealing with or the escape of which may in any manner result in, cause or contribute to pollution, contamination or degradation on or to the leased area or any land or water adjacent or near to the leased area or exacerbate, add to or compound any pre-existing pollution, contamination or degradation or the feasibility, practicality or cost of its control and/or removal, unless the lessee has obtained the prior written consent of the Minister, (which consent the Minister may grant or withhold or impose conditions on in its absolute unfettered discretion).
- 16.2 Irrespective of whether the Minister gave its consent in respect of such material, compounds or substances

pursuant to this clause, if during the term of this lease, or during any subsequent period in which the lessee continues to occupy or control the leased area, any pollution, contamination or degradation occurs or any exacerbation, addition to or compounding of any pollution, contamination or degradation existing prior to the date of commencement of the term of this lease occurs (other than to the extent the result of any wilful or negligent act or omission of the Minister or any agent employee or contractor of the Minister) then:

- 16.2.1 the lessee must forthwith notify the Minister in writing of the location, nature, extent and quantity of such substance or compound and the pollution, contamination and degradation it might cause and reasonable particulars of the long term effect of the same and likely cost of control, collection, removal and disposal;
- 16.2.2 the lessee must permit the Minister and any employee, agent, inspector, contractor or invitee of the Minister at all times to enter upon the leased area and to inspect any suspected notified or known pollution, contamination or degradation or any substance or compound capable of causing pollution, contamination and degradation to the leased area or the land or water adjacent to or near the leased area and to abate any actual or potential danger or hazard in or about the leased area and if such hazard or damage in the reasonable opinion of the Minister is caused by or results from the substance or compound the lessee shall pay to the Minister the costs and expenses incurred in carrying out such work; and
- 16.2.3 the lessee must at its own cost and expense if so required by the Minister remove any and all substances and compounds causing contributing or which could cause or contribute to pollution, contamination or degradation of the leased area (or exacerbate add to or compound any pre-existing similar condition) from all parts of the leased area.
- 16.3 During the term of this lease, the lessee must indemnify and hold harmless the Minister and keep the Minister indemnified from and against all claims, demands, actions, proceedings, judgments, orders, costs, losses, damages and expenses of any nature whatsoever suffered or incurred by the Minister as a result whether directly or otherwise of:
 - 16.3.1 any act or omission of the lessee its servants, agents, contractors, licensees or any other person acting with its authority which results in pollution, contamination or degradation on or to the leased area or any part thereof; and
 - 16.3.2 any failure of the lessee to comply with observe and perform in respect of the leased area the requirements imposed on tenants or occupiers of the leased area by any laws, statutory enactments or regulations made pursuant thereto (whether Federal, State or municipal) relating to the contamination and/or degradation and/or pollution of the leased area or any part thereof (the 'relevant law').

17. Lease Expiry

The lessee must, at the lessee's cost in all things immediately prior to the expiration or sooner determination of the term of this lease:

- 17.1 remove and carry away from the leased area all improvements, plant, equipment, chattels and property located or brought upon the leased area by or on behalf of the lessee and in such removal cause as little damage to the leased area as practicable;
- 17.2 upon completion of such removal, remove all debris, rubbish and waste from the leased area and rehabilitate the same in respect of any damage caused thereto by the location thereon of such waste and debris; and

- 17.3 reinstate and rehabilitate the leased area and any portions thereof affected by the conduct of the permitted use or the lessee's use of the same to the condition existing prior to commencement of the term of this lease. Such rehabilitation shall be performed by the lessee at its cost in all things to the reasonable satisfaction of the Minister.

18. Occupation

The lessee has the rights of occupation provided in the Act.

19. Default Costs

- 19.1 The lessee is liable to pay the Minister reasonable costs and expenses including but without limiting the generality thereof reasonable professional charges and workmen's wages:
 - 19.1.1 of and incidental to the recovery of annual rent due and unpaid interest thereon; and
 - 19.1.2 incurred by remedying or attempting to remedy any breach of the lessee's obligations under this lease.
- 19.2 Any amount payable by the lessee under this clause is payable on demand by the Minister.

20. Default Interest

Without prejudice to the rights, powers and remedies of the Minister otherwise under this lease the lessee must pay to the Minister interest at the overdrawn rate charged from time to time by the Minister's Bankers on overdrafts not exceeding \$50 000 on any money due but unpaid after the same fell due and payable by the lessee to the Minister on any account whatsoever under this lease. Interest shall be computed from the due date for the payment of the money in respect of which the interest is chargeable until payment of such money is made in full and shall be recoverable in like manner as rent in arrears.

21. Minister may remedy Default

- 21.1 If the lessee fails or neglects to perform any obligation or to observe any provision to be performed or observed by the lessee under this lease or if any licensee under the licence is in breach or default under the licence and if such failure or neglect shall continue for one month after the Minister has given to the lessee notice in writing requiring the lessee to perform such obligation or to observe such provision then the Minister may (but without being bound so to do and without prejudice to any other right or remedy) perform that obligation or observe that provision and all reasonable costs and expenses including overtime charges, fines, levies and penalties due to such default or incurred by the Minister in remedying the same shall be paid by the lessee to the Minister.

22. Waiver

No forbearance by the Minister in respect of any breach of any obligation contained or implied in this lease shall operate as a waiver of another breach of the same or of any other obligation contained or implied in this lease.

23. Joint Lessees

If the lessee constitutes more than one natural person or bodies corporate or a partnership:

- 23.1 the persons comprising the lessee are jointly and severally bound by the conditions of this lease; and
- 23.2 notice to one of the natural persons or bodies corporate comprising the lessee shall be notice to all persons comprising the lessee.

24. Guarantee or Indemnity

- 24.1 The lessee must within five business days of receipt of this lease but with effect from the date of commencement of the term of this lease either:
 - 24.1.1 provide a guarantee from its bankers; or
 - 24.1.2 contribute to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry,

to and in favour of and for the benefit of the Minister by way of security for the due and punctual performance by the lessee of the terms and conditions

of this lease and in particular the obligations of the lessee to rehabilitate the leased area immediately prior to the expiration or sooner determination of the term of this lease upon the following terms and conditions:

24.1.3 the lessee shall either:

- (a) arrange for the provision from a bank as defined in the Banking Act 1959 or established by an Act of the Parliament of South Australia of an irrevocable and continuing bank guarantee for an amount stipulated from time to time by the Minister (the 'Bank Guarantee'). The Bank Guarantee shall otherwise contain terms and conditions which are reasonably satisfactory to the Minister. The Bank Guarantee shall be continuously in existence until the Minister agrees to release the Bank Guarantee under this clause. The guarantee shall entitle the Minister to make demand on the Bank Guarantee at any time if there has been a failure by the lessee to pay any money at the time specified for such payment or if there has been any other breach or default by the lessee for the due and punctual performance of the covenants, obligations and provisions on the part of the lessee under this lease. If the Minister makes a demand on the Bank Guarantee either in whole or in part and appropriate such funds then the lessee shall within five days of such demand by the Minister provide the Minister with a fresh Bank Guarantee for an amount equal to the amount so demanded and paid by the Bank to the Minister on the Bank Guarantee and on the same terms and conditions as specified in this clause. The lessee shall not be entitled to a release or a re-delivery nor to request a release or re-delivery of the Bank Guarantee until one month after the expiration of the term of this lease. Notwithstanding any other provisions of this clause the Minister shall be entitled to refuse to release or deliver up to the lessee the Bank Guarantee if the Minister reasonably considers that there may be unremedied breaches or contingent obligations under the lease yet to mature and to be performed by the lessee at the time of the request to the Minister to release or re-deliver the Bank Guarantee; or
- (b) make such contributions to the indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industries as required by the Minister or the administrator of such scheme, and if required make such contributions on an annual or other basis and in such amounts as required by the Minister or the administrator of such scheme;

24.1.4 the provisions of this clause do not in any way limit, restrict or prejudice the rights of the Minister to exercise such additional rights, remedies and powers as the Minister may consider appropriate as a result of the lessee's default;

24.1.5 notwithstanding any other provision of this clause, if the lessee transfers or assigns its estate and interest in this lease, then upon and as and from the date ('the Date') such transferee or assignee providing to the Minister either a guarantee from its bankers as satisfies the requirements of this clause or evidence of having contributed to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry in such amount as required by this clause, the Minister shall from the date fully free release and discharge the lessee from any and all obligations under and pursuant to this clause and shall release and re-deliver to the lessee any bank.

24.2 If the lessee has already provided a guarantee or contributed to a fund in accordance with obligations under previous arrangements to the extent required under this lease, then the lessee is excused from the initial requirement to provide a guarantee or contribution, but not from subsequent obligations under this clause.

25. *Disclaimer*

The Minister does not expressly or impliedly warrant that the leased area is now or will remain suitable or adequate for all or any of the purposes of the lessee and all warranties (if any) as to the suitability and adequateness of the leased area that might otherwise be implied are expressly negated.

26. *Delegation*

Unless expressly excluded by any provision of this lease, any consent, any notice, any consultation or any other thing which pursuant to the terms of this lease is either required to be given, done or performed by the Minister or is permitted to be given, done or performed by the Minister may for the purposes of this lease be properly given, done or performed by a person authorised by the Minister to act on the Minister's behalf.

27. *Special Conditions*

Incorporated in this lease are any special conditions set out in the Schedule.

28. *Notices*

- 28.1 Notice to the lessee is valid if sent by post to the address for notices in the Schedule, or such other address as is notified by the lessee to the Minister in writing.
- 28.2 The lessee may give notice to the Minister by posting written notice addressed to PIRSA Aquaculture, G.P.O. Box 1625, Adelaide, S.A. 5001.

29. *Definitions and Interpretation*

In this lease unless inconsistent with the context:

- '*business days*' means Monday to Friday (inclusive) excluding any public holiday;
- '*corresponding licence*' has the meaning attributed in the Act;
- '*GST*' means the tax imposed by the GST Law;
- '*GST Law*' has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999;
- '*Insolvency Administration*' means, if the lessee is a corporation:
- an administrator is appointed to the lessee or action is taken to make such an appointment;
 - the lessee resolves to be wound up;
 - an application is made to a court for an order or an order is made that the lessee be wound up (whether on grounds of insolvency or otherwise);
 - the lessee ceases to carry on business;
 - a receiver or a receiver and manager of property of the lessee is appointed whether by a court or other-wise;

- an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the lessee or one of them is appointed, whether or not under an order;
- the lessee enters into a compromise or arrangement with its creditors or a class of them; or
- the lessee is or states that it is unable to pay its debts when they fall due;

'*Insolvency Administration*' means if the lessee is a natural person:

- the lessee has committed an act of bankruptcy as contemplated by the Bankruptcy Act 1966;
- the lessee is unable to pay his or her debts as and when they become due and payable;
- the court has made a sequestration order against the lessee's estate;
- a creditors' petition has been presented against the lessee;
- the lessee has presented to the Official Receiver a declaration of intention to present a debtor's petition;
- the lessee becomes a bankrupt;
- a meeting of creditors of the lessee is convened; or
- the lessee lodges with his or her trustee a proposal to his or her creditors for a composition in satisfaction of his or her debts or a scheme of arrangement of his or her affairs;

'*Lessee*' means the party described in this lease and the heirs, executors, administrators and permitted assigns thereof and if a body corporate, its successors and permitted assigns;

'*Minister*' means the Minister for Agriculture, Food and Fisheries, a body corporate under the Administrative Arrangements Act 1994;

'*Permitted Use*' means the use of the leased area for such aquaculture purposes as are specified in the Schedule to this lease;

'*Leased Area*' means the area comprised of State waters or State waters and adjacent land within the meaning of the Harbors and Navigation Act 1993, described in the Schedule to this lease;

'*Taxable Supply*' has the meaning attributed in the GST Act;

'*Tax Invoice*' has the meaning attributed in the GST Act;

'*Term of this Lease*' or the '*Term*' means the initial term granted by the Minister (unless sooner determined) and any extension of such initial term.

30. Interpretation

- 30.1 Words importing the singular shall embrace the plural and words importing the masculine gender shall embrace the feminine and neuter genders and *vice versa* respectively.
- 30.2 Any reference to a person shall include a corporate body and *vice versa*.
- 30.3 Where two or more persons are included in the designation the 'lessee' the obligations on the part of the lessee contained in this lease shall bind such persons and any two or greater number of them jointly and each of them severally and the expression the 'lessee' shall include all or any one or more of such persons.
- 30.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for it and the regulations, by-laws or other orders for the time being made under that statute.
- 30.5 Headings are for convenience of reference only and shall not affect the construction or interpretation of the covenants of this lease.

Dated 23 December 2002.

Signed by the General Manager, Aquaculture of the Department for Primary Industries and Resources as delegate of the Minister for Transport (as successor of) the Minister for Transport and Urban Planning, pursuant to a delegation made on 13 March 2000 under section 11 (1) of the Harbors and Navigation Act 1993.

I. NIGHTINGALE, General Manager, Aquaculture

AQUACULTURE ACT 2001

AQUACULTURE LEASE PL00014

Class of Aquaculture (Tuna)

THIS Pilot Lease is granted under the Aquaculture Act 2001 ('the Act') pursuant to section 3 (2) of the Schedule to the Act and Division 4 of Part 6 of the Act.

This lease is granted to the lessee for the term of one year, by the Minister for Agriculture, Food and Fisheries ('the Minister') for the purpose of conducting the Class of Aquaculture nominated in the Schedule ('the permitted use'), subject to the conditions set out in this document.

This lease is granted with the concurrence of the Minister for Transport as required in section 20 of the Aquaculture Act 2001 and section 15 of the Harbors and Navigation Act 1993.

SCHEDULE

Lessee:

Emily Krstina (Australia) Pty Ltd (13053)
Pine Freezers Road
Port Lincoln, S.A. 5606

Leased Area:

GDA 94—Zone 53
593667E 6167232N
594345E 6167232N
594345E 6166864N
593667E 6166864N

Licensed Hectares

25

Permitted Class of Aquaculture:

Tuna Aquaculture

Term of the Lease:

Twelve months

Initial Rental:

\$350.00

Marking-off requirements:

The marked-off area must be marked with 30 cm diameter white buoys spaced at 50 m intervals and positioned no more than 50 m from structures located on the site.

Amount of Public Liability Insurance:

\$10 million

Amount of Guarantee or contribution to indemnity fund:

\$10 000

Extent of Leased Area that must be developed:

During the term of this lease at least one cage of at least 20 m diameter must be installed on the site.

1. Term and Renewal

1.1 The term of this lease is the term of one year commencing on 1 July 2002 and ending on 30 June 2003 ('the initial term').

1.2 The term is renewable in accordance with section 38 of the Act for successive terms, by the lessee giving the Minister notice no earlier than two months before the expiry of the term, and no later than one month before the expiry of the term, unless there is at the expiry of the lease a default under the lease or any corresponding licence.

1.3 Any renewal of the term shall be subject to conditions in accordance with standard conditions under aquaculture policies developed under Part 4 of the Act, and such other conditions as are determined by the Minister ('the reviewed conditions').

- 1.4 Upon renewal the Minister may issue either a certificate of renewal, or a new lease, incorporating the reviewed conditions.
- 1.5 The Minister may, at the time of renewal of a term, vary the term subject to the maximum term for a production lease permitted by the Act.

2. Rental

- 2.1 The lessee must pay to the Minister the annual rental, free from exchange, deduction or abatement.
- 2.2 At the commencement of the initial term the annual rental payable under this lease is the initial rental stipulated in the Schedule.
- 2.3 The initial rental payable in respect of the initial term is subject to adjustment during the initial term, as determined by the Minister in accordance with aquaculture policy developed under Part 4 of the Act. The adjusted rental shall be applicable in respect of the entire initial term.
- 2.4 Rental in respect of renewed terms shall be as notified by the Minister before the expiry of the initial term, and adjustments of rental in renewed terms of the lease will be applicable in accordance with the reviewed conditions.
- 2.5 Rental is payable in full within one month of commencement of the lease by direct bank transfer to the credit of a bank account nominated by the Minister, or by cheque payable to the Department for Primary Industry and Resources SA, delivered to the address stipulated by the Minister.

3. GST

- 3.1 The rental payable under this lease is exclusive of GST.
- 3.2 The lease is a taxable supply under GST Law.
- 3.3 Department of Primary Industries and Resources (ABN 53 763 159 658) is the government entity administering this lease on behalf of the Minister and is registered pursuant to the GST Law.
- 3.4 Department of Primary Industries and Resources is entitled to be treated as the maker of any taxable supply and the recipient of any taxable supply pursuant to this lease instead of the Minister for the purposes only of the GST Law.
- 3.5 The lessee must pay to the Minister, together with any payment of rental under this lease, an additional amount in respect of GST (the 'GST payment'). The GST payment is ten per cent of the rental, subject only to any change in the rate of GST under GST Law.
- 3.6 The Minister must issue to the lessee a tax invoice within 10 business days after the lessee has delivered payment of rental and the GST payment.

4. Cancellation

The Minister may cancel this lease by immediate written notice to the lessee:

- 4.1 if the lessee enters into any form of Insolvency Administration;
- 4.2 if the lessee assigns or purports to assign the lease without giving the Minister prior written notice as required by section 39 of the Act;
- 4.3 if any rent or other moneys payable by the lessee are in arrears for more than 14 days whether or not any formal demand has been made for the rent or other moneys;
- 4.4 if the lessee (being a natural person) is convicted of any indictable offence;
- 4.5 if there is any breach of any condition of a corresponding licence in respect of this lease;
- 4.6 if there is a breach of any obligation under the Act by the lessee or a licensee under a corresponding licence;
- 4.7 if a corresponding licence is cancelled; or

- 4.8 if in the opinion of the Minister the use of the leased area by or on behalf of the lessee reveals, indicates or provides reasonable grounds for the Minister to form the view or opinion that degradation or damage of an unacceptable level of coastal land or the surrounding marine environment has or is being caused by the lessee's use of the leased area or the use of the leased area by a licensee under a corresponding licence, or any activity associated with their activities and the lessee fails to comply with a notice requiring the lessee to remedy the degradation or damage, and/or cease or prevent the relevant activity within 30 days after the date the notice is served upon the lessee by or on behalf of the Minister.

5. Dealing with Lease

- 5.1 This lease is transferable in accordance with the Act (see section 39).
- 5.2 Subletting under this lease is not permitted except with the prior written consent of the Minister.

6. Marking-off

The lessee must mark-off the leased area in the manner stipulated in the Schedule.

7. Lessee's Use of Leased Area

The lessee must not use the leased area or permit it to be used for any purpose other than the Permitted Class of Aquaculture.

8. Development Requirement

The lessee must ensure that the leased area is developed and used for the Permitted Class of Aquaculture to the extent stipulated in the Schedule.

9. Consents and Approvals

- 9.1 If the lessee's use of the leased area is permissible only with the consent or approval of any authority under or in pursuance of any law enactment or order of Court the lessee must obtain such consent or approval at its own expense and the lessee shall at no time during the term of this lease do or permit or fail to do or suffer to be done any act, matter or thing whereby such consent or approval shall lapse or be revoked; and
- 9.2 The lessee must keep current during the term of this lease all consents and approvals required under the Development Act 1993 and any other law applicable to the leased area or the permitted use or the lessee's use of the leased area.

10. Public Liability Insurance

- 10.1 The lessee shall forthwith effect and keep current during the term of this lease in the joint names of the Minister and the lessee for their respective rights and interests with a reputable and solvent insurer first approved by the Minister (which approval shall not be unreasonably withheld) a policy of public risk insurance in respect of the leased area for an amount not less than the amount stipulated in the Schedule in respect of any single claim, accident or event (or such greater amount as the Minister shall from time to time reasonably require) and upon request from or on behalf of the Minister to produce a copy of such policy and a copy of a certificate of currency in respect thereof such policy to indemnify the lessee and the Minister against any and all actions, suits, claims, demands, cost, proceedings, expenses, harm and loss of any kind including arising out of or in connection with:
 - 10.1.1 the use of the leased area by the lessee or a licensee under a corresponding licence or its servants, agents and invitees; and/or
 - 10.1.2 any death, illness or bodily injury sustained by any person upon the leased area or any damage to property occurring upon the leased area.

Notwithstanding any other provision of this clause the lessee shall satisfy the obligations to effect a policy of public risk insurance if the lessee notes the leased area and the Minister's rights and interests therein and under this lease upon any policy of public risk insurance effected by the lessee in respect of other land or premises within the Commonwealth of Australia provided such policy and such insurer otherwise satisfies the requirements of this clause and the lessee upon request from or on behalf of the Minister produces a copy of such policy and a copy of a Certificate of Currency in respect thereof.

11. *Statutory Requirements*

- 11.1 The lessee must comply with the laws in force in South Australia in the course of any activity undertaken pursuant to this lease, or in relation to or on the leased area.
- 11.2 The lessee shall be liable to indemnify the Minister from and against all actions, proceedings, claims, demands, charges, penalties and expenses arising from any failure to comply with the laws in force in South Australia.

12. *No Nuisance*

- 12.1 The lessee must not do or fail to do anything on or in respect of the leased area (and must ensure that its employees, agents, contractors and invitees and any licensee under a corresponding licence do not do or fail to do anything on or in respect of the leased area):
 - 12.1.1 whereby a nuisance (whether public or private) may arise or continue upon or in connection with the leased area; or
 - 12.1.2 whereby any nuisance or disturbance could arise to any users of land near the leased area or the waters around the leased area or which could interfere with the same.

13. *Indemnities*

The lessee must indemnify and save harmless the Minister against:

- 13.1 all actions, claims, demands, proceedings, suits, costs, damages, expenses and losses which the Minister may suffer or incur as a result of the death of or injury to any person or loss of or damage to the property of any person arising from or out of any occurrence in, upon or about the leased area or any part of it or the use of the leased area by the lessee or a licensee under a corresponding licence or by any employee, agent, contractor or invitee of the lessee or licensee;
- 13.2 all loss or damage to the leased area, and any property on it caused by the lessee or licensee under a corresponding licence or by any employee, agent, contractor, or invitee of the lessee or licensee or other person having business with the lessee or licensee and in particular but without limiting in any way the generality of the foregoing by reason of the use, misuse, waste or abuse of the leased area; and
- 13.3 all fees, costs, liabilities and expenses incurred by the Minister in the exercise or attempted exercise of any of the rights, authorities, powers or remedies which are exercisable by the Minister pursuant to this lease,

except to the extent caused or contributed to by any wilful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

14. *Exclusion of Liability*

The Minister and its servants, employees, agents, contractors and invitees shall have no responsibility or liability to the lessee and the Minister and its employees, agents, contractors and invitees for any loss or injury suffered by the lessee or to the property of the lessee except to the extent caused or contributed to by any unlawful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

15. *Minister's Entry on Leased Area*

- 15.1 The Minister may, on giving reasonable notice, with or without the Minister's officers, employees and/or agents, enter upon and remain on the leased area for the purpose of inspecting the leased area including in respect of the performance of the lessee's obligations and/or for the purpose of remedying any breach of the lessee's obligations under this lease or the Act in respect of the leased area or any breach by any licensee under a corresponding licence of its obligations under and pursuant to the licence or the Act, although the Minister shall be under no obligation to so remedy any such breach.
- 15.2 The Minister shall not be required to give any prior notice to the lessee before exercising its rights under and pursuant to this clause in circumstances where, in the reasonable opinion of the Minister:
 - 15.2.1 it is not practicable to do so, or;
 - 15.2.2 the Minister or any responsible officer, employee or agent of the Minister believes on reasonable grounds that an offence has or is being or is about to be committed on the leased area or that a breach of the terms and conditions of this lease by the lessee or any breach by any licensee of its obligations under and pursuant to the licence, has occurred, is occurring or is about to occur;
 - 15.2.3 in exercising any of its rights under and pursuant to this clause the Minister shall use its reasonable endeavours not to interfere with the lawful and permitted conduct of the lessee's or a licensee's use of the leased area.

16. *Contamination and Contaminating Substances*

- 16.1 The lessee must not bring or permit to be brought upon the leased area any matter in any form which the handling, storage, disposal, dealing with or the escape of which may in any manner result in, cause or contribute to pollution, contamination or degradation on or to the leased area or any land or water adjacent or near to the leased area or exacerbate, add to or compound any pre-existing pollution, contamination or degradation or the feasibility, practicality or cost of its control and/or removal, unless the lessee has obtained the prior written consent of the Minister, (which consent the Minister may grant or withhold or impose conditions on in its absolute unfettered discretion).
- 16.2 Irrespective of whether the Minister gave its consent in respect of such material, compounds or substances pursuant to this clause, if during the term of this lease, or during any subsequent period in which the lessee continues to occupy or control the leased area, any pollution, contamination or degradation occurs or any exacerbation, addition to or compounding of any pollution, contamination or degradation existing prior to the date of commencement of the term of this lease occurs (other than to the extent the result of any wilful or negligent act or omission of the Minister or any agent employee or contractor of the Minister) then:
 - 16.2.1 the lessee must forthwith notify the Minister in writing of the location, nature, extent and quantity of such substance or compound and the pollution, contamination and degradation it might cause and reasonable particulars of the long term effect of the same and likely cost of control, collection, removal and disposal;
 - 16.2.2 the lessee must permit the Minister and any employee, agent, inspector, contractor or invitee of the Minister at all times to enter upon the leased area and to inspect any suspected notified or known pollution, contamination or degradation or any substance

or compound capable of causing pollution, contamination and degradation to the leased area or the land or water adjacent to or near the leased area and to abate any actual or potential danger or hazard in or about the leased area and if such hazard or damage in the reasonable opinion of the Minister is caused by or results from the substance or compound the lessee shall pay to the Minister the costs and expenses incurred in carrying out such work; and

16.2.3 the lessee must at its own cost and expense if so required by the Minister remove any and all substances and compounds causing contributing or which could cause or contribute to pollution, contamination or degradation of the leased area (or exacerbate add to or compound any pre-existing similar condition) from all parts of the leased area.

16.3 During the term of this lease, the lessee must indemnify and hold harmless the Minister and keep the Minister indemnified from and against all claims, demands, actions, proceedings, judgments, orders, costs, losses, damages and expenses of any nature whatsoever suffered or incurred by the Minister as a result whether directly or otherwise of:

16.3.1 any act or omission of the lessee its servants, agents, contractors, licensees or any other person acting with its authority which results in pollution, contamination or degradation on or to the leased area or any part thereof; and

16.3.2 any failure of the lessee to comply with observe and perform in respect of the leased area the requirements imposed on tenants or occupiers of the leased area by any laws, statutory enactments or regulations made pursuant thereto (whether Federal, State or municipal) relating to the contamination and/or degradation and/or pollution of the leased area or any part thereof (the 'relevant law').

17. Lease Expiry

The lessee must, at the lessee's cost in all things immediately prior to the expiration or sooner determination of the term of this lease:

17.1 remove and carry away from the leased area all improvements, plant, equipment, chattels and property located or brought upon the leased area by or on behalf of the lessee and in such removal cause as little damage to the leased area as practicable;

17.2 upon completion of such removal, remove all debris, rubbish and waste from the leased area and rehabilitate the same in respect of any damage caused thereto by the location thereon of such waste and debris; and

17.3 reinstate and rehabilitate the leased area and any portions thereof affected by the conduct of the permitted use or the lessee's use of the same to the condition existing prior to commencement of the term of this lease. Such rehabilitation shall be performed by the lessee at its cost in all things to the reasonable satisfaction of the Minister.

18. Occupation

The lessee has the rights of occupation provided in the Act.

19. Default Costs

19.1 The lessee is liable to pay the Minister reasonable costs and expenses including but without limiting the generality thereof reasonable professional charges and workmen's wages:

19.1.1 of and incidental to the recovery of annual rent due and unpaid interest thereon; and

19.1.2 incurred by remedying or attempting to remedy any breach of the lessee's obligations under this lease.

19.2 Any amount payable by the lessee under this clause is payable on demand by the Minister.

20. Default Interest

Without prejudice to the rights, powers and remedies of the Minister otherwise under this lease the lessee must pay to the Minister interest at the overdrawn rate charged from time to time by the Minister's Bankers on overdrafts not exceeding \$50 000 on any money due but unpaid after the same fell due and payable by the lessee to the Minister on any account whatsoever under this lease. Interest shall be computed from the due date for the payment of the money in respect of which the interest is chargeable until payment of such money is made in full and shall be recoverable in like manner as rent in arrears.

21. Minister may remedy Default

21.1 If the lessee fails or neglects to perform any obligation or to observe any provision to be performed or observed by the lessee under this lease or if any licensee under the licence is in breach or default under the licence and if such failure or neglect shall continue for one month after the Minister has given to the lessee notice in writing requiring the lessee to perform such obligation or to observe such provision then the Minister may (but without being bound so to do and without prejudice to any other right or remedy) perform that obligation or observe that provision and all reasonable costs and expenses including overtime charges, fines, levies and penalties due to such default or incurred by the Minister in remedying the same shall be paid by the lessee to the Minister.

22. Waiver

No forbearance by the Minister in respect of any breach of any obligation contained or implied in this lease shall operate as a waiver of another breach of the same or of any other obligation contained or implied in this lease.

23. Joint Lessees

If the lessee constitutes more than one natural person or bodies corporate or a partnership:

23.1 the persons comprising the lessee are jointly and severally bound by the conditions of this lease; and

23.2 notice to one of the natural persons or bodies corporate comprising the lessee shall be notice to all persons comprising the lessee.

24. Guarantee or Indemnity

24.1 The lessee must within five business days of receipt of this lease but with effect from the date of commencement of the term of this lease either:

24.1.1 provide a guarantee from its bankers; or

24.1.2 contribute to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry,

to and in favour of and for the benefit of the Minister by way of security for the due and punctual performance by the lessee of the terms and conditions of this lease and in particular the obligations of the lessee to rehabilitate the leased area immediately prior to the expiration or sooner determination of the term of this lease upon the following terms and conditions:

24.1.3 the lessee shall either:

(a) arrange for the provision from a bank as defined in the Banking Act 1959 or established by an Act of the Parliament of South Australia of an irrevocable and continuing bank guarantee for an amount stipulated from time to time by the Minister (the 'Bank Guarantee'). The Bank Guarantee shall otherwise contain terms and conditions which are reasonably satisfactory to the Minister. The Bank Guarantee shall be continuously in existence until the Minister agrees to release the Bank Guarantee under this clause. The guarantee shall entitle the Minister to make demand on the Bank Guarantee at any time if there has been a failure by the lessee to pay any money at the time specified for such

payment or if there has been any other breach or default by the lessee for the due and punctual performance of the covenants, obligations and provisions on the part of the lessee under this lease. If the Minister makes a demand on the Bank Guarantee either in whole or in part and appropriate such funds then the lessee shall within five days of such demand by the Minister provide the Minister with a fresh Bank Guarantee for an amount equal to the amount so demanded and paid by the Bank to the Minister on the Bank Guarantee and on the same terms and conditions as specified in this clause. The lessee shall not be entitled to a release or a re-delivery nor to request a release or re-delivery of the Bank Guarantee until one month after the expiration of the term of this lease. Notwithstanding any other provisions of this clause the Minister shall be entitled to refuse to release or deliver up to the lessee the Bank Guarantee if the Minister reasonably considers that there may be unremedied breaches or con-tingent obligations under the lease yet to mature and to be performed by the lessee at the time of the request to the Minister to release or re-deliver the Bank Guarantee; or

- (b) make such contributions to the indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industries as required by the Minister or the administrator of such scheme, and if required make such contributions on an annual or other basis and in such amounts as required by the Minister or the administrator of such scheme;

24.1.4 the provisions of this clause do not in any way limit, restrict or prejudice the rights of the Minister to exercise such additional rights, remedies and powers as the Minister may consider appropriate as a result of the lessee's default;

24.1.5 notwithstanding any other provision of this clause, if the lessee transfers or assigns its estate and interest in this lease, then upon and as and from the date ('the Date') such transferee or assignee providing to the Minister either a guarantee from its bankers as satisfies the requirements of this clause or evidence of having contributed to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry in such amount as required by this clause, the Minister shall from the date fully free release and discharge the lessee from any and all obligations under and pursuant to this clause and shall release and re-deliver to the lessee any bank.

24.2 If the lessee has already provided a guarantee or contributed to a fund in accordance with obligations under previous arrangements to the extent required under this lease, then the lessee is excused from the initial requirement to provide a guarantee or contribution, but not from subsequent obligations under this clause.

25. *Disclaimer*

The Minister does not expressly or impliedly warrant that the leased area is now or will remain suitable or adequate for all or any of the purposes of the lessee and all warranties (if any) as to the suitability and adequateness of the leased area that might otherwise be implied are expressly negated.

26. *Delegation*

Unless expressly excluded by any provision of this lease, any consent, any notice, any consultation or any other thing which pursuant to the terms of this lease is either required to be given, done or performed by the Minister or is permitted to be given, done or performed by the Minister may for the purposes of this lease be properly given, done or performed by a person authorised by the Minister to act on the Minister's behalf.

27. *Special Conditions*

Incorporated in this lease are any special conditions set out in the Schedule.

28. *Notices*

28.1 Notice to the lessee is valid if sent by post to the address for notices in the Schedule, or such other address as is notified by the lessee to the Minister in writing.

28.2 The lessee may give notice to the Minister by posting written notice addressed to PIRSA Aquaculture, G.P.O. Box 1625, Adelaide, S.A. 5001.

29. *Definitions and Interpretation*

In this lease unless inconsistent with the context:

'*business days*' means Monday to Friday (inclusive) excluding any public holiday;

'*corresponding licence*' has the meaning attributed in the Act;

'*GST*' means the tax imposed by the GST Law;

'*GST Law*' has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999;

'*Insolvency Administration*' means, if the lessee is a corporation:

- an administrator is appointed to the lessee or action is taken to make such an appointment;
- the lessee resolves to be wound up;
- an application is made to a court for an order or an order is made that the lessee be wound up (whether on grounds of insolvency or otherwise);
- the lessee ceases to carry on business;
- a receiver or a receiver and manager of property of the lessee is appointed whether by a court or other-wise;
- an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the lessee or one of them is appointed, whether or not under an order;
- the lessee enters into a compromise or arrangement with its creditors or a class of them; or
- the lessee is or states that it is unable to pay its debts when they fall due;

'*Insolvency Administration*' means if the lessee is a natural person:

- the lessee has committed an act of bankruptcy as contemplated by the Bankruptcy Act 1966;
- the lessee is unable to pay his or her debts as and when they become due and payable;
- the court has made a sequestration order against the lessee's estate;
- a creditors' petition has been presented against the lessee;

- the lessee has presented to the Official Receiver a declaration of intention to present a debtor's petition;
- the lessee becomes a bankrupt;
- a meeting of creditors of the lessee is convened; or
- the lessee lodges with his or her trustee a proposal to his or her creditors for a composition in satisfaction of his or her debts or a scheme of arrangement of his or her affairs;

'Lessee' means the party described in this lease and the heirs, executors, administrators and permitted assigns thereof and if a body corporate, its successors and permitted assigns;

'Minister' means the Minister for Agriculture, Food and Fisheries, a body corporate under the Administrative Arrangements Act 1994;

'Permitted Use' means the use of the leased area for such aquaculture purposes as are specified in the Schedule to this lease;

'Leased Area' means the area comprised of State waters or State waters and adjacent land within the meaning of the Harbors and Navigation Act 1993, described in the Schedule to this lease;

'Taxable Supply' has the meaning attributed in the GST Act;

'Tax Invoice' has the meaning attributed in the GST Act;

'Term of this Lease' or the 'Term' means the initial term granted by the Minister (unless sooner determined) and any extension of such initial term.

30. Interpretation

- 30.1 Words importing the singular shall embrace the plural and words importing the masculine gender shall embrace the feminine and neuter genders and *vice versa* respectively.
- 30.2 Any reference to a person shall include a corporate body and *vice versa*.
- 30.3 Where two or more persons are included in the designation the 'lessee' the obligations on the part of the lessee contained in this lease shall bind such persons and any two or greater number of them jointly and each of them severally and the expression the 'lessee' shall include all or any one or more of such persons.
- 30.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for it and the regulations, by-laws or other orders for the time being made under that statute.
- 30.5 Headings are for convenience of reference only and shall not affect the construction or interpretation of the covenants of this lease.

Dated 23 December 2002.

Signed by the General Manager, Aquaculture of the Department for Primary Industries and Resources as delegate of the Minister for Transport (as successor of) the Minister for Transport and Urban Planning, pursuant to a delegation made on 13 March 2000 under section 11 (1) of the Harbors and Navigation Act 1993.

I. NIGHTINGALE, General Manager, Aquaculture

AQUACULTURE ACT 2001

AQUACULTURE LEASE PL00015

Class of Aquaculture (Tuna)

THIS Pilot Lease is granted under the Aquaculture Act 2001 ('the Act') pursuant to section 3 (2) of the Schedule to the Act and Division 4 of Part 6 of the Act.

This lease is granted to the lessee for the term of one year, by the Minister for Agriculture, Food and Fisheries ('the Minister') for the purpose of conducting the Class of Aquaculture nominated in the Schedule ('the permitted use'), subject to the conditions set out in this document.

This lease is granted with the concurrence of the Minister for Transport as required in section 20 of the Aquaculture Act 2001 and section 15 of the Harbours and Navigation Act 1993.

SCHEDULE

Lessee:

Dinko Tuna Farmers Pty Ltd (29920)
5 Bononza Road
Port Lincoln, S.A. 5606

Leased Area:

GDA 94—Zone 53
591677E 6166641N
593091E 6166641N
593091E 6165935N
591677E 6165935N

Licensed
Hectares

100

Permitted Class of Aquaculture:

Tuna Aquaculture

Term of the Lease:

Twelve months

Initial Rental:

\$350.00

Marking-off requirements:

The marked-off area must be marked with 30 cm diameter white buoys spaced at 50 m intervals and positioned no more than 50 m from structures located on the site.

Amount of Public Liability Insurance:

\$10 million

Amount of Guarantee or contribution to indemnity fund:

\$10 000

Extent of Leased Area that must be developed:

During the term of this lease at least one cage of at least 20 m diameter must be installed on the site.

1. Term and Renewal

- 1.1 The term of this lease is the term of one year commencing on 1 July 2002 and ending on 30 June 2003 ('the initial term').
- 1.2 The term is renewable in accordance with section 38 of the Act for successive terms, by the lessee giving the Minister notice no earlier than two months before the expiry of the term, and no later than one month before the expiry of the term, unless there is at the expiry of the lease a default under the lease or any corresponding licence.
- 1.3 Any renewal of the term shall be subject to conditions in accordance with standard conditions under aquaculture policies developed under Part 4 of the Act, and such other conditions as are determined by the Minister ('the reviewed conditions').
- 1.4 Upon renewal the Minister may issue either a certificate of renewal, or a new lease, incorporating the reviewed conditions.
- 1.5 The Minister may, at the time of renewal of a term, vary the term subject to the maximum term for a production lease permitted by the Act.

2. Rental

- 2.1 The lessee must pay to the Minister the annual rental, free from exchange, deduction or abatement.
- 2.2 At the commencement of the initial term the annual rental payable under this lease is the initial rental stipulated in the Schedule.
- 2.3 The initial rental payable in respect of the initial term is subject to adjustment during the initial term, as determined by the Minister in accordance with aquaculture policy developed under Part 4 of the Act. The adjusted rental shall be applicable in respect of the entire initial term.

- 2.4 Rental in respect of renewed terms shall be as notified by the Minister before the expiry of the initial term, and adjustments of rental in renewed terms of the lease will be applicable in accordance with the reviewed conditions.
- 2.5 Rental is payable in full within one month of commencement of the lease by direct bank transfer to the credit of a bank account nominated by the Minister, or by cheque payable to the Department for Primary Industry and Resources SA, delivered to the address stipulated by the Minister.

3. GST

- 3.1 The rental payable under this lease is exclusive of GST.
- 3.2 The lease is a taxable supply under GST Law.
- 3.3 Department of Primary Industries and Resources (ABN 53 763 159 658) is the government entity administering this lease on behalf of the Minister and is registered pursuant to the GST Law.
- 3.4 Department of Primary Industries and Resources is entitled to be treated as the maker of any taxable supply and the recipient of any taxable supply pursuant to this lease instead of the Minister for the purposes only of the GST Law.
- 3.5 The lessee must pay to the Minister, together with any payment of rental under this lease, an additional amount in respect of GST (the 'GST payment'). The GST payment is ten per cent of the rental, subject only to any change in the rate of GST under GST Law.
- 3.6 The Minister must issue to the lessee a tax invoice within 10 business days after the lessee has delivered payment of rental and the GST payment.

4. Cancellation

The Minister may cancel this lease by immediate written notice to the lessee:

- 4.1 if the lessee enters into any form of Insolvency Administration;
- 4.2 if the lessee assigns or purports to assign the lease without giving the Minister prior written notice as required by section 39 of the Act;
- 4.3 if any rent or other moneys payable by the lessee are in arrears for more than 14 days whether or not any formal demand has been made for the rent or other moneys;
- 4.4 if the lessee (being a natural person) is convicted of any indictable offence;
- 4.5 if there is any breach of any condition of a corresponding licence in respect of this lease;
- 4.6 if there is a breach of any obligation under the Act by the lessee or a licensee under a corresponding licence;
- 4.7 if a corresponding licence is cancelled; or
- 4.8 if in the opinion of the Minister the use of the leased area by or on behalf of the lessee reveals, indicates or provides reasonable grounds for the Minister to form the view or opinion that degradation or damage of an unacceptable level of coastal land or the surrounding marine environment has or is being caused by the lessee's use of the leased area or the use of the leased area by a licensee under a corresponding licence, or any activity associated with their activities and the lessee fails to comply with a notice requiring the lessee to remedy the degradation or damage, and/or cease or prevent the relevant activity within 30 days after the date the notice is served upon the lessee by or on behalf of the Minister.

5. Dealing with Lease

- 5.1 This lease is transferable in accordance with the Act (see section 39).
- 5.2 Subletting under this lease is not permitted except with the prior written consent of the Minister.

6. Marking-off

The lessee must mark-off the leased area in the manner stipulated in the Schedule.

7. Lessee's Use of Leased Area

The lessee must not use the leased area or permit it to be used for any purpose other than the Permitted Class of Aquaculture.

8. Development Requirement

The lessee must ensure that the leased area is developed and used for the Permitted Class of Aquaculture to the extent stipulated in the Schedule.

9. Consents and Approvals

- 9.1 If the lessee's use of the leased area is permissible only with the consent or approval of any authority under or in pursuance of any law enactment or order of Court the lessee must obtain such consent or approval at its own expense and the lessee shall at no time during the term of this lease do or permit or fail to do or suffer to be done any act, matter or thing whereby such consent or approval shall lapse or be revoked; and
- 9.2 The lessee must keep current during the term of this lease all consents and approvals required under the Development Act 1993 and any other law applicable to the leased area or the permitted use or the lessee's use of the leased area.

10. Public Liability Insurance

- 10.1 The lessee shall forthwith effect and keep current during the term of this lease in the joint names of the Minister and the lessee for their respective rights and interests with a reputable and solvent insurer first approved by the Minister (which approval shall not be unreasonably withheld) a policy of public risk insurance in respect of the leased area for an amount not less than the amount stipulated in the Schedule in respect of any single claim, accident or event (or such greater amount as the Minister shall from time to time reasonably require) and upon request from or on behalf of the Minister to produce a copy of such policy and a copy of a certificate of currency in respect thereof such policy to indemnify the lessee and the Minister against any and all actions, suits, claims, demands, cost, proceedings, expenses, harm and loss of any kind including arising out of or in connection with:
- 10.1.1 the use of the leased area by the lessee or a licensee under a corresponding licence or its servants, agents and invitees; and/or
- 10.1.2 any death, illness or bodily injury sustained by any person upon the leased area or any damage to property occurring upon the leased area.

Notwithstanding any other provision of this clause the lessee shall satisfy the obligations to effect a policy of public risk insurance if the lessee notes the leased area and the Minister's rights and interests therein and under this lease upon any policy of public risk insurance effected by the lessee in respect of other land or premises within the Commonwealth of Australia provided such policy and such insurer otherwise satisfies the requirements of this clause and the lessee upon request from or on behalf of the Minister produces a copy of such policy and a copy of a Certificate of Currency in respect thereof.

11. Statutory Requirements

- 11.1 The lessee must comply with the laws in force in South Australia in the course of any activity undertaken pursuant to this lease, or in relation to or on the leased area.
- 11.2 The lessee shall be liable to indemnify the Minister from and against all actions, proceedings, claims, demands, charges, penalties and expenses arising from any failure to comply with the laws in force in South Australia.

12. No Nuisance

- 12.1 The lessee must not do or fail to do anything on or in respect of the leased area (and must ensure that its employees, agents, contractors and invitees and any licensee under a corresponding licence do not do or fail to do anything on or in respect of the leased area):
- 12.1.1 whereby a nuisance (whether public or private) may arise or continue upon or in connection with the leased area; or
- 12.1.2 whereby any nuisance or disturbance could arise to any users of land near the leased area or the waters around the leased area or which could interfere with the same.

13. Indemnities

The lessee must indemnify and save harmless the Minister against:

- 13.1 all actions, claims, demands, proceedings, suits, costs, damages, expenses and losses which the Minister may suffer or incur as a result of the death of or injury to any person or loss of or damage to the property of any person arising from or out of any occurrence in, upon or about the leased area or any part of it or the use of the leased area by the lessee or a licensee under a corresponding licence or by any employee, agent, contractor or invitee of the lessee or licensee;
- 13.2 all loss or damage to the leased area, and any property on it caused by the lessee or licensee under a corresponding licence or by any employee, agent, contractor, or invitee of the lessee or licensee or other person having business with the lessee or licensee and in particular but without limiting in any way the generality of the foregoing by reason of the use, misuse, waste or abuse of the leased area; and
- 13.3 all fees, costs, liabilities and expenses incurred by the Minister in the exercise or attempted exercise of any of the rights, authorities, powers or remedies which are exercisable by the Minister pursuant to this lease,

except to the extent caused or contributed to by any wilful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

14. Exclusion of Liability

The Minister and its servants, employees, agents, contractors and invitees shall have no responsibility or liability to the lessee and the Minister and its employees, agents, contractors and invitees for any loss or injury suffered by the lessee or to the property of the lessee except to the extent caused or contributed to by any unlawful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

15. Minister's Entry on Leased Area

- 15.1 The Minister may, on giving reasonable notice, with or without the Minister's officers, employees and/or agents, enter upon and remain on the leased area for the purpose of inspecting the leased area including in respect of the performance of the lessee's obligations and/or for the purpose of remedying any breach of the lessee's obligations under this lease or the Act in respect of the leased area or any breach by any licensee under a corresponding licence of its obligations under and pursuant to the licence or the Act, although the Minister shall be under no obligation to so remedy any such breach.
- 15.2 The Minister shall not be required to give any prior notice to the lessee before exercising its rights under and pursuant to this clause in circumstances where, in the reasonable opinion of the Minister:
- 15.2.1 it is not practicable to do so, or;
- 15.2.2 the Minister or any responsible officer, employee or agent of the Minister believes on reasonable grounds that an offence has or is being or is about to be committed on the leased area or that a breach of the terms and

conditions of this lease by the lessee or any breach by any licensee of its obligations under and pursuant to the licence, has occurred, is occurring or is about to occur;

- 15.2.3 in exercising any of its rights under and pursuant to this clause the Minister shall use its reasonable endeavours not to interfere with the lawful and permitted conduct of the lessee's or a licensee's use of the leased area.

16. Contamination and Contaminating Substances

- 16.1 The lessee must not bring or permit to be brought upon the leased area any matter in any form which the handling, storage, disposal, dealing with or the escape of which may in any manner result in, cause or contribute to pollution, contamination or degradation on or to the leased area or any land or water adjacent or near to the leased area or exacerbate, add to or compound any pre-existing pollution, contamination or degradation or the feasibility, practicality or cost of its control and/or removal, unless the lessee has obtained the prior written consent of the Minister, (which consent the Minister may grant or withhold or impose conditions on in its absolute unfettered discretion).

- 16.2 Irrespective of whether the Minister gave its consent in respect of such material, compounds or substances pursuant to this clause, if during the term of this lease, or during any subsequent period in which the lessee continues to occupy or control the leased area, any pollution, contamination or degradation occurs or any exacerbation, addition to or compounding of any pollution, contamination or degradation existing prior to the date of commencement of the term of this lease occurs (other than to the extent the result of any wilful or negligent act or omission of the Minister or any agent employee or contractor of the Minister) then:

16.2.1 the lessee must forthwith notify the Minister in writing of the location, nature, extent and quantity of such substance or compound and the pollution, contamination and degradation it might cause and reasonable particulars of the long term effect of the same and likely cost of control, collection, removal and disposal;

16.2.2 the lessee must permit the Minister and any employee, agent, inspector, contractor or invitee of the Minister at all times to enter upon the leased area and to inspect any suspected notified or known pollution, contamination or degradation or any substance or compound capable of causing pollution, contamination and degradation to the leased area or the land or water adjacent to or near the leased area and to abate any actual or potential danger or hazard in or about the leased area and if such hazard or damage in the reasonable opinion of the Minister is caused by or results from the substance or compound the lessee shall pay to the Minister the costs and expenses incurred in carrying out such work; and

16.2.3 the lessee must at its own cost and expense if so required by the Minister remove any and all substances and compounds causing contributing or which could cause or contribute to pollution, contamination or degradation of the leased area (or exacerbate add to or compound any pre-existing similar condition) from all parts of the leased area.

- 16.3 During the term of this lease, the lessee must indemnify and hold harmless the Minister and keep the Minister indemnified from and against all claims, demands, actions, proceedings, judgments, orders, costs, losses, damages and expenses of any nature whatsoever suffered or incurred by the Minister as a result whether directly or otherwise of:

16.3.1 any act or omission of the lessee its servants, agents, contractors, licensees or any other

person acting with its authority which results in pollution, contamination or degradation on or to the leased area or any part thereof; and

- 16.3.2 any failure of the lessee to comply with observe and perform in respect of the leased area the requirements imposed on tenants or occupiers of the leased area by any laws, statutory enactments or regulations made pursuant thereto (whether Federal, State or municipal) relating to the contamination and/or degradation and/or pollution of the leased area or any part thereof (the 'relevant law').

17. Lease Expiry

The lessee must, at the lessee's cost in all things immediately prior to the expiration or sooner determination of the term of this lease:

- 17.1 remove and carry away from the leased area all improvements, plant, equipment, chattels and property located or brought upon the leased area by or on behalf of the lessee and in such removal cause as little damage to the leased area as practicable;
- 17.2 upon completion of such removal, remove all debris, rubbish and waste from the leased area and rehabilitate the same in respect of any damage caused thereto by the location thereon of such waste and debris; and
- 17.3 reinstate and rehabilitate the leased area and any portions thereof affected by the conduct of the permitted use or the lessee's use of the same to the condition existing prior to commencement of the term of this lease. Such rehabilitation shall be performed by the lessee at its cost in all things to the reasonable satisfaction of the Minister.

18. Occupation

The lessee has the rights of occupation provided in the Act.

19. Default Costs

- 19.1 The lessee is liable to pay the Minister reasonable costs and expenses including but without limiting the generality thereof reasonable professional charges and workmen's wages:
- 19.1.1 of and incidental to the recovery of annual rent due and unpaid interest thereon; and
- 19.1.2 incurred by remedying or attempting to remedy any breach of the lessee's obligations under this lease.
- 19.2 Any amount payable by the lessee under this clause is payable on demand by the Minister.

20. Default Interest

Without prejudice to the rights, powers and remedies of the Minister otherwise under this lease the lessee must pay to the Minister interest at the overdrawn rate charged from time to time by the Minister's Bankers on overdrafts not exceeding \$50 000 on any money due but unpaid after the same fell due and payable by the lessee to the Minister on any account whatsoever under this lease. Interest shall be computed from the due date for the payment of the money in respect of which the interest is chargeable until payment of such money is made in full and shall be recoverable in like manner as rent in arrears.

21. Minister may remedy Default

- 21.1 If the lessee fails or neglects to perform any obligation or to observe any provision to be performed or observed by the lessee under this lease or if any licensee under the licence is in breach or default under the licence and if such failure or neglect shall continue for one month after the Minister has given to the lessee notice in writing requiring the lessee to perform such obligation or to observe such provision then the Minister may (but without being bound so to do and without prejudice to any other right or remedy) perform that obligation or observe that provision and all reasonable costs and expenses including overtime charges, fines, levies and penalties due to such default or incurred by the Minister in remedying the same shall be paid by the lessee to the Minister.

22. Waiver

No forbearance by the Minister in respect of any breach of any obligation contained or implied in this lease shall operate as a waiver of another breach of the same or of any other obligation contained or implied in this lease.

23. Joint Lessees

If the lessee constitutes more than one natural person or bodies corporate or a partnership:

- 23.1 the persons comprising the lessee are jointly and severally bound by the conditions of this lease; and
- 23.2 notice to one of the natural persons or bodies corporate comprising the lessee shall be notice to all persons comprising the lessee.

24. Guarantee or Indemnity

- 24.1 The lessee must within five business days of receipt of this lease but with effect from the date of commencement of the term of this lease either:

- 24.1.1 provide a guarantee from its bankers; or
- 24.1.2 contribute to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry,

to and in favour of and for the benefit of the Minister by way of security for the due and punctual performance by the lessee of the terms and conditions of this lease and in particular the obligations of the lessee to rehabilitate the leased area immediately prior to the expiration or sooner determination of the term of this lease upon the following terms and conditions:

- 24.1.3 the lessee shall either:

- (a) arrange for the provision from a bank as defined in the Banking Act 1959 or established by an Act of the Parliament of South Australia of an irrevocable and continuing bank guarantee for an amount stipulated from time to time by the Minister (the 'Bank Guarantee'). The Bank Guarantee shall otherwise contain terms and conditions which are reasonably satisfactory to the Minister. The Bank Guarantee shall be continuously in existence until the Minister agrees to release the Bank Guarantee under this clause. The guarantee shall entitle the Minister to make demand on the Bank Guarantee at any time if there has been a failure by the lessee to pay any money at the time specified for such payment or if there has been any other breach or default by the lessee for the due and punctual performance of the covenants, obligations and provisions on the part of the lessee under this lease. If the Minister makes a demand on the Bank Guarantee either in whole or in part and appropriate such funds then the lessee shall within five days of such demand by the Minister provide the Minister with a fresh Bank Guarantee for an amount equal to the amount so demanded and paid by the Bank to the Minister on the Bank Guarantee and on the same terms and conditions as specified in this clause. The lessee shall not be entitled to a release or a re-delivery nor to request a release or re-delivery of the Bank Guarantee until one month after the expiration of the term of this lease. Notwithstanding any other provisions of this clause the Minister shall be entitled to refuse to release or deliver up to the lessee the Bank Guarantee if the Minister reasonably considers that there may be unremedied breaches or con-tigent obligations under the lease yet to mature and to be performed by the lessee at the time of

the request to the Minister to release or re-deliver the Bank Guarantee; or

- (b) make such contributions to the indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industries as required by the Minister or the administrator of such scheme, and if required make such contributions on an annual or other basis and in such amounts as required by the Minister or the administrator of such scheme;

24.1.4 the provisions of this clause do not in any way limit, restrict or prejudice the rights of the Minister to exercise such additional rights, remedies and powers as the Minister may consider appropriate as a result of the lessee's default;

24.1.5 notwithstanding any other provision of this clause, if the lessee transfers or assigns its estate and interest in this lease, then upon and as from the date ('the Date') such transferee or assignee providing to the Minister either a guarantee from its bankers as satisfies the requirements of this clause or evidence of having contributed to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry in such amount as required by this clause, the Minister shall from the date fully free release and discharge the lessee from any and all obligations under and pursuant to this clause and shall release and re-deliver to the lessee any bank.

24.2 If the lessee has already provided a guarantee or contributed to a fund in accordance with obligations under previous arrangements to the extent required under this lease, then the lessee is excused from the initial requirement to provide a guarantee or contribution, but not from subsequent obligations under this clause.

25. Disclaimer

The Minister does not expressly or impliedly warrant that the leased area is now or will remain suitable or adequate for all or any of the purposes of the lessee and all warranties (if any) as to the suitability and adequateness of the leased area that might otherwise be implied are expressly negated.

26. Delegation

Unless expressly excluded by any provision of this lease, any consent, any notice, any consultation or any other thing which pursuant to the terms of this lease is either required to be given, done or performed by the Minister or is permitted to be given, done or performed by the Minister may for the purposes of this lease be properly given, done or performed by a person authorised by the Minister to act on the Minister's behalf.

27. Special Conditions

Incorporated in this lease are any special conditions set out in the Schedule.

28. Notices

28.1 Notice to the lessee is valid if sent by post to the address for notices in the Schedule, or such other address as is notified by the lessee to the Minister in writing.

28.2 The lessee may give notice to the Minister by posting written notice addressed to PIRSA Aquaculture, G.P.O. Box 1625, Adelaide, S.A. 5001.

29. Definitions and Interpretation

In this lease unless inconsistent with the context:

'business days' means Monday to Friday (inclusive) excluding any public holiday;

'corresponding licence' has the meaning attributed in the Act;

'GST' means the tax imposed by the GST Law;

'GST Law' has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999;

'Insolvency Administration' means, if the lessee is a corporation:

- an administrator is appointed to the lessee or action is taken to make such an appointment;
- the lessee resolves to be wound up;
- an application is made to a court for an order or an order is made that the lessee be wound up (whether on grounds of insolvency or otherwise);
- the lessee ceases to carry on business;
- a receiver or a receiver and manager of property of the lessee is appointed whether by a court or otherwise;
- an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the lessee or one of them is appointed, whether or not under an order;
- the lessee enters into a compromise or arrangement with its creditors or a class of them; or
- the lessee is or states that it is unable to pay its debts when they fall due;

'Insolvency Administration' means if the lessee is a natural person:

- the lessee has committed an act of bankruptcy as contemplated by the Bankruptcy Act 1966;
- the lessee is unable to pay his or her debts as and when they become due and payable;
- the court has made a sequestration order against the lessee's estate;
- a creditors' petition has been presented against the lessee;
- the lessee has presented to the Official Receiver a declaration of intention to present a debtor's petition;
- the lessee becomes a bankrupt;
- a meeting of creditors of the lessee is convened; or
- the lessee lodges with his or her trustee a proposal to his or her creditors for a composition in satisfaction of his or her debts or a scheme of arrangement of his or her affairs;

'Lessee' means the party described in this lease and the heirs, executors, administrators and permitted assigns thereof and if a body corporate, its successors and permitted assigns;

'Minister' means the Minister for Agriculture, Food and Fisheries, a body corporate under the Administrative Arrangements Act 1994;

'Permitted Use' means the use of the leased area for such aquaculture purposes as are specified in the Schedule to this lease;

'Leased Area' means the area comprised of State waters or State waters and adjacent land within the meaning of the Harbors and Navigation Act 1993, described in the Schedule to this lease;

'Taxable Supply' has the meaning attributed in the GST Act;

'Tax Invoice' has the meaning attributed in the GST Act;

'Term of this Lease' or the 'Term' means the initial term granted by the Minister (unless sooner determined) and any extension of such initial term.

30. Interpretation

- 30.1 Words importing the singular shall embrace the plural and words importing the masculine gender shall embrace the feminine and neuter genders and *vice versa* respectively.
- 30.2 Any reference to a person shall include a corporate body and *vice versa*.
- 30.3 Where two or more persons are included in the designation the 'lessee' the obligations on the part of the lessee contained in this lease shall bind such persons and any two or greater number of them jointly and each of them severally and the expression the 'lessee' shall include all or any one or more of such persons.
- 30.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for it and the regulations, by-laws or other orders for the time being made under that statute.
- 30.5 Headings are for convenience of reference only and shall not affect the construction or interpretation of the covenants of this lease.

Dated 23 December 2002.

Signed by the General Manager, Aquaculture of the Department for Primary Industries and Resources as delegate of the Minister for Transport (as successor of) the Minister for Transport and Urban Planning, pursuant to a delegation made on 13 March 2000 under section 11 (1) of the Harbours and Navigation Act 1993.

I. NIGHTINGALE, General Manager, Aquaculture

AQUACULTURE ACT 2001

AQUACULTURE LEASE PL00016

Class of Aquaculture (Tuna)

THIS Pilot Lease is granted under the Aquaculture Act 2001 ('the Act') pursuant to section 3 (2) of the Schedule to the Act and Division 4 of Part 6 of the Act.

This lease is granted to the lessee for the term of one year, by the Minister for Agriculture, Food and Fisheries ('the Minister') for the purpose of conducting the Class of Aquaculture nominated in the Schedule ('the permitted use'), subject to the conditions set out in this document.

This lease is granted with the concurrence of the Minister for Transport as required in section 20 of the Aquaculture Act 2001 and section 15 of the Harbours and Navigation Act 1993.

SCHEDULE

Lessee:

Australian Fishing Enterprises Pty Ltd (13227)
Billy Lights Point
Port Lincoln, S.A. 5606

Leased Area:

GDA 94—Zone 53
587810E 6163224N
589542E 6163224N
589542E 6162647N
587810E 6162647N

Licensed
Hectares

100

Permitted Class of Aquaculture:

Tuna Aquaculture

Term of the Lease:

Twelve months

Initial Rental:

\$350.00

Marking-off requirements:

The marked-off area must be marked with 30 cm diameter white buoys spaced at 50 m intervals and positioned no more than 50 m from structures located on the site.

Amount of Public Liability Insurance:

\$10 million

Amount of Guarantee or contribution to indemnity fund:

\$10 000

Extent of Leased Area that must be developed:

During the term of this lease at least one cage of at least 20 m diameter must be installed on the site.

1. Term and Renewal

- 1.1 The term of this lease is the term of one year commencing on 1 July 2002 and ending on 30 June 2003 ('the initial term').
- 1.2 The term is renewable in accordance with section 38 of the Act for successive terms, by the lessee giving the Minister notice no earlier than two months before the expiry of the term, and no later than one month before the expiry of the term, unless there is at the expiry of the lease a default under the lease or any corresponding licence.
- 1.3 Any renewal of the term shall be subject to conditions in accordance with standard conditions under aquaculture policies developed under Part 4 of the Act, and such other conditions as are determined by the Minister ('the reviewed conditions').
- 1.4 Upon renewal the Minister may issue either a certificate of renewal, or a new lease, incorporating the reviewed conditions.
- 1.5 The Minister may, at the time of renewal of a term, vary the term subject to the maximum term for a production lease permitted by the Act.

2. Rental

- 2.1 The lessee must pay to the Minister the annual rental, free from exchange, deduction or abatement.
- 2.2 At the commencement of the initial term the annual rental payable under this lease is the initial rental stipulated in the Schedule.
- 2.3 The initial rental payable in respect of the initial term is subject to adjustment during the initial term, as determined by the Minister in accordance with aquaculture policy developed under Part 4 of the Act. The adjusted rental shall be applicable in respect of the entire initial term.
- 2.4 Rental in respect of renewed terms shall be as notified by the Minister before the expiry of the initial term, and adjustments of rental in renewed terms of the lease will be applicable in accordance with the reviewed conditions.
- 2.5 Rental is payable in full within one month of commencement of the lease by direct bank transfer to the credit of a bank account nominated by the Minister, or by cheque payable to the Department for Primary Industry and Resources SA, delivered to the address stipulated by the Minister.

3. GST

- 3.1 The rental payable under this lease is exclusive of GST.
- 3.2 The lease is a taxable supply under GST Law.
- 3.3 Department of Primary Industries and Resources (ABN 53 763 159 658) is the government entity administering this lease on behalf of the Minister and is registered pursuant to the GST Law.
- 3.4 Department of Primary Industries and Resources is entitled to be treated as the maker of any taxable supply and the recipient of any taxable supply pursuant to this lease instead of the Minister for the purposes only of the GST Law.
- 3.5 The lessee must pay to the Minister, together with any payment of rental under this lease, an additional amount in respect of GST (the 'GST payment'). The GST payment is ten per cent of the rental, subject only to any change in the rate of GST under GST Law.
- 3.6 The Minister must issue to the lessee a tax invoice within 10 business days after the lessee has delivered payment of rental and the GST payment.

4. Cancellation

The Minister may cancel this lease by immediate written notice to the lessee:

- 4.1 if the lessee enters into any form of Insolvency Administration;
- 4.2 if the lessee assigns or purports to assign the lease without giving the Minister prior written notice as required by section 39 of the Act;
- 4.3 if any rent or other moneys payable by the lessee are in arrears for more than 14 days whether or not any formal demand has been made for the rent or other moneys;
- 4.4 if the lessee (being a natural person) is convicted of any indictable offence;
- 4.5 if there is any breach of any condition of a corresponding licence in respect of this lease;
- 4.6 if there is a breach of any obligation under the Act by the lessee or a licensee under a corresponding licence;
- 4.7 if a corresponding licence is cancelled; or
- 4.8 if in the opinion of the Minister the use of the leased area by or on behalf of the lessee reveals, indicates or provides reasonable grounds for the Minister to form the view or opinion that degradation or damage of an unacceptable level of coastal land or the surrounding marine environment has or is being caused by the lessee's use of the leased area or the use of the leased area by a licensee under a corresponding licence, or any activity associated with their activities and the lessee fails to comply with a notice requiring the lessee to remedy the degradation or damage, and/or cease or prevent the relevant activity within 30 days after the date the notice is served upon the lessee by or on behalf of the Minister.

5. Dealing with Lease

- 5.1 This lease is transferable in accordance with the Act (see section 39).
- 5.2 Subletting under this lease is not permitted except with the prior written consent of the Minister.

6. Marking-off

The lessee must mark-off the leased area in the manner stipulated in the Schedule.

7. Lessee's Use of Leased Area

The lessee must not use the leased area or permit it to be used for any purpose other than the Permitted Class of Aquaculture.

8. Development Requirement

The lessee must ensure that the leased area is developed and used for the Permitted Class of Aquaculture to the extent stipulated in the Schedule.

9. Consents and Approvals

- 9.1 If the lessee's use of the leased area is permissible only with the consent or approval of any authority under or in pursuance of any law enactment or order of Court the lessee must obtain such consent or approval at its own expense and the lessee shall at no time during the term of this lease do or permit or fail to do or suffer to be done any act, matter or thing whereby such consent or approval shall lapse or be revoked; and
- 9.2 The lessee must keep current during the term of this lease all consents and approvals required under the Development Act 1993 and any other law applicable to the leased area or the permitted use or the lessee's use of the leased area.

10. Public Liability Insurance

- 10.1 The lessee shall forthwith effect and keep current during the term of this lease in the joint names of the Minister and the lessee for their respective rights and interests with a reputable and solvent insurer first approved by the Minister (which approval shall not be unreasonably withheld) a policy of public risk insurance in respect of the leased area for an amount not less than the amount stipulated in the Schedule in

respect of any single claim, accident or event (or such greater amount as the Minister shall from time to time reasonably require) and upon request from or on behalf of the Minister to produce a copy of such policy and a copy of a certificate of currency in respect thereof such policy to indemnify the lessee and the Minister against any and all actions, suits, claims, demands, cost, proceedings, expenses, harm and loss of any kind including arising out of or in connection with:

- 10.1.1 the use of the leased area by the lessee or a licensee under a corresponding licence or its servants, agents and invitees; and/or
- 10.1.2 any death, illness or bodily injury sustained by any person upon the leased area or any damage to property occurring upon the leased area.

Notwithstanding any other provision of this clause the lessee shall satisfy the obligations to effect a policy of public risk insurance if the lessee notes the leased area and the Minister's rights and interests therein and under this lease upon any policy of public risk insurance effected by the lessee in respect of other land or premises within the Commonwealth of Australia provided such policy and such insurer otherwise satisfies the requirements of this clause and the lessee upon request from or on behalf of the Minister produces a copy of such policy and a copy of a Certificate of Currency in respect thereof.

11. Statutory Requirements

- 11.1 The lessee must comply with the laws in force in South Australia in the course of any activity undertaken pursuant to this lease, or in relation to or on the leased area.
- 11.2 The lessee shall be liable to indemnify the Minister from and against all actions, proceedings, claims, demands, charges, penalties and expenses arising from any failure to comply with the laws in force in South Australia.

12. No Nuisance

- 12.1 The lessee must not do or fail to do anything on or in respect of the leased area (and must ensure that its employees, agents, contractors and invitees and any licensee under a corresponding licence do not do or fail to do anything on or in respect of the leased area):
 - 12.1.1 whereby a nuisance (whether public or private) may arise or continue upon or in connection with the leased area; or
 - 12.1.2 whereby any nuisance or disturbance could arise to any users of land near the leased area or the waters around the leased area or which could interfere with the same.

13. Indemnities

The lessee must indemnify and save harmless the Minister against:

- 13.1 all actions, claims, demands, proceedings, suits, costs, damages, expenses and losses which the Minister may suffer or incur as a result of the death of or injury to any person or loss of or damage to the property of any person arising from or out of any occurrence in, upon or about the leased area or any part of it or the use of the leased area by the lessee or a licensee under a corresponding licence or by any employee, agent, contractor or invitee of the lessee or licensee;
- 13.2 all loss or damage to the leased area, and any property on it caused by the lessee or licensee under a corresponding licence or by any employee, agent, contractor, or invitee of the lessee or licensee or other person having business with the lessee or licensee and in particular but without limiting in any way the generality of the foregoing by reason of the use, misuse, waste or abuse of the leased area; and

- 13.3 all fees, costs, liabilities and expenses incurred by the Minister in the exercise or attempted exercise of any of the rights, authorities, powers or remedies which are exercisable by the Minister pursuant to this lease,

except to the extent caused or contributed to by any wilful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

14. Exclusion of Liability

The Minister and its servants, employees, agents, contractors and invitees shall have no responsibility or liability to the lessee and the Minister and its employees, agents, contractors and invitees for any loss or injury suffered by the lessee or to the property of the lessee except to the extent caused or contributed to by any unlawful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

15. Minister's Entry on Leased Area

- 15.1 The Minister may, on giving reasonable notice, with or without the Minister's officers, employees and/or agents, enter upon and remain on the leased area for the purpose of inspecting the leased area including in respect of the performance of the lessee's obligations and/or for the purpose of remedying any breach of the lessee's obligations under this lease or the Act in respect of the leased area or any breach by any licensee under a corresponding licence of its obligations under and pursuant to the licence or the Act, although the Minister shall be under no obligation to so remedy any such breach.

- 15.2 The Minister shall not be required to give any prior notice to the lessee before exercising its rights under and pursuant to this clause in circumstances where, in the reasonable opinion of the Minister:

- 15.2.1 it is not practicable to do so, or;
- 15.2.2 the Minister or any responsible officer, employee or agent of the Minister believes on reasonable grounds that an offence has or is being or is about to be committed on the leased area or that a breach of the terms and conditions of this lease by the lessee or any breach by any licensee of its obligations under and pursuant to the licence, has occurred, is occurring or is about to occur;
- 15.2.3 in exercising any of its rights under and pursuant to this clause the Minister shall use its reasonable endeavours not to interfere with the lawful and permitted conduct of the lessee's or a licensee's use of the leased area.

16. Contamination and Contaminating Substances

- 16.1 The lessee must not bring or permit to be brought upon the leased area any matter in any form which the handling, storage, disposal, dealing with or the escape of which may in any manner result in, cause or contribute to pollution, contamination or degradation on or to the leased area or any land or water adjacent or near to the leased area or exacerbate, add to or compound any pre-existing pollution, contamination or degradation or the feasibility, practicality or cost of its control and/or removal, unless the lessee has obtained the prior written consent of the Minister, (which consent the Minister may grant or withhold or impose conditions on in its absolute unfettered discretion).

- 16.2 Irrespective of whether the Minister gave its consent in respect of such material, compounds or substances pursuant to this clause, if during the term of this lease, or during any subsequent period in which the lessee continues to occupy or control the leased area, any pollution, contamination or degradation occurs or any exacerbation, addition to or compounding of any pollution, contamination or degradation existing prior to the date of commencement of the term of this lease occurs (other than to the extent the result of any wilful or negligent act or omission of the Minister or any agent employee or contractor of the Minister) then:

- 16.2.1 the lessee must forthwith notify the Minister in writing of the location, nature, extent and

quantity of such substance or compound and the pollution, contamination and degradation it might cause and reasonable particulars of the long term effect of the same and likely cost of control, collection, removal and disposal;

- 16.2.2 the lessee must permit the Minister and any employee, agent, inspector, contractor or invitee of the Minister at all times to enter upon the leased area and to inspect any suspected notified or known pollution, contamination or degradation or any substance or compound capable of causing pollution, contamination and degradation to the leased area or the land or water adjacent to or near the leased area and to abate any actual or potential danger or hazard in or about the leased area and if such hazard or damage in the reasonable opinion of the Minister is caused by or results from the substance or compound the lessee shall pay to the Minister the costs and expenses incurred in carrying out such work; and

- 16.2.3 the lessee must at its own cost and expense if so required by the Minister remove any and all substances and compounds causing contributing or which could cause or contribute to pollution, contamination or degradation of the leased area (or exacerbate add to or compound any pre-existing similar condition) from all parts of the leased area.

- 16.3 During the term of this lease, the lessee must indemnify and hold harmless the Minister and keep the Minister indemnified from and against all claims, demands, actions, proceedings, judgments, orders, costs, losses, damages and expenses of any nature whatsoever suffered or incurred by the Minister as a result whether directly or otherwise of:

- 16.3.1 any act or omission of the lessee its servants, agents, contractors, licensees or any other person acting with its authority which results in pollution, contamination or degradation on or to the leased area or any part thereof; and

- 16.3.2 any failure of the lessee to comply with observe and perform in respect of the leased area the requirements imposed on tenants or occupiers of the leased area by any laws, statutory enactments or regulations made pursuant thereto (whether Federal, State or municipal) relating to the contamination and/or degradation and/or pollution of the leased area or any part thereof (the 'relevant law').

17. Lease Expiry

The lessee must, at the lessee's cost in all things immediately prior to the expiration or sooner determination of the term of this lease:

- 17.1 remove and carry away from the leased area all improvements, plant, equipment, chattels and property located or brought upon the leased area by or on behalf of the lessee and in such removal cause as little damage to the leased area as practicable;

- 17.2 upon completion of such removal, remove all debris, rubbish and waste from the leased area and rehabilitate the same in respect of any damage caused thereto by the location thereon of such waste and debris; and

- 17.3 reinstate and rehabilitate the leased area and any portions thereof affected by the conduct of the permitted use or the lessee's use of the same to the condition existing prior to commencement of the term of this lease. Such rehabilitation shall be performed by the lessee at its cost in all things to the reasonable satisfaction of the Minister.

18. Occupation

The lessee has the rights of occupation provided in the Act.

19. Default Costs

19.1 The lessee is liable to pay the Minister reasonable costs and expenses including but without limiting the generality thereof reasonable professional charges and workmen's wages:

19.1.1 of and incidental to the recovery of annual rent due and unpaid interest thereon; and

19.1.2 incurred by remedying or attempting to remedy any breach of the lessee's obligations under this lease.

19.2 Any amount payable by the lessee under this clause is payable on demand by the Minister.

20. Default Interest

Without prejudice to the rights, powers and remedies of the Minister otherwise under this lease the lessee must pay to the Minister interest at the overdrawn rate charged from time to time by the Minister's Bankers on overdrafts not exceeding \$50 000 on any money due but unpaid after the same fell due and payable by the lessee to the Minister on any account whatsoever under this lease. Interest shall be computed from the due date for the payment of the money in respect of which the interest is chargeable until payment of such money is made in full and shall be recoverable in like manner as rent in arrears.

21. Minister may remedy Default

21.1 If the lessee fails or neglects to perform any obligation or to observe any provision to be performed or observed by the lessee under this lease or if any licensee under the licence is in breach or default under the licence and if such failure or neglect shall continue for one month after the Minister has given to the lessee notice in writing requiring the lessee to perform such obligation or to observe such provision then the Minister may (but without being bound so to do and without prejudice to any other right or remedy) perform that obligation or observe that provision and all reasonable costs and expenses including overtime charges, fines, levies and penalties due to such default or incurred by the Minister in remedying the same shall be paid by the lessee to the Minister.

22. Waiver

No forbearance by the Minister in respect of any breach of any obligation contained or implied in this lease shall operate as a waiver of another breach of the same or of any other obligation contained or implied in this lease.

23. Joint Lessees

If the lessee constitutes more than one natural person or bodies corporate or a partnership:

23.1 the persons comprising the lessee are jointly and severally bound by the conditions of this lease; and

23.2 notice to one of the natural persons or bodies corporate comprising the lessee shall be notice to all persons comprising the lessee.

24. Guarantee or Indemnity

24.1 The lessee must within five business days of receipt of this lease but with effect from the date of commencement of the term of this lease either:

24.1.1 provide a guarantee from its bankers; or

24.1.2 contribute to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry,

to and in favour of and for the benefit of the Minister by way of security for the due and punctual performance by the lessee of the terms and conditions of this lease and in particular the obligations of the lessee to rehabilitate the leased area immediately prior to the expiration or sooner determination of the term of this lease upon the following terms and conditions:

24.1.3 the lessee shall either:

(a) arrange for the provision from a bank as defined in the Banking Act 1959 or established by an Act of the Parliament of South Australia of an irrevocable and continuing bank guarantee for an amount stipulated from time to time by the Minister (the 'Bank Guarantee'). The Bank Guarantee shall otherwise contain terms and conditions which are reasonably satisfactory to the Minister. The Bank Guarantee shall be continuously in existence until the Minister agrees to release the Bank Guarantee under this clause. The guarantee shall entitle the Minister to make demand on the Bank Guarantee at any time if there has been a failure by the lessee to pay any money at the time specified for such payment or if there has been any other breach or default by the lessee for the due and punctual performance of the covenants, obligations and provisions on the part of the lessee under this lease. If the Minister makes a demand on the Bank Guarantee either in whole or in part and appropriate such funds then the lessee shall within five days of such demand by the Minister provide the Minister with a fresh Bank Guarantee for an amount equal to the amount so demanded and paid by the Bank to the Minister on the Bank Guarantee and on the same terms and conditions as specified in this clause. The lessee shall not be entitled to a release or a re-delivery nor to request a release or re-delivery of the Bank Guarantee until one month after the expiration of the term of this lease. Notwithstanding any other provisions of this clause the Minister shall be entitled to refuse to release or deliver up to the lessee the Bank Guarantee if the Minister reasonably considers that there may be unremedied breaches or contingent obligations under the lease yet to mature and to be performed by the lessee at the time of the request to the Minister to release or re-deliver the Bank Guarantee; or

(b) make such contributions to the indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industries as required by the Minister or the administrator of such scheme, and if required make such contributions on an annual or other basis and in such amounts as required by the Minister or the administrator of such scheme;

24.1.4 the provisions of this clause do not in any way limit, restrict or prejudice the rights of the Minister to exercise such additional rights, remedies and powers as the Minister may consider appropriate as a result of the lessee's default;

24.1.5 notwithstanding any other provision of this clause, if the lessee transfers or assigns its estate and interest in this lease, then upon and as and from the date ('the Date') such transferee or assignee providing to the Minister either a guarantee from its bankers as satisfies the requirements of this clause or evidence of having contributed to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry in such amount as required by this clause, the Minister shall from the

date fully free release and discharge the lessee from any and all obligations under and pursuant to this clause and shall release and re-deliver to the lessee any bank.

- 24.2 If the lessee has already provided a guarantee or contributed to a fund in accordance with obligations under previous arrangements to the extent required under this lease, then the lessee is excused from the initial requirement to provide a guarantee or contribution, but not from subsequent obligations under this clause.

25. Disclaimer

The Minister does not expressly or impliedly warrant that the leased area is now or will remain suitable or adequate for all or any of the purposes of the lessee and all warranties (if any) as to the suitability and adequateness of the leased area that might otherwise be implied are expressly negated.

26. Delegation

Unless expressly excluded by any provision of this lease, any consent, any notice, any consultation or any other thing which pursuant to the terms of this lease is either required to be given, done or performed by the Minister or is permitted to be given, done or performed by the Minister may for the purposes of this lease be properly given, done or performed by a person authorised by the Minister to act on the Minister's behalf.

27. Special Conditions

Incorporated in this lease are any special conditions set out in the Schedule.

28. Notices

- 28.1 Notice to the lessee is valid if sent by post to the address for notices in the Schedule, or such other address as is notified by the lessee to the Minister in writing.
- 28.2 The lessee may give notice to the Minister by posting written notice addressed to PIRSA Aquaculture, G.P.O. Box 1625, Adelaide, S.A. 5001.

29. Definitions and Interpretation

In this lease unless inconsistent with the context:

- '*business days*' means Monday to Friday (inclusive) excluding any public holiday;
- '*corresponding licence*' has the meaning attributed in the Act;
- '*GST*' means the tax imposed by the GST Law;
- '*GST Law*' has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999;
- '*Insolvency Administration*' means, if the lessee is a corporation:
- an administrator is appointed to the lessee or action is taken to make such an appointment;
 - the lessee resolves to be wound up;
 - an application is made to a court for an order or an order is made that the lessee be wound up (whether on grounds of insolvency or otherwise);
 - the lessee ceases to carry on business;
 - a receiver or a receiver and manager of property of the lessee is appointed whether by a court or other-wise;
 - an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the lessee or one of them is appointed, whether or not under an order;
 - the lessee enters into a compromise or arrangement with its creditors or a class of them; or
 - the lessee is or states that it is unable to pay its debts when they fall due;

'*Insolvency Administration*' means if the lessee is a natural person:

- the lessee has committed an act of bankruptcy as contemplated by the Bankruptcy Act 1966;
- the lessee is unable to pay his or her debts as and when they become due and payable;
- the court has made a sequestration order against the lessee's estate;
- a creditors' petition has been presented against the lessee;
- the lessee has presented to the Official Receiver a declaration of intention to present a debtor's petition;
- the lessee becomes a bankrupt;
- a meeting of creditors of the lessee is convened; or
- the lessee lodges with his or her trustee a proposal to his or her creditors for a composition in satisfaction of his or her debts or a scheme of arrangement of his or her affairs;

'*Lessee*' means the party described in this lease and the heirs, executors, administrators and permitted assigns thereof and if a body corporate, its successors and permitted assigns;

'*Minister*' means the Minister for Agriculture, Food and Fisheries, a body corporate under the Administrative Arrangements Act 1994;

'*Permitted Use*' means the use of the leased area for such aquaculture purposes as are specified in the Schedule to this lease;

'*Leased Area*' means the area comprised of State waters or State waters and adjacent land within the meaning of the Harbors and Navigation Act 1993, described in the Schedule to this lease;

'*Taxable Supply*' has the meaning attributed in the GST Act;

'*Tax Invoice*' has the meaning attributed in the GST Act;

'*Term of this Lease*' or the '*Term*' means the initial term granted by the Minister (unless sooner determined) and any extension of such initial term.

30. Interpretation

- 30.1 Words importing the singular shall embrace the plural and words importing the masculine gender shall embrace the feminine and neuter genders and *vice versa* respectively.
- 30.2 Any reference to a person shall include a corporate body and *vice versa*.
- 30.3 Where two or more persons are included in the designation the 'lessee' the obligations on the part of the lessee contained in this lease shall bind such persons and any two or greater number of them jointly and each of them severally and the expression the 'lessee' shall include all or any one or more of such persons.
- 30.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for it and the regulations, by-laws or other orders for the time being made under that statute.
- 30.5 Headings are for convenience of reference only and shall not affect the construction or interpretation of the covenants of this lease.

Dated 23 December 2002.

Signed by the General Manager, Aquaculture of the Department for Primary Industries and Resources as delegate of the Minister for Transport (as successor of) the Minister for Transport and Urban Planning, pursuant to a delegation made on 13 March 2000 under section 11 (1) of the Harbors and Navigation Act 1993.

I. NIGHTINGALE, General Manager, Aquaculture

AQUACULTURE ACT 2001
AQUACULTURE LEASE PL00017
Class of Aquaculture (Tuna)

THIS Pilot Lease is granted under the Aquaculture Act 2001 ('the Act') pursuant to section 3 (2) of the Schedule to the Act and Division 4 of Part 6 of the Act.

This lease is granted to the lessee for the term of one year, by the Minister for Agriculture, Food and Fisheries ('the Minister') for the purpose of conducting the Class of Aquaculture nominated in the Schedule ('the permitted use'), subject to the conditions set out in this document.

This lease is granted with the concurrence of the Minister for Transport as required in section 20 of the Aquaculture Act 2001 and section 15 of the Harbours and Navigation Act 1993.

SCHEDULE

Lessee:

Stolt Sea Farm Pty Ltd (1720)
17 Freezer Road
Port Lincoln, S.A. 5606

Leased Area:

GDA 94—Zone 53
589917E 6163349N
591917E 6163349N
591917E 6162274N
589917E 6162274N

Licensed
Hectares

215

Permitted Class of Aquaculture:

Tuna Aquaculture

Term of the Lease:

Twelve months

Initial Rental:

\$350.00

Marking-off requirements:

The marked-off area must be marked with 30 cm diameter white buoys spaced at 50 m intervals and positioned no more than 50 m from structures located on the site.

Amount of Public Liability Insurance:

\$10 million

Amount of Guarantee or contribution to indemnity fund:

\$10 000

Extent of Leased Area that must be developed:

During the term of this lease at least one cage of at least 20 m diameter must be installed on the site.

1. *Term and Renewal*

- 1.1 The term of this lease is the term of one year commencing on 1 July 2002 and ending on 30 June 2003 ('the initial term').
- 1.2 The term is renewable in accordance with section 38 of the Act for successive terms, by the lessee giving the Minister notice no earlier than two months before the expiry of the term, and no later than one month before the expiry of the term, unless there is at the expiry of the lease a default under the lease or any corresponding licence.
- 1.3 Any renewal of the term shall be subject to conditions in accordance with standard conditions under aquaculture policies developed under Part 4 of the Act, and such other conditions as are determined by the Minister ('the reviewed conditions').
- 1.4 Upon renewal the Minister may issue either a certificate of renewal, or a new lease, incorporating the reviewed conditions.
- 1.5 The Minister may, at the time of renewal of a term, vary the term subject to the maximum term for a production lease permitted by the Act.

2. *Rental*

- 2.1 The lessee must pay to the Minister the annual rental, free from exchange, deduction or abatement.

2.2 At the commencement of the initial term the annual rental payable under this lease is the initial rental stipulated in the Schedule.

2.3 The initial rental payable in respect of the initial term is subject to adjustment during the initial term, as determined by the Minister in accordance with aquaculture policy developed under Part 4 of the Act. The adjusted rental shall be applicable in respect of the entire initial term.

2.4 Rental in respect of renewed terms shall be as notified by the Minister before the expiry of the initial term, and adjustments of rental in renewed terms of the lease will be applicable in accordance with the reviewed conditions.

2.5 Rental is payable in full within one month of commencement of the lease by direct bank transfer to the credit of a bank account nominated by the Minister, or by cheque payable to the Department for Primary Industry and Resources SA, delivered to the address stipulated by the Minister.

3. *GST*

3.1 The rental payable under this lease is exclusive of GST.

3.2 The lease is a taxable supply under GST Law.

3.3 Department of Primary Industries and Resources (ABN 53 763 159 658) is the government entity administering this lease on behalf of the Minister and is registered pursuant to the GST Law.

3.4 Department of Primary Industries and Resources is entitled to be treated as the maker of any taxable supply and the recipient of any taxable supply pursuant to this lease instead of the Minister for the purposes only of the GST Law.

3.5 The lessee must pay to the Minister, together with any payment of rental under this lease, an additional amount in respect of GST (the 'GST payment'). The GST payment is ten per cent of the rental, subject only to any change in the rate of GST under GST Law.

3.6 The Minister must issue to the lessee a tax invoice within 10 business days after the lessee has delivered payment of rental and the GST payment.

4. *Cancellation*

The Minister may cancel this lease by immediate written notice to the lessee:

- 4.1 if the lessee enters into any form of Insolvency Administration;
- 4.2 if the lessee assigns or purports to assign the lease without giving the Minister prior written notice as required by section 39 of the Act;
- 4.3 if any rent or other moneys payable by the lessee are in arrears for more than 14 days whether or not any formal demand has been made for the rent or other moneys;
- 4.4 if the lessee (being a natural person) is convicted of any indictable offence;
- 4.5 if there is any breach of any condition of a corresponding licence in respect of this lease;
- 4.6 if there is a breach of any obligation under the Act by the lessee or a licensee under a corresponding licence;
- 4.7 if a corresponding licence is cancelled; or
- 4.8 if in the opinion of the Minister the use of the leased area by or on behalf of the lessee reveals, indicates or provides reasonable grounds for the Minister to form the view or opinion that degradation or damage of an unacceptable level of coastal land or the surrounding marine environment has or is being caused by the lessee's use of the leased area or the use of the leased area by a licensee under a corresponding licence, or any activity associated with their activities and the lessee fails to comply with a notice requiring the lessee to remedy the degradation or damage, and/or cease or prevent the relevant activity within 30 days after the date the notice is served upon the lessee by or on behalf of the Minister.

5. *Dealing with Lease*

- 5.1 This lease is transferable in accordance with the Act (see section 39).
- 5.2 Subletting under this lease is not permitted except with the prior written consent of the Minister.

6. *Marking-off*

The lessee must mark-off the leased area in the manner stipulated in the Schedule.

7. *Lessee's Use of Leased Area*

The lessee must not use the leased area or permit it to be used for any purpose other than the Permitted Class of Aquaculture.

8. *Development Requirement*

The lessee must ensure that the leased area is developed and used for the Permitted Class of Aquaculture to the extent stipulated in the Schedule.

9. *Consents and Approvals*

- 9.1 If the lessee's use of the leased area is permissible only with the consent or approval of any authority under or in pursuance of any law enactment or order of Court the lessee must obtain such consent or approval at its own expense and the lessee shall at no time during the term of this lease do or permit or fail to do or suffer to be done any act, matter or thing whereby such consent or approval shall lapse or be revoked; and
- 9.2 The lessee must keep current during the term of this lease all consents and approvals required under the Development Act 1993 and any other law applicable to the leased area or the permitted use or the lessee's use of the leased area.

10. *Public Liability Insurance*

- 10.1 The lessee shall forthwith effect and keep current during the term of this lease in the joint names of the Minister and the lessee for their respective rights and interests with a reputable and solvent insurer first approved by the Minister (which approval shall not be unreasonably withheld) a policy of public risk insurance in respect of the leased area for an amount not less than the amount stipulated in the Schedule in respect of any single claim, accident or event (or such greater amount as the Minister shall from time to time reasonably require) and upon request from or on behalf of the Minister to produce a copy of such policy and a copy of a certificate of currency in respect thereof such policy to indemnify the lessee and the Minister against any and all actions, suits, claims, demands, cost, proceedings, expenses, harm and loss of any kind including arising out of or in connection with:
- 10.1.1 the use of the leased area by the lessee or a licensee under a corresponding licence or its servants, agents and invitees; and/or
- 10.1.2 any death, illness or bodily injury sustained by any person upon the leased area or any damage to property occurring upon the leased area.

Notwithstanding any other provision of this clause the lessee shall satisfy the obligations to effect a policy of public risk insurance if the lessee notes the leased area and the Minister's rights and interests therein and under this lease upon any policy of public risk insurance effected by the lessee in respect of other land or premises within the Commonwealth of Australia provided such policy and such insurer otherwise satisfies the requirements of this clause and the lessee upon request from or on behalf of the Minister produces a copy of such policy and a copy of a Certificate of Currency in respect thereof.

11. *Statutory Requirements*

- 11.1 The lessee must comply with the laws in force in South Australia in the course of any activity undertaken pursuant to this lease, or in relation to or on the leased area.

- 11.2 The lessee shall be liable to indemnify the Minister from and against all actions, proceedings, claims, demands, charges, penalties and expenses arising from any failure to comply with the laws in force in South Australia.

12. *No Nuisance*

- 12.1 The lessee must not do or fail to do anything on or in respect of the leased area (and must ensure that its employees, agents, contractors and invitees and any licensee under a corresponding licence do not do or fail to do anything on or in respect of the leased area):
- 12.1.1 whereby a nuisance (whether public or private) may arise or continue upon or in connection with the leased area; or
- 12.1.2 whereby any nuisance or disturbance could arise to any users of land near the leased area or the waters around the leased area or which could interfere with the same.

13. *Indemnities*

The lessee must indemnify and save harmless the Minister against:

- 13.1 all actions, claims, demands, proceedings, suits, costs, damages, expenses and losses which the Minister may suffer or incur as a result of the death of or injury to any person or loss of or damage to the property of any person arising from or out of any occurrence in, upon or about the leased area or any part of it or the use of the leased area by the lessee or a licensee under a corresponding licence or by any employee, agent, contractor or invitee of the lessee or licensee;
- 13.2 all loss or damage to the leased area, and any property on it caused by the lessee or licensee under a corresponding licence or by any employee, agent, contractor, or invitee of the lessee or licensee or other person having business with the lessee or licensee and in particular but without limiting in any way the generality of the foregoing by reason of the use, misuse, waste or abuse of the leased area; and
- 13.3 all fees, costs, liabilities and expenses incurred by the Minister in the exercise or attempted exercise of any of the rights, authorities, powers or remedies which are exercisable by the Minister pursuant to this lease,

except to the extent caused or contributed to by any wilful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

14. *Exclusion of Liability*

The Minister and its servants, employees, agents, contractors and invitees shall have no responsibility or liability to the lessee and the Minister and its employees, agents, contractors and invitees for any loss or injury suffered by the lessee or to the property of the lessee except to the extent caused or contributed to by any unlawful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

15. *Minister's Entry on Leased Area*

- 15.1 The Minister may, on giving reasonable notice, with or without the Minister's officers, employees and/or agents, enter upon and remain on the leased area for the purpose of inspecting the leased area including in respect of the performance of the lessee's obligations and/or for the purpose of remedying any breach of the lessee's obligations under this lease or the Act in respect of the leased area or any breach by any licensee under a corresponding licence of its obligations under and pursuant to the licence or the Act, although the Minister shall be under no obligation to so remedy any such breach.
- 15.2 The Minister shall not be required to give any prior notice to the lessee before exercising its rights under and pursuant to this clause in circumstances where, in the reasonable opinion of the Minister:

- 15.2.1 it is not practicable to do so, or;
- 15.2.2 the Minister or any responsible officer, employee or agent of the Minister believes on reasonable grounds that an offence has or is being or is about to be committed on the leased area or that a breach of the terms and conditions of this lease by the lessee or any breach by any licensee of its obligations under and pursuant to the licence, has occurred, is occurring or is about to occur;
- 15.2.3 in exercising any of its rights under and pursuant to this clause the Minister shall use its reasonable endeavours not to interfere with the lawful and permitted conduct of the lessee's or a licensee's use of the leased area.

16. Contamination and Contaminating Substances

- 16.1 The lessee must not bring or permit to be brought upon the leased area any matter in any form which the handling, storage, disposal, dealing with or the escape of which may in any manner result in, cause or contribute to pollution, contamination or degradation on or to the leased area or any land or water adjacent or near to the leased area or exacerbate, add to or compound any pre-existing pollution, contamination or degradation or the feasibility, practicality or cost of its control and/or removal, unless the lessee has obtained the prior written consent of the Minister, (which consent the Minister may grant or withhold or impose conditions on in its absolute unfettered discretion).
- 16.2 Irrespective of whether the Minister gave its consent in respect of such material, compounds or substances pursuant to this clause, if during the term of this lease, or during any subsequent period in which the lessee continues to occupy or control the leased area, any pollution, contamination or degradation occurs or any exacerbation, addition to or compounding of any pollution, contamination or degradation existing prior to the date of commencement of the term of this lease occurs (other than to the extent the result of any wilful or negligent act or omission of the Minister or any agent employee or contractor of the Minister) then:
 - 16.2.1 the lessee must forthwith notify the Minister in writing of the location, nature, extent and quantity of such substance or compound and the pollution, contamination and degradation it might cause and reasonable particulars of the long term effect of the same and likely cost of control, collection, removal and disposal;
 - 16.2.2 the lessee must permit the Minister and any employee, agent, inspector, contractor or invitee of the Minister at all times to enter upon the leased area and to inspect any suspected notified or known pollution, contamination or degradation or any substance or compound capable of causing pollution, contamination and degradation to the leased area or the land or water adjacent to or near the leased area and to abate any actual or potential danger or hazard in or about the leased area and if such hazard or damage in the reasonable opinion of the Minister is caused by or results from the substance or compound the lessee shall pay to the Minister the costs and expenses incurred in carrying out such work; and
 - 16.2.3 the lessee must at its own cost and expense if so required by the Minister remove any and all substances and compounds causing contributing or which could cause or contribute to pollution, contamination or degradation of the leased area (or exacerbate add to or compound any pre-existing similar condition) from all parts of the leased area.

- 16.3 During the term of this lease, the lessee must indemnify and hold harmless the Minister and keep the Minister indemnified from and against all claims, demands, actions, proceedings, judgments, orders, costs, losses, damages and expenses of any nature whatsoever suffered or incurred by the Minister as a result whether directly or otherwise of:
 - 16.3.1 any act or omission of the lessee its servants, agents, contractors, licensees or any other person acting with its authority which results in pollution, contamination or degradation on or to the leased area or any part thereof; and
 - 16.3.2 any failure of the lessee to comply with observe and perform in respect of the leased area the requirements imposed on tenants or occupiers of the leased area by any laws, statutory enactments or regulations made pursuant thereto (whether Federal, State or municipal) relating to the contamination and/or degradation and/or pollution of the leased area or any part thereof (the 'relevant law').

17. Lease Expiry

The lessee must, at the lessee's cost in all things immediately prior to the expiration or sooner determination of the term of this lease:

- 17.1 remove and carry away from the leased area all improvements, plant, equipment, chattels and property located or brought upon the leased area by or on behalf of the lessee and in such removal cause as little damage to the leased area as practicable;
- 17.2 upon completion of such removal, remove all debris, rubbish and waste from the leased area and rehabilitate the same in respect of any damage caused thereto by the location thereon of such waste and debris; and
- 17.3 reinstate and rehabilitate the leased area and any portions thereof affected by the conduct of the permitted use or the lessee's use of the same to the condition existing prior to commencement of the term of this lease. Such rehabilitation shall be performed by the lessee at its cost in all things to the reasonable satisfaction of the Minister.

18. Occupation

The lessee has the rights of occupation provided in the Act.

19. Default Costs

- 19.1 The lessee is liable to pay the Minister reasonable costs and expenses including but without limiting the generality thereof reasonable professional charges and workmen's wages:
 - 19.1.1 of and incidental to the recovery of annual rent due and unpaid interest thereon; and
 - 19.1.2 incurred by remedying or attempting to remedy any breach of the lessee's obligations under this lease.
- 19.2 Any amount payable by the lessee under this clause is payable on demand by the Minister.

20. Default Interest

Without prejudice to the rights, powers and remedies of the Minister otherwise under this lease the lessee must pay to the Minister interest at the overdrawn rate charged from time to time by the Minister's Bankers on overdrafts not exceeding \$50 000 on any money due but unpaid after the same fell due and payable by the lessee to the Minister on any account whatsoever under this lease. Interest shall be computed from the due date for the payment of the money in respect of which the interest is chargeable until payment of such money is made in full and shall be recoverable in like manner as rent in arrears.

21. Minister may remedy Default

- 21.1 If the lessee fails or neglects to perform any obligation or to observe any provision to be performed or observed by the lessee under this lease or if any licensee under the licence is in breach or default

under the licence and if such failure or neglect shall continue for one month after the Minister has given to the lessee notice in writing requiring the lessee to perform such obligation or to observe such provision then the Minister may (but without being bound so to do and without prejudice to any other right or remedy) perform that obligation or observe that provision and all reasonable costs and expenses including overtime charges, fines, levies and penalties due to such default or incurred by the Minister in remedying the same shall be paid by the lessee to the Minister.

22. Waiver

No forbearance by the Minister in respect of any breach of any obligation contained or implied in this lease shall operate as a waiver of another breach of the same or of any other obligation contained or implied in this lease.

23. Joint Lessees

If the lessee constitutes more than one natural person or bodies corporate or a partnership:

- 23.1 the persons comprising the lessee are jointly and severally bound by the conditions of this lease; and
- 23.2 notice to one of the natural persons or bodies corporate comprising the lessee shall be notice to all persons comprising the lessee.

24. Guarantee or Indemnity

- 24.1 The lessee must within five business days of receipt of this lease but with effect from the date of commencement of the term of this lease either:

- 24.1.1 provide a guarantee from its bankers; or
- 24.1.2 contribute to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry,

to and in favour of and for the benefit of the Minister by way of security for the due and punctual performance by the lessee of the terms and conditions of this lease and in particular the obligations of the lessee to rehabilitate the leased area immediately prior to the expiration or sooner determination of the term of this lease upon the following terms and conditions:

- 24.1.3 the lessee shall either:
 - (a) arrange for the provision from a bank as defined in the Banking Act 1959 or established by an Act of the Parliament of South Australia of an irrevocable and continuing bank guarantee for an amount stipulated from time to time by the Minister (the 'Bank Guarantee'). The Bank Guarantee shall otherwise contain terms and conditions which are reasonably satisfactory to the Minister. The Bank Guarantee shall be continuously in existence until the Minister agrees to release the Bank Guarantee under this clause. The guarantee shall entitle the Minister to make demand on the Bank Guarantee at any time if there has been a failure by the lessee to pay any money at the time specified for such payment or if there has been any other breach or default by the lessee for the due and punctual performance of the covenants, obligations and provisions on the part of the lessee under this lease. If the Minister makes a demand on the Bank Guarantee either in whole or in part and appropriate such funds then the lessee shall within five days of such demand by the Minister provide the Minister with a fresh Bank Guarantee for an amount equal to the amount so demanded and paid by the

Bank to the Minister on the Bank Guarantee and on the same terms and conditions as specified in this clause. The lessee shall not be entitled to a release or a re-delivery nor to request a release or re-delivery of the Bank Guarantee until one month after the expiration of the term of this lease. Notwithstanding any other provisions of this clause the Minister shall be entitled to refuse to release or deliver up to the lessee the Bank Guarantee if the Minister reasonably considers that there may be unremedied breaches or contingent obligations under the lease yet to mature and to be performed by the lessee at the time of the request to the Minister to release or re-deliver the Bank Guarantee; or

- (b) make such contributions to the indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industries as required by the Minister or the administrator of such scheme, and if required make such contributions on an annual or other basis and in such amounts as required by the Minister or the administrator of such scheme;

24.1.4 the provisions of this clause do not in any way limit, restrict or prejudice the rights of the Minister to exercise such additional rights, remedies and powers as the Minister may consider appropriate as a result of the lessee's default;

24.1.5 notwithstanding any other provision of this clause, if the lessee transfers or assigns its estate and interest in this lease, then upon and as and from the date ('the Date') such transferee or assignee providing to the Minister either a guarantee from its bankers as satisfies the requirements of this clause or evidence of having contributed to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry in such amount as required by this clause, the Minister shall from the date fully free release and discharge the lessee from any and all obligations under and pursuant to this clause and shall release and re-deliver to the lessee any bank.

- 24.2 If the lessee has already provided a guarantee or contributed to a fund in accordance with obligations under previous arrangements to the extent required under this lease, then the lessee is excused from the initial requirement to provide a guarantee or contribution, but not from subsequent obligations under this clause.

25. Disclaimer

The Minister does not expressly or impliedly warrant that the leased area is now or will remain suitable or adequate for all or any of the purposes of the lessee and all warranties (if any) as to the suitability and adequateness of the leased area that might otherwise be implied are expressly negated.

26. Delegation

Unless expressly excluded by any provision of this lease, any consent, any notice, any consultation or any other thing which pursuant to the terms of this lease is either required to be given, done or performed by the Minister or is permitted to be given, done or performed by the Minister may for the purposes of this lease be properly given, done or performed by a person authorised by the Minister to act on the Minister's behalf.

27. Special Conditions

Incorporated in this lease are any special conditions set out in the Schedule.

28. Notices

- 28.1 Notice to the lessee is valid if sent by post to the address for notices in the Schedule, or such other address as is notified by the lessee to the Minister in writing.
- 28.2 The lessee may give notice to the Minister by posting written notice addressed to PIRSA Aquaculture, G.P.O. Box 1625, Adelaide, S.A. 5001.

29. Definitions and Interpretation

In this lease unless inconsistent with the context:

'business days' means Monday to Friday (inclusive) excluding any public holiday;

'corresponding licence' has the meaning attributed in the Act;

'GST' means the tax imposed by the GST Law;

'GST Law' has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999;

'Insolvency Administration' means, if the lessee is a corporation:

- an administrator is appointed to the lessee or action is taken to make such an appointment;
- the lessee resolves to be wound up;
- an application is made to a court for an order or an order is made that the lessee be wound up (whether on grounds of insolvency or otherwise);
- the lessee ceases to carry on business;
- a receiver or a receiver and manager of property of the lessee is appointed whether by a court or other-wise;
- an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the lessee or one of them is appointed, whether or not under an order;
- the lessee enters into a compromise or arrangement with its creditors or a class of them; or
- the lessee is or states that it is unable to pay its debts when they fall due;

'Insolvency Administration' means if the lessee is a natural person:

- the lessee has committed an act of bankruptcy as contemplated by the Bankruptcy Act 1966;
- the lessee is unable to pay his or her debts as and when they become due and payable;
- the court has made a sequestration order against the lessee's estate;
- a creditors' petition has been presented against the lessee;
- the lessee has presented to the Official Receiver a declaration of intention to present a debtor's petition;
- the lessee becomes a bankrupt;
- a meeting of creditors of the lessee is convened; or
- the lessee lodges with his or her trustee a proposal to his or her creditors for a composition in satisfaction of his or her debts or a scheme of arrangement of his or her affairs;

'Lessee' means the party described in this lease and the heirs, executors, administrators and permitted assigns thereof and if a body corporate, its successors and permitted assigns;

'Minister' means the Minister for Agriculture, Food and Fisheries, a body corporate under the Administrative Arrangements Act 1994;

'Permitted Use' means the use of the leased area for such aquaculture purposes as are specified in the Schedule to this lease;

'Leased Area' means the area comprised of State waters or State waters and adjacent land within the meaning of the Harbors and Navigation Act 1993, described in the Schedule to this lease;

'Taxable Supply' has the meaning attributed in the GST Act;

'Tax Invoice' has the meaning attributed in the GST Act;

'Term of this Lease' or the 'Term' means the initial term granted by the Minister (unless sooner determined) and any extension of such initial term.

30. Interpretation

30.1 Words importing the singular shall embrace the plural and words importing the masculine gender shall embrace the feminine and neuter genders and *vice versa* respectively.

30.2 Any reference to a person shall include a corporate body and *vice versa*.

30.3 Where two or more persons are included in the designation the 'lessee' the obligations on the part of the lessee contained in this lease shall bind such persons and any two or greater number of them jointly and each of them severally and the expression the 'lessee' shall include all or any one or more of such persons.

30.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for it and the regulations, by-laws or other orders for the time being made under that statute.

30.5 Headings are for convenience of reference only and shall not affect the construction or interpretation of the covenants of this lease.

Dated 23 December 2002.

Signed by the General Manager, Aquaculture of the Department for Primary Industries and Resources as delegate of the Minister for Transport (as successor of) the Minister for Transport and Urban Planning, pursuant to a delegation made on 13 March 2000 under section 11 (1) of the Harbors and Navigation Act 1993.

I. NIGHTINGALE, General Manager, Aquaculture

AQUACULTURE ACT 2001

AQUACULTURE LEASE PL00018

Class of Aquaculture (Tuna)

THIS Pilot Lease is granted under the Aquaculture Act 2001 ('the Act') pursuant to section 3 (2) of the Schedule to the Act and Division 4 of Part 6 of the Act.

This lease is granted to the lessee for the term of one year, by the Minister for Agriculture, Food and Fisheries ('the Minister') for the purpose of conducting the Class of Aquaculture nominated in the Schedule ('the permitted use'), subject to the conditions set out in this document.

This lease is granted with the concurrence of the Minister for Transport as required in section 20 of the Aquaculture Act 2001 and section 15 of the Harbors and Navigation Act 1993.

SCHEDULE

Lessee:

Emily Krstina (Australia) Pty Ltd (13053)
Pine Freezers Road
Port Lincoln, S.A. 5606

Leased Area:

GDA 94—Zone 53
592716E 6163382N
593899E 6163382N
593899E 6162783N
592716E 6162783N

Licensed
Hectares

71

Permitted Class of Aquaculture:

Tuna Aquaculture

Term of the Lease:

Twelve months

Initial Rental:

\$350.00

Marking-off requirements:

The marked-off area must be marked with 30 cm diameter white buoys spaced at 50 m intervals and positioned no more than 50 m from structures located on the site.

Amount of Public Liability Insurance:

\$10 million

Amount of Guarantee or contribution to indemnity fund:

\$10 000

Extent of Leased Area that must be developed:

During the term of this lease at least one cage of at least 20 m diameter must be installed on the site.

1. Term and Renewal

- 1.1 The term of this lease is the term of one year commencing on 1 July 2002 and ending on 30 June 2003 ('the initial term').
- 1.2 The term is renewable in accordance with section 38 of the Act for successive terms, by the lessee giving the Minister notice no earlier than two months before the expiry of the term, and no later than one month before the expiry of the term, unless there is at the expiry of the lease a default under the lease or any corresponding licence.
- 1.3 Any renewal of the term shall be subject to conditions in accordance with standard conditions under aquaculture policies developed under Part 4 of the Act, and such other conditions as are determined by the Minister ('the reviewed conditions').
- 1.4 Upon renewal the Minister may issue either a certificate of renewal, or a new lease, incorporating the reviewed conditions.
- 1.5 The Minister may, at the time of renewal of a term, vary the term subject to the maximum term for a production lease permitted by the Act.

2. Rental

- 2.1 The lessee must pay to the Minister the annual rental, free from exchange, deduction or abatement.
- 2.2 At the commencement of the initial term the annual rental payable under this lease is the initial rental stipulated in the Schedule.
- 2.3 The initial rental payable in respect of the initial term is subject to adjustment during the initial term, as determined by the Minister in accordance with aquaculture policy developed under Part 4 of the Act. The adjusted rental shall be applicable in respect of the entire initial term.
- 2.4 Rental in respect of renewed terms shall be as notified by the Minister before the expiry of the initial term, and adjustments of rental in renewed terms of the lease will be applicable in accordance with the reviewed conditions.
- 2.5 Rental is payable in full within one month of commencement of the lease by direct bank transfer to the credit of a bank account nominated by the Minister, or by cheque payable to the Department for Primary Industry and Resources SA, delivered to the address stipulated by the Minister.

3. GST

- 3.1 The rental payable under this lease is exclusive of GST.
- 3.2 The lease is a taxable supply under GST Law.
- 3.3 Department of Primary Industries and Resources (ABN 53 763 159 658) is the government entity administering this lease on behalf of the Minister and is registered pursuant to the GST Law.

3.4 Department of Primary Industries and Resources is entitled to be treated as the maker of any taxable supply and the recipient of any taxable supply pursuant to this lease instead of the Minister for the purposes only of the GST Law.

3.5 The lessee must pay to the Minister, together with any payment of rental under this lease, an additional amount in respect of GST (the 'GST payment'). The GST payment is ten per cent of the rental, subject only to any change in the rate of GST under GST Law.

3.6 The Minister must issue to the lessee a tax invoice within 10 business days after the lessee has delivered payment of rental and the GST payment.

4. Cancellation

The Minister may cancel this lease by immediate written notice to the lessee:

- 4.1 if the lessee enters into any form of Insolvency Administration;
- 4.2 if the lessee assigns or purports to assign the lease without giving the Minister prior written notice as required by section 39 of the Act;
- 4.3 if any rent or other moneys payable by the lessee are in arrears for more than 14 days whether or not any formal demand has been made for the rent or other moneys;
- 4.4 if the lessee (being a natural person) is convicted of any indictable offence;
- 4.5 if there is any breach of any condition of a corresponding licence in respect of this lease;
- 4.6 if there is a breach of any obligation under the Act by the lessee or a licensee under a corresponding licence;
- 4.7 if a corresponding licence is cancelled; or
- 4.8 if in the opinion of the Minister the use of the leased area by or on behalf of the lessee reveals, indicates or provides reasonable grounds for the Minister to form the view or opinion that degradation or damage of an unacceptable level of coastal land or the surrounding marine environment has or is being caused by the lessee's use of the leased area or the use of the leased area by a licensee under a corresponding licence, or any activity associated with their activities and the lessee fails to comply with a notice requiring the lessee to remedy the degradation or damage, and/or cease or prevent the relevant activity within 30 days after the date the notice is served upon the lessee by or on behalf of the Minister.

5. Dealing with Lease

- 5.1 This lease is transferable in accordance with the Act (see section 39).
- 5.2 Subletting under this lease is not permitted except with the prior written consent of the Minister.

6. Marking-off

The lessee must mark-off the leased area in the manner stipulated in the Schedule.

7. Lessee's Use of Leased Area

The lessee must not use the leased area or permit it to be used for any purpose other than the Permitted Class of Aquaculture.

8. Development Requirement

The lessee must ensure that the leased area is developed and used for the Permitted Class of Aquaculture to the extent stipulated in the Schedule.

9. Consents and Approvals

- 9.1 If the lessee's use of the leased area is permissible only with the consent or approval of any authority under or in pursuance of any law enactment or order of Court the lessee must obtain such consent or approval at its own expense and the lessee shall at no time during the term of this lease do or permit or fail to do or suffer to be done any act, matter or thing whereby such consent or approval shall lapse or be revoked; and

9.2 The lessee must keep current during the term of this lease all consents and approvals required under the Development Act 1993 and any other law applicable to the leased area or the permitted use or the lessee's use of the leased area.

10. Public Liability Insurance

10.1 The lessee shall forthwith effect and keep current during the term of this lease in the joint names of the Minister and the lessee for their respective rights and interests with a reputable and solvent insurer first approved by the Minister (which approval shall not be unreasonably withheld) a policy of public risk insurance in respect of the leased area for an amount not less than the amount stipulated in the Schedule in respect of any single claim, accident or event (or such greater amount as the Minister shall from time to time reasonably require) and upon request from or on behalf of the Minister to produce a copy of such policy and a copy of a certificate of currency in respect thereof such policy to indemnify the lessee and the Minister against any and all actions, suits, claims, demands, cost, proceedings, expenses, harm and loss of any kind including arising out of or in connection with:

- 10.1.1 the use of the leased area by the lessee or a licensee under a corresponding licence or its servants, agents and invitees; and/or
- 10.1.2 any death, illness or bodily injury sustained by any person upon the leased area or any damage to property occurring upon the leased area.

Notwithstanding any other provision of this clause the lessee shall satisfy the obligations to effect a policy of public risk insurance if the lessee notes the leased area and the Minister's rights and interests therein and under this lease upon any policy of public risk insurance effected by the lessee in respect of other land or premises within the Commonwealth of Australia provided such policy and such insurer otherwise satisfies the requirements of this clause and the lessee upon request from or on behalf of the Minister produces a copy of such policy and a copy of a Certificate of Currency in respect thereof.

11. Statutory Requirements

- 11.1 The lessee must comply with the laws in force in South Australia in the course of any activity undertaken pursuant to this lease, or in relation to or on the leased area.
- 11.2 The lessee shall be liable to indemnify the Minister from and against all actions, proceedings, claims, demands, charges, penalties and expenses arising from any failure to comply with the laws in force in South Australia.

12. No Nuisance

- 12.1 The lessee must not do or fail to do anything on or in respect of the leased area (and must ensure that its employees, agents, contractors and invitees and any licensee under a corresponding licence do not do or fail to do anything on or in respect of the leased area):
 - 12.1.1 whereby a nuisance (whether public or private) may arise or continue upon or in connection with the leased area; or
 - 12.1.2 whereby any nuisance or disturbance could arise to any users of land near the leased area or the waters around the leased area or which could interfere with the same.

13. Indemnities

The lessee must indemnify and save harmless the Minister against:

- 13.1 all actions, claims, demands, proceedings, suits, costs, damages, expenses and losses which the Minister may suffer or incur as a result of the death of or injury to any person or loss of or damage to the property of any person arising from or out of any occurrence in, upon or about the leased area or any part of it or the use of

the leased area by the lessee or a licensee under a corresponding licence or by any employee, agent, contractor or invitee of the lessee or licensee;

- 13.2 all loss or damage to the leased area, and any property on it caused by the lessee or licensee under a corresponding licence or by any employee, agent, contractor, or invitee of the lessee or licensee or other person having business with the lessee or licensee and in particular but without limiting in any way the generality of the foregoing by reason of the use, misuse, waste or abuse of the leased area; and
- 13.3 all fees, costs, liabilities and expenses incurred by the Minister in the exercise or attempted exercise of any of the rights, authorities, powers or remedies which are exercisable by the Minister pursuant to this lease,

except to the extent caused or contributed to by any wilful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

14. Exclusion of Liability

The Minister and its servants, employees, agents, contractors and invitees shall have no responsibility or liability to the lessee and the Minister and its employees, agents, contractors and invitees for any loss or injury suffered by the lessee or to the property of the lessee except to the extent caused or contributed to by any unlawful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

15. Minister's Entry on Leased Area

- 15.1 The Minister may, on giving reasonable notice, with or without the Minister's officers, employees and/or agents, enter upon and remain on the leased area for the purpose of inspecting the leased area including in respect of the performance of the lessee's obligations and/or for the purpose of remedying any breach of the lessee's obligations under this lease or the Act in respect of the leased area or any breach by any licensee under a corresponding licence of its obligations under and pursuant to the licence or the Act, although the Minister shall be under no obligation to so remedy any such breach.
- 15.2 The Minister shall not be required to give any prior notice to the lessee before exercising its rights under and pursuant to this clause in circumstances where, in the reasonable opinion of the Minister:
 - 15.2.1 it is not practicable to do so, or;
 - 15.2.2 the Minister or any responsible officer, employee or agent of the Minister believes on reasonable grounds that an offence has or is being or is about to be committed on the leased area or that a breach of the terms and conditions of this lease by the lessee or any breach by any licensee of its obligations under and pursuant to the licence, has occurred, is occurring or is about to occur;
 - 15.2.3 in exercising any of its rights under and pursuant to this clause the Minister shall use its reasonable endeavours not to interfere with the lawful and permitted conduct of the lessee's or a licensee's use of the leased area.

16. Contamination and Contaminating Substances

- 16.1 The lessee must not bring or permit to be brought upon the leased area any matter in any form which the handling, storage, disposal, dealing with or the escape of which may in any manner result in, cause or contribute to pollution, contamination or degradation on or to the leased area or any land or water adjacent or near to the leased area or exacerbate, add to or compound any pre-existing pollution, contamination or degradation or the feasibility, practicality or cost of its control and/or removal, unless the lessee has obtained the prior written consent of the Minister, (which consent the Minister may grant or withhold or impose conditions on in its absolute unfettered discretion).
- 16.2 Irrespective of whether the Minister gave its consent in respect of such material, compounds or substances

pursuant to this clause, if during the term of this lease, or during any subsequent period in which the lessee continues to occupy or control the leased area, any pollution, contamination or degradation occurs or any exacerbation, addition to or compounding of any pollution, contamination or degradation existing prior to the date of commencement of the term of this lease occurs (other than to the extent the result of any wilful or negligent act or omission of the Minister or any agent employee or contractor of the Minister) then:

- 16.2.1 the lessee must forthwith notify the Minister in writing of the location, nature, extent and quantity of such substance or compound and the pollution, contamination and degradation it might cause and reasonable particulars of the long term effect of the same and likely cost of control, collection, removal and disposal;
- 16.2.2 the lessee must permit the Minister and any employee, agent, inspector, contractor or invitee of the Minister at all times to enter upon the leased area and to inspect any suspected notified or known pollution, contamination or degradation or any substance or compound capable of causing pollution, contamination and degradation to the leased area or the land or water adjacent to or near the leased area and to abate any actual or potential danger or hazard in or about the leased area and if such hazard or damage in the reasonable opinion of the Minister is caused by or results from the substance or compound the lessee shall pay to the Minister the costs and expenses incurred in carrying out such work; and
- 16.2.3 the lessee must at its own cost and expense if so required by the Minister remove any and all substances and compounds causing contributing or which could cause or contribute to pollution, contamination or degradation of the leased area (or exacerbate add to or compound any pre-existing similar condition) from all parts of the leased area.
- 16.3 During the term of this lease, the lessee must indemnify and hold harmless the Minister and keep the Minister indemnified from and against all claims, demands, actions, proceedings, judgments, orders, costs, losses, damages and expenses of any nature whatsoever suffered or incurred by the Minister as a result whether directly or otherwise of:
- 16.3.1 any act or omission of the lessee its servants, agents, contractors, licensees or any other person acting with its authority which results in pollution, contamination or degradation on or to the leased area or any part thereof; and
- 16.3.2 any failure of the lessee to comply with observe and perform in respect of the leased area the requirements imposed on tenants or occupiers of the leased area by any laws, statutory enactments or regulations made pursuant thereto (whether Federal, State or municipal) relating to the contamination and/or degradation and/or pollution of the leased area or any part thereof (the 'relevant law').

17. Lease Expiry

The lessee must, at the lessee's cost in all things immediately prior to the expiration or sooner determination of the term of this lease:

- 17.1 remove and carry away from the leased area all improvements, plant, equipment, chattels and property located or brought upon the leased area by or on behalf of the lessee and in such removal cause as little damage to the leased area as practicable;
- 17.2 upon completion of such removal, remove all debris, rubbish and waste from the leased area and rehabilitate the same in respect of any damage caused thereto by the location thereon of such waste and debris; and

- 17.3 reinstate and rehabilitate the leased area and any portions thereof affected by the conduct of the permitted use or the lessee's use of the same to the condition existing prior to commencement of the term of this lease. Such rehabilitation shall be performed by the lessee at its cost in all things to the reasonable satisfaction of the Minister.

18. Occupation

The lessee has the rights of occupation provided in the Act.

19. Default Costs

- 19.1 The lessee is liable to pay the Minister reasonable costs and expenses including but without limiting the generality thereof reasonable professional charges and workmen's wages:
- 19.1.1 of and incidental to the recovery of annual rent due and unpaid interest thereon; and
- 19.1.2 incurred by remedying or attempting to remedy any breach of the lessee's obligations under this lease.
- 19.2 Any amount payable by the lessee under this clause is payable on demand by the Minister.

20. Default Interest

Without prejudice to the rights, powers and remedies of the Minister otherwise under this lease the lessee must pay to the Minister interest at the overdrawn rate charged from time to time by the Minister's Bankers on overdrafts not exceeding \$50 000 on any money due but unpaid after the same fell due and payable by the lessee to the Minister on any account whatsoever under this lease. Interest shall be computed from the due date for the payment of the money in respect of which the interest is chargeable until payment of such money is made in full and shall be recoverable in like manner as rent in arrears.

21. Minister may remedy Default

- 21.1 If the lessee fails or neglects to perform any obligation or to observe any provision to be performed or observed by the lessee under this lease or if any licensee under the licence is in breach or default under the licence and if such failure or neglect shall continue for one month after the Minister has given to the lessee notice in writing requiring the lessee to perform such obligation or to observe such provision then the Minister may (but without being bound so to do and without prejudice to any other right or remedy) perform that obligation or observe that provision and all reasonable costs and expenses including overtime charges, fines, levies and penalties due to such default or incurred by the Minister in remedying the same shall be paid by the lessee to the Minister.

22. Waiver

No forbearance by the Minister in respect of any breach of any obligation contained or implied in this lease shall operate as a waiver of another breach of the same or of any other obligation contained or implied in this lease.

23. Joint Lessees

If the lessee constitutes more than one natural person or bodies corporate or a partnership:

- 23.1 the persons comprising the lessee are jointly and severally bound by the conditions of this lease; and
- 23.2 notice to one of the natural persons or bodies corporate comprising the lessee shall be notice to all persons comprising the lessee.

24. Guarantee or Indemnity

- 24.1 The lessee must within five business days of receipt of this lease but with effect from the date of commencement of the term of this lease either:

- 24.1.1 provide a guarantee from its bankers; or
- 24.1.2 contribute to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry,

to and in favour of and for the benefit of the Minister by way of security for the due and punctual performance by the lessee of the terms and conditions of this lease and in particular the obligations of the lessee to rehabilitate the leased area immediately prior to the expiration or sooner determination of the term of this lease upon the following terms and conditions:

- 24.1.3 the lessee shall either:

- (a) arrange for the provision from a bank as defined in the Banking Act 1959 or established by an Act of the Parliament of South Australia of an irrevocable and continuing bank guarantee for an amount stipulated from time to time by the Minister (the 'Bank Guarantee'). The Bank Guarantee shall otherwise contain terms and conditions which are reasonably satisfactory to the Minister. The Bank Guarantee shall be continuously in existence until the Minister agrees to release the Bank Guarantee under this clause. The guarantee shall entitle the Minister to make demand on the Bank Guarantee at any time if there has been a failure by the lessee to pay any money at the time specified for such payment or if there has been any other breach or default by the lessee for the due and punctual performance of the covenants, obligations and provisions on the part of the lessee under this lease. If the Minister makes a demand on the Bank Guarantee either in whole or in part and appropriate such funds then the lessee shall within five days of such demand by the Minister provide the Minister with a fresh Bank Guarantee for an amount equal to the amount so demanded and paid by the Bank to the Minister on the Bank Guarantee and on the same terms and conditions as specified in this clause. The lessee shall not be entitled to a release or a re-delivery nor to request a release or re-delivery of the Bank Guarantee until one month after the expiration of the term of this lease. Notwithstanding any other provisions of this clause the Minister shall be entitled to refuse to release or deliver up to the lessee the Bank Guarantee if the Minister reasonably considers that there may be unremedied breaches or contingent obligations under the lease yet to mature and to be performed by the lessee at the time of the request to the Minister to release or re-deliver the Bank Guarantee; or

- (b) make such contributions to the indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industries as required by the Minister or the administrator of such scheme, and if required make such contributions on an annual or other basis and in such amounts as required by the Minister or the administrator of such scheme;

- 24.1.4 the provisions of this clause do not in any way limit, restrict or prejudice the rights of the Minister to exercise such additional rights, remedies and powers as the Minister may consider appropriate as a result of the lessee's default;

- 24.1.5 notwithstanding any other provision of this clause, if the lessee transfers or assigns its

estate and interest in this lease, then upon and as and from the date ('the Date') such transferee or assignee providing to the Minister either a guarantee from its bankers as satisfies the requirements of this clause or evidence of having contributed to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry in such amount as required by this clause, the Minister shall from the date fully free release and discharge the lessee from any and all obligations under and pursuant to this clause and shall release and re-deliver to the lessee any bank.

- 24.2 If the lessee has already provided a guarantee or contributed to a fund in accordance with obligations under previous arrangements to the extent required under this lease, then the lessee is excused from the initial requirement to provide a guarantee or contribution, but not from subsequent obligations under this clause.

25. *Disclaimer*

The Minister does not expressly or impliedly warrant that the leased area is now or will remain suitable or adequate for all or any of the purposes of the lessee and all warranties (if any) as to the suitability and adequateness of the leased area that might otherwise be implied are expressly negated.

26. *Delegation*

Unless expressly excluded by any provision of this lease, any consent, any notice, any consultation or any other thing which pursuant to the terms of this lease is either required to be given, done or performed by the Minister or is permitted to be given, done or performed by the Minister may for the purposes of this lease be properly given, done or performed by a person authorised by the Minister to act on the Minister's behalf.

27. *Special Conditions*

Incorporated in this lease are any special conditions set out in the Schedule.

28. *Notices*

- 28.1 Notice to the lessee is valid if sent by post to the address for notices in the Schedule, or such other address as is notified by the lessee to the Minister in writing.
- 28.2 The lessee may give notice to the Minister by posting written notice addressed to PIRSA Aquaculture, G.P.O. Box 1625, Adelaide, S.A. 5001.

29. *Definitions and Interpretation*

In this lease unless inconsistent with the context:

- 'business days' means Monday to Friday (inclusive) excluding any public holiday;
- 'corresponding licence' has the meaning attributed in the Act;
- 'GST' means the tax imposed by the GST Law;
- 'GST Law' has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999;
- 'Insolvency Administration' means, if the lessee is a corporation:
- an administrator is appointed to the lessee or action is taken to make such an appointment;
 - the lessee resolves to be wound up;
 - an application is made to a court for an order or an order is made that the lessee be wound up (whether on grounds of insolvency or otherwise);
 - the lessee ceases to carry on business;
 - a receiver or a receiver and manager of property of the lessee is appointed whether by a court or otherwise;

- an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the lessee or one of them is appointed, whether or not under an order;
- the lessee enters into a compromise or arrangement with its creditors or a class of them; or
- the lessee is or states that it is unable to pay its debts when they fall due;

'*Insolvency Administration*' means if the lessee is a natural person:

- the lessee has committed an act of bankruptcy as contemplated by the Bankruptcy Act 1966;
- the lessee is unable to pay his or her debts as and when they become due and payable;
- the court has made a sequestration order against the lessee's estate;
- a creditors' petition has been presented against the lessee;
- the lessee has presented to the Official Receiver a declaration of intention to present a debtor's petition;
- the lessee becomes a bankrupt;
- a meeting of creditors of the lessee is convened; or
- the lessee lodges with his or her trustee a proposal to his or her creditors for a composition in satisfaction of his or her debts or a scheme of arrangement of his or her affairs;

'*Lessee*' means the party described in this lease and the heirs, executors, administrators and permitted assigns thereof and if a body corporate, its successors and permitted assigns;

'*Minister*' means the Minister for Agriculture, Food and Fisheries, a body corporate under the Administrative Arrangements Act 1994;

'*Permitted Use*' means the use of the leased area for such aquaculture purposes as are specified in the Schedule to this lease;

'*Leased Area*' means the area comprised of State waters or State waters and adjacent land within the meaning of the Harbors and Navigation Act 1993, described in the Schedule to this lease;

'*Taxable Supply*' has the meaning attributed in the GST Act;

'*Tax Invoice*' has the meaning attributed in the GST Act;

'*Term of this Lease*' or the '*Term*' means the initial term granted by the Minister (unless sooner determined) and any extension of such initial term.

30. Interpretation

- 30.1 Words importing the singular shall embrace the plural and words importing the masculine gender shall embrace the feminine and neuter genders and *vice versa* respectively.
- 30.2 Any reference to a person shall include a corporate body and *vice versa*.
- 30.3 Where two or more persons are included in the designation the 'lessee' the obligations on the part of the lessee contained in this lease shall bind such persons and any two or greater number of them jointly and each of them severally and the expression the 'lessee' shall include all or any one or more of such persons.
- 30.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for it and the regulations, by-laws or other orders for the time being made under that statute.
- 30.5 Headings are for convenience of reference only and shall not affect the construction or interpretation of the covenants of this lease.

Dated 23 December 2002.

Signed by the General Manager, Aquaculture of the Department for Primary Industries and Resources as delegate of the Minister for Transport (as successor of) the Minister for Transport and Urban Planning, pursuant to a delegation made on 13 March 2000 under section 11 (1) of the Harbors and Navigation Act 1993.

I. NIGHTINGALE, General Manager, Aquaculture

AQUACULTURE ACT 2001

AQUACULTURE LEASE PL00019

Class of Aquaculture (Tuna)

THIS Pilot Lease is granted under the Aquaculture Act 2001 ('the Act') pursuant to section 3 (2) of the Schedule to the Act and Division 4 of Part 6 of the Act.

This lease is granted to the lessee for the term of one year, by the Minister for Agriculture, Food and Fisheries ('the Minister') for the purpose of conducting the Class of Aquaculture nominated in the Schedule ('the permitted use'), subject to the conditions set out in this document.

This lease is granted with the concurrence of the Minister for Transport as required in section 20 of the Aquaculture Act 2001 and section 15 of the Harbors and Navigation Act 1993.

SCHEDULE

Lessee:

Boric Fisheries Pty Ltd (30688)
P.O. Box 792
Port Lincoln, S.A. 5606

Leased Area:

GDA 94—Zone 53
594187E 6163381N
594686E 6163381N
594686E 6162881N
594187E 6162881N

Licensed Hectares

25

Permitted Class of Aquaculture:

Tuna Aquaculture

Term of the Lease:

Twelve months

Initial Rental:

\$350.00

Marking-off requirements:

The marked-off area must be marked with 30 cm diameter white buoys spaced at 50 m intervals and positioned no more than 50 m from structures located on the site.

Amount of Public Liability Insurance:

\$10 million

Amount of Guarantee or contribution to indemnity fund:

\$10 000

Extent of Leased Area that must be developed:

During the term of this lease at least one cage of at least 20 m diameter must be installed on the site.

1. Term and Renewal

1.1 The term of this lease is the term of one year commencing on 1 July 2002 and ending on 30 June 2003 ('the initial term').

1.2 The term is renewable in accordance with section 38 of the Act for successive terms, by the lessee giving the Minister notice no earlier than two months before the expiry of the term, and no later than one month before the expiry of the term, unless there is at the expiry of the lease a default under the lease or any corresponding licence.

1.3 Any renewal of the term shall be subject to conditions in accordance with standard conditions under aquaculture policies developed under Part 4 of the Act, and such other conditions as are determined by the Minister ('the reviewed conditions').

- 1.4 Upon renewal the Minister may issue either a certificate of renewal, or a new lease, incorporating the reviewed conditions.
- 1.5 The Minister may, at the time of renewal of a term, vary the term subject to the maximum term for a production lease permitted by the Act.

2. Rental

- 2.1 The lessee must pay to the Minister the annual rental, free from exchange, deduction or abatement.
- 2.2 At the commencement of the initial term the annual rental payable under this lease is the initial rental stipulated in the Schedule.
- 2.3 The initial rental payable in respect of the initial term is subject to adjustment during the initial term, as determined by the Minister in accordance with aquaculture policy developed under Part 4 of the Act. The adjusted rental shall be applicable in respect of the entire initial term.
- 2.4 Rental in respect of renewed terms shall be as notified by the Minister before the expiry of the initial term, and adjustments of rental in renewed terms of the lease will be applicable in accordance with the reviewed conditions.
- 2.5 Rental is payable in full within one month of commencement of the lease by direct bank transfer to the credit of a bank account nominated by the Minister, or by cheque payable to the Department for Primary Industry and Resources SA, delivered to the address stipulated by the Minister.

3. GST

- 3.1 The rental payable under this lease is exclusive of GST.
- 3.2 The lease is a taxable supply under GST Law.
- 3.3 Department of Primary Industries and Resources (ABN 53 763 159 658) is the government entity administering this lease on behalf of the Minister and is registered pursuant to the GST Law.
- 3.4 Department of Primary Industries and Resources is entitled to be treated as the maker of any taxable supply and the recipient of any taxable supply pursuant to this lease instead of the Minister for the purposes only of the GST Law.
- 3.5 The lessee must pay to the Minister, together with any payment of rental under this lease, an additional amount in respect of GST (the 'GST payment'). The GST payment is ten per cent of the rental, subject only to any change in the rate of GST under GST Law.
- 3.6 The Minister must issue to the lessee a tax invoice within 10 business days after the lessee has delivered payment of rental and the GST payment.

4. Cancellation

The Minister may cancel this lease by immediate written notice to the lessee:

- 4.1 if the lessee enters into any form of Insolvency Administration;
- 4.2 if the lessee assigns or purports to assign the lease without giving the Minister prior written notice as required by section 39 of the Act;
- 4.3 if any rent or other moneys payable by the lessee are in arrears for more than 14 days whether or not any formal demand has been made for the rent or other moneys;
- 4.4 if the lessee (being a natural person) is convicted of any indictable offence;
- 4.5 if there is any breach of any condition of a corresponding licence in respect of this lease;
- 4.6 if there is a breach of any obligation under the Act by the lessee or a licensee under a corresponding licence;
- 4.7 if a corresponding licence is cancelled; or

- 4.8 if in the opinion of the Minister the use of the leased area by or on behalf of the lessee reveals, indicates or provides reasonable grounds for the Minister to form the view or opinion that degradation or damage of an unacceptable level of coastal land or the surrounding marine environment has or is being caused by the lessee's use of the leased area or the use of the leased area by a licensee under a corresponding licence, or any activity associated with their activities and the lessee fails to comply with a notice requiring the lessee to remedy the degradation or damage, and/or cease or prevent the relevant activity within 30 days after the date the notice is served upon the lessee by or on behalf of the Minister.

5. Dealing with Lease

- 5.1 This lease is transferable in accordance with the Act (see section 39).
- 5.2 Subletting under this lease is not permitted except with the prior written consent of the Minister.

6. Marking-off

The lessee must mark-off the leased area in the manner stipulated in the Schedule.

7. Lessee's Use of Leased Area

The lessee must not use the leased area or permit it to be used for any purpose other than the Permitted Class of Aquaculture.

8. Development Requirement

The lessee must ensure that the leased area is developed and used for the Permitted Class of Aquaculture to the extent stipulated in the Schedule.

9. Consents and Approvals

- 9.1 If the lessee's use of the leased area is permissible only with the consent or approval of any authority under or in pursuance of any law enactment or order of Court the lessee must obtain such consent or approval at its own expense and the lessee shall at no time during the term of this lease do or permit or fail to do or suffer to be done any act, matter or thing whereby such consent or approval shall lapse or be revoked; and
- 9.2 The lessee must keep current during the term of this lease all consents and approvals required under the Development Act 1993 and any other law applicable to the leased area or the permitted use or the lessee's use of the leased area.

10. Public Liability Insurance

- 10.1 The lessee shall forthwith effect and keep current during the term of this lease in the joint names of the Minister and the lessee for their respective rights and interests with a reputable and solvent insurer first approved by the Minister (which approval shall not be unreasonably withheld) a policy of public risk insurance in respect of the leased area for an amount not less than the amount stipulated in the Schedule in respect of any single claim, accident or event (or such greater amount as the Minister shall from time to time reasonably require) and upon request from or on behalf of the Minister to produce a copy of such policy and a copy of a certificate of currency in respect thereof such policy to indemnify the lessee and the Minister against any and all actions, suits, claims, demands, cost, proceedings, expenses, harm and loss of any kind including arising out of or in connection with:
 - 10.1.1 the use of the leased area by the lessee or a licensee under a corresponding licence or its servants, agents and invitees; and/or
 - 10.1.2 any death, illness or bodily injury sustained by any person upon the leased area or any damage to property occurring upon the leased area.

Notwithstanding any other provision of this clause the lessee shall satisfy the obligations to effect a policy of public risk insurance if the lessee notes the leased area and the Minister's rights and interests therein and under this lease upon any policy of public risk insurance effected by the lessee in respect of other land or premises within the Commonwealth of Australia provided such policy and such insurer otherwise satisfies the requirements of this clause and the lessee upon request from or on behalf of the Minister produces a copy of such policy and a copy of a Certificate of Currency in respect thereof.

11. *Statutory Requirements*

- 11.1 The lessee must comply with the laws in force in South Australia in the course of any activity undertaken pursuant to this lease, or in relation to or on the leased area.
- 11.2 The lessee shall be liable to indemnify the Minister from and against all actions, proceedings, claims, demands, charges, penalties and expenses arising from any failure to comply with the laws in force in South Australia.

12. *No Nuisance*

- 12.1 The lessee must not do or fail to do anything on or in respect of the leased area (and must ensure that its employees, agents, contractors and invitees and any licensee under a corresponding licence do not do or fail to do anything on or in respect of the leased area):
 - 12.1.1 whereby a nuisance (whether public or private) may arise or continue upon or in connection with the leased area; or
 - 12.1.2 whereby any nuisance or disturbance could arise to any users of land near the leased area or the waters around the leased area or which could interfere with the same.

13. *Indemnities*

The lessee must indemnify and save harmless the Minister against:

- 13.1 all actions, claims, demands, proceedings, suits, costs, damages, expenses and losses which the Minister may suffer or incur as a result of the death of or injury to any person or loss of or damage to the property of any person arising from or out of any occurrence in, upon or about the leased area or any part of it or the use of the leased area by the lessee or a licensee under a corresponding licence or by any employee, agent, contractor or invitee of the lessee or licensee;
- 13.2 all loss or damage to the leased area, and any property on it caused by the lessee or licensee under a corresponding licence or by any employee, agent, contractor, or invitee of the lessee or licensee or other person having business with the lessee or licensee and in particular but without limiting in any way the generality of the foregoing by reason of the use, misuse, waste or abuse of the leased area; and
- 13.3 all fees, costs, liabilities and expenses incurred by the Minister in the exercise or attempted exercise of any of the rights, authorities, powers or remedies which are exercisable by the Minister pursuant to this lease,

except to the extent caused or contributed to by any wilful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

14. *Exclusion of Liability*

The Minister and its servants, employees, agents, contractors and invitees shall have no responsibility or liability to the lessee and the Minister and its employees, agents, contractors and invitees for any loss or injury suffered by the lessee or to the property of the lessee except to the extent caused or contributed to by any unlawful or negligent act or omission of the Minister or any employee, agent or contractor of the Minister.

15. *Minister's Entry on Leased Area*

- 15.1 The Minister may, on giving reasonable notice, with or without the Minister's officers, employees and/or agents, enter upon and remain on the leased area for the purpose of inspecting the leased area including in respect of the performance of the lessee's obligations and/or for the purpose of remedying any breach of the lessee's obligations under this lease or the Act in respect of the leased area or any breach by any licensee under a corresponding licence of its obligations under and pursuant to the licence or the Act, although the Minister shall be under no obligation to so remedy any such breach.
- 15.2 The Minister shall not be required to give any prior notice to the lessee before exercising its rights under and pursuant to this clause in circumstances where, in the reasonable opinion of the Minister:
 - 15.2.1 it is not practicable to do so, or;
 - 15.2.2 the Minister or any responsible officer, employee or agent of the Minister believes on reasonable grounds that an offence has or is being or is about to be committed on the leased area or that a breach of the terms and conditions of this lease by the lessee or any breach by any licensee of its obligations under and pursuant to the licence, has occurred, is occurring or is about to occur;
 - 15.2.3 in exercising any of its rights under and pursuant to this clause the Minister shall use its reasonable endeavours not to interfere with the lawful and permitted conduct of the lessee's or a licensee's use of the leased area.

16. *Contamination and Contaminating Substances*

- 16.1 The lessee must not bring or permit to be brought upon the leased area any matter in any form which the handling, storage, disposal, dealing with or the escape of which may in any manner result in, cause or contribute to pollution, contamination or degradation on or to the leased area or any land or water adjacent or near to the leased area or exacerbate, add to or compound any pre-existing pollution, contamination or degradation or the feasibility, practicality or cost of its control and/or removal, unless the lessee has obtained the prior written consent of the Minister, (which consent the Minister may grant or withhold or impose conditions on in its absolute unfettered discretion).
- 16.2 Irrespective of whether the Minister gave its consent in respect of such material, compounds or substances pursuant to this clause, if during the term of this lease, or during any subsequent period in which the lessee continues to occupy or control the leased area, any pollution, contamination or degradation occurs or any exacerbation, addition to or compounding of any pollution, contamination or degradation existing prior to the date of commencement of the term of this lease occurs (other than to the extent the result of any wilful or negligent act or omission of the Minister or any agent employee or contractor of the Minister) then:
 - 16.2.1 the lessee must forthwith notify the Minister in writing of the location, nature, extent and quantity of such substance or compound and the pollution, contamination and degradation it might cause and reasonable particulars of the long term effect of the same and likely cost of control, collection, removal and disposal;
 - 16.2.2 the lessee must permit the Minister and any employee, agent, inspector, contractor or invitee of the Minister at all times to enter upon the leased area and to inspect any suspected notified or known pollution, con-

tamination or degradation or any substance or compound capable of causing pollution, contamination and degradation to the leased area or the land or water adjacent to or near the leased area and to abate any actual or potential danger or hazard in or about the leased area and if such hazard or damage in the reasonable opinion of the Minister is caused by or results from the substance or compound the lessee shall pay to the Minister the costs and expenses incurred in carrying out such work; and

16.2.3 the lessee must at its own cost and expense if so required by the Minister remove any and all substances and compounds causing contributing or which could cause or contribute to pollution, contamination or degradation of the leased area (or exacerbate add to or compound any pre-existing similar condition) from all parts of the leased area.

16.3 During the term of this lease, the lessee must indemnify and hold harmless the Minister and keep the Minister indemnified from and against all claims, demands, actions, proceedings, judgments, orders, costs, losses, damages and expenses of any nature whatsoever suffered or incurred by the Minister as a result whether directly or otherwise of:

16.3.1 any act or omission of the lessee its servants, agents, contractors, licensees or any other person acting with its authority which results in pollution, contamination or degradation on or to the leased area or any part thereof; and

16.3.2 any failure of the lessee to comply with observe and perform in respect of the leased area the requirements imposed on tenants or occupiers of the leased area by any laws, statutory enactments or regulations made pursuant thereto (whether Federal, State or municipal) relating to the contamination and/or degradation and/or pollution of the leased area or any part thereof (the 'relevant law').

17. Lease Expiry

The lessee must, at the lessee's cost in all things immediately prior to the expiration or sooner determination of the term of this lease:

17.1 remove and carry away from the leased area all improvements, plant, equipment, chattels and property located or brought upon the leased area by or on behalf of the lessee and in such removal cause as little damage to the leased area as practicable;

17.2 upon completion of such removal, remove all debris, rubbish and waste from the leased area and rehabilitate the same in respect of any damage caused thereto by the location thereon of such waste and debris; and

17.3 reinstate and rehabilitate the leased area and any portions thereof affected by the conduct of the permitted use or the lessee's use of the same to the condition existing prior to commencement of the term of this lease. Such rehabilitation shall be performed by the lessee at its cost in all things to the reasonable satisfaction of the Minister.

18. Occupation

The lessee has the rights of occupation provided in the Act.

19. Default Costs

19.1 The lessee is liable to pay the Minister reasonable costs and expenses including but without limiting the generality thereof reasonable professional charges and workmen's wages:

19.1.1 of and incidental to the recovery of annual rent due and unpaid interest thereon; and

19.1.2 incurred by remedying or attempting to remedy any breach of the lessee's obligations under this lease.

19.2 Any amount payable by the lessee under this clause is payable on demand by the Minister.

20. Default Interest

Without prejudice to the rights, powers and remedies of the Minister otherwise under this lease the lessee must pay to the Minister interest at the overdrawn rate charged from time to time by the Minister's Bankers on overdrafts not exceeding \$50 000 on any money due but unpaid after the same fell due and payable by the lessee to the Minister on any account whatsoever under this lease. Interest shall be computed from the due date for the payment of the money in respect of which the interest is chargeable until payment of such money is made in full and shall be recoverable in like manner as rent in arrears.

21. Minister may remedy Default

21.1 If the lessee fails or neglects to perform any obligation or to observe any provision to be performed or observed by the lessee under this lease or if any licensee under the licence is in breach or default under the licence and if such failure or neglect shall continue for one month after the Minister has given to the lessee notice in writing requiring the lessee to perform such obligation or to observe such provision then the Minister may (but without being bound so to do and without prejudice to any other right or remedy) perform that obligation or observe that provision and all reasonable costs and expenses including overtime charges, fines, levies and penalties due to such default or incurred by the Minister in remedying the same shall be paid by the lessee to the Minister.

22. Waiver

No forbearance by the Minister in respect of any breach of any obligation contained or implied in this lease shall operate as a waiver of another breach of the same or of any other obligation contained or implied in this lease.

23. Joint Lessees

If the lessee constitutes more than one natural person or bodies corporate or a partnership:

23.1 the persons comprising the lessee are jointly and severally bound by the conditions of this lease; and

23.2 notice to one of the natural persons or bodies corporate comprising the lessee shall be notice to all persons comprising the lessee.

24. Guarantee or Indemnity

24.1 The lessee must within five business days of receipt of this lease but with effect from the date of commencement of the term of this lease either:

24.1.1 provide a guarantee from its bankers; or

24.1.2 contribute to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry,

to and in favour of and for the benefit of the Minister by way of security for the due and punctual performance by the lessee of the terms and conditions of this lease and in particular the obligations of the lessee to rehabilitate the leased area immediately prior to the expiration or sooner determination of the term of this lease upon the following terms and conditions:

24.1.3 the lessee shall either:

(a) arrange for the provision from a bank as defined in the Banking Act 1959 or established by an Act of the Parliament of South Australia of an irrevocable and continuing bank guarantee for an amount stipulated from time to time by the Minister (the 'Bank Guarantee'). The Bank Guarantee shall otherwise contain terms and conditions which are reasonably satisfactory to the Minister. The Bank Guarantee shall be continuously in existence until the Minister agrees to release the Bank Guarantee under this clause. The guarantee shall entitle the Minister to make demand on the Bank Guarantee at any time if there

has been a failure by the lessee to pay any money at the time specified for such payment or if there has been any other breach or default by the lessee for the due and punctual performance of the covenants, obligations and provisions on the part of the lessee under this lease. If the Minister makes a demand on the Bank Guarantee either in whole or in part and appropriate such funds then the lessee shall within five days of such demand by the Minister provide the Minister with a fresh Bank Guarantee for an amount equal to the amount so demanded and paid by the Bank to the Minister on the Bank Guarantee and on the same terms and conditions as specified in this clause. The lessee shall not be entitled to a release or a re-delivery nor to request a release or re-delivery of the Bank Guarantee until one month after the expiration of the term of this lease. Notwithstanding any other provisions of this clause the Minister shall be entitled to refuse to release or deliver up to the lessee the Bank Guarantee if the Minister reasonably considers that there may be unremedied breaches or contingent obligations under the lease yet to mature and to be performed by the lessee at the time of the request to the Minister to release or re-deliver the Bank Guarantee; or

- (b) make such contributions to the indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industries as required by the Minister or the administrator of such scheme, and if required make such contributions on an annual or other basis and in such amounts as required by the Minister or the administrator of such scheme;
- 24.1.4 the provisions of this clause do not in any way limit, restrict or prejudice the rights of the Minister to exercise such additional rights, remedies and powers as the Minister may consider appropriate as a result of the lessee's default;
- 24.1.5 notwithstanding any other provision of this clause, if the lessee transfers or assigns its estate and interest in this lease, then upon and as from the date ('the Date') such transferee or assignee providing to the Minister either a guarantee from its bankers as satisfies the requirements of this clause or evidence of having contributed to an indemnity scheme established and/or nominated by the Minister for the aquaculture and fisheries industry in such amount as required by this clause, the Minister shall from the date fully free release and discharge the lessee from any and all obligations under and pursuant to this clause and shall release and re-deliver to the lessee any bank.
- 24.2 If the lessee has already provided a guarantee or contributed to a fund in accordance with obligations under previous arrangements to the extent required under this lease, then the lessee is excused from the initial requirement to provide a guarantee or contribution, but not from subsequent obligations under this clause.

25. *Disclaimer*

The Minister does not expressly or impliedly warrant that the leased area is now or will remain suitable or adequate for all or any of the purposes of the lessee and all warranties (if any) as to the suitability and adequateness of the leased area that might otherwise be implied are expressly negated.

26. *Delegation*

Unless expressly excluded by any provision of this lease, any consent, any notice, any consultation or any other thing which pursuant to the terms of this lease is either required to be given, done or performed by the Minister or is permitted to be given, done or performed by the Minister may for the purposes of this lease be properly given, done or performed by a person authorised by the Minister to act on the Minister's behalf.

27. *Special Conditions*

Incorporated in this lease are any special conditions set out in the Schedule.

28. *Notices*

28.1 Notice to the lessee is valid if sent by post to the address for notices in the Schedule, or such other address as is notified by the lessee to the Minister in writing.

28.2 The lessee may give notice to the Minister by posting written notice addressed to PIRSA Aquaculture, G.P.O. Box 1625, Adelaide, S.A. 5001.

29. *Definitions and Interpretation*

In this lease unless inconsistent with the context:

'*business days*' means Monday to Friday (inclusive) excluding any public holiday;

'*corresponding licence*' has the meaning attributed in the Act;

'*GST*' means the tax imposed by the GST Law;

'*GST Law*' has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999;

'*Insolvency Administration*' means, if the lessee is a corporation:

- an administrator is appointed to the lessee or action is taken to make such an appointment;
- the lessee resolves to be wound up;
- an application is made to a court for an order or an order is made that the lessee be wound up (whether on grounds of insolvency or otherwise);
- the lessee ceases to carry on business;
- a receiver or a receiver and manager of property of the lessee is appointed whether by a court or otherwise;
- an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the lessee or one of them is appointed, whether or not under an order;
- the lessee enters into a compromise or arrangement with its creditors or a class of them; or
- the lessee is or states that it is unable to pay its debts when they fall due;

'*Insolvency Administration*' means if the lessee is a natural person:

- the lessee has committed an act of bankruptcy as contemplated by the Bankruptcy Act 1966;
- the lessee is unable to pay his or her debts as and when they become due and payable;
- the court has made a sequestration order against the lessee's estate;
- a creditors' petition has been presented against the lessee;

- the lessee has presented to the Official Receiver a declaration of intention to present a debtor's petition;
- the lessee becomes a bankrupt;
- a meeting of creditors of the lessee is convened; or
- the lessee lodges with his or her trustee a proposal to his or her creditors for a composition in satisfaction of his or her debts or a scheme of arrangement of his or her affairs;

'*Lessee*' means the party described in this lease and the heirs, executors, administrators and permitted assigns thereof and if a body corporate, its successors and permitted assigns;

'*Minister*' means the Minister for Agriculture, Food and Fisheries, a body corporate under the Administrative Arrangements Act 1994;

'*Permitted Use*' means the use of the leased area for such aquaculture purposes as are specified in the Schedule to this lease;

'*Leased Area*' means the area comprised of State waters or State waters and adjacent land within the meaning of the Harbors and Navigation Act 1993, described in the Schedule to this lease;

'*Taxable Supply*' has the meaning attributed in the GST Act;

'*Tax Invoice*' has the meaning attributed in the GST Act;

'*Term of this Lease*' or the '*Term*' means the initial term granted by the Minister (unless sooner determined) and any extension of such initial term.

30. Interpretation

- 30.1 Words importing the singular shall embrace the plural and words importing the masculine gender shall embrace the feminine and neuter genders and *vice versa* respectively.
- 30.2 Any reference to a person shall include a corporate body and *vice versa*.
- 30.3 Where two or more persons are included in the designation the 'lessee' the obligations on the part of the lessee contained in this lease shall bind such persons and any two or greater number of them jointly and each of them severally and the expression the 'lessee' shall include all or any one or more of such persons.
- 30.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for it and the regulations, by-laws or other orders for the time being made under that statute.
- 30.5 Headings are for convenience of reference only and shall not affect the construction or interpretation of the covenants of this lease.

Dated 23 December 2002.

Signed by the General Manager, Aquaculture of the Department for Primary Industries and Resources as delegate of the Minister for Transport (as successor of) the Minister for Transport and Urban Planning, pursuant to a delegation made on 13 March 2000 under section 11 (1) of the Harbors and Navigation Act 1993.

I. NIGHTINGALE, General Manager, Aquaculture

GOVERNMENT GAZETTE ADVERTISEMENT RATES

To apply from 1 July 2002

	\$		\$
Agents, Ceasing to Act as.....	34.10	Firms:	
Associations:		Ceasing to Carry on Business (each insertion)	22.70
Incorporation	17.40	Discontinuance Place of Business	22.70
Intention of Incorporation	43.00	Land—Real Property Act:	
Transfer of Properties	43.00	Intention to Sell, Notice of.....	43.00
Attorney, Appointment of.....	34.10	Lost Certificate of Title Notices	43.00
Bailiff's Sale	43.00	Cancellation, Notice of (Strata Plan).....	43.00
Cemetery Curator Appointed.....	25.50	Mortgages:	
Companies:		Caveat Lodgment.....	17.40
Alteration to Constitution	34.10	Discharge of	18.30
Capital, Increase or Decrease of	43.00	Foreclosures.....	17.40
Ceasing to Carry on Business	25.50	Transfer of	17.40
Declaration of Dividend.....	25.50	Sublet.....	8.75
Incorporation	34.10	Leases—Application for Transfer (2 insertions) each.....	8.75
Lost Share Certificates:		Lost Treasury Receipts (3 insertions) each.....	25.50
First Name.....	25.50	Licensing.....	51.00
Each Subsequent Name.....	8.75	Municipal or District Councils:	
Meeting Final.....	28.75	Annual Financial Statement—Forms 1 and 2	481.00
Meeting Final Regarding Liquidator's Report on		Electricity Supply—Forms 19 and 20.....	341.00
Conduct of Winding Up (equivalent to 'Final		Default in Payment of Rates:	
Meeting')		First Name	68.00
First Name.....	34.10	Each Subsequent Name.....	8.75
Each Subsequent Name.....	8.75	Noxious Trade	25.50
Notices:		Partnership, Dissolution of.....	25.50
Call.....	43.00	Petitions (small)	17.40
Change of Name.....	17.40	Registered Building Societies (from Registrar-	
Creditors.....	34.10	General).....	17.40
Creditors Compromise of Arrangement	34.10	Register of Unclaimed Moneys—First Name.....	25.50
Creditors (extraordinary resolution that 'the Com-		Each Subsequent Name	8.75
pany be wound up voluntarily and that a liquidator		Registers of Members—Three pages and over:	
be appointed').....	43.00	Rate per page (in 8pt)	218.00
Release of Liquidator—Application—Large Ad	68.00	Rate per page (in 6pt)	288.00
—Release Granted.....	43.00	Sale of Land by Public Auction.....	43.50
Receiver and Manager Appointed.....	39.75	Advertisements	2.40
Receiver and Manager Ceasing to Act.....	34.10	Advertisements, other than those listed are charged at \$2.40 per	
Restored Name.....	32.25	column line, tabular one-third extra.	
Petition to Supreme Court for Winding Up.....	59.50	Notices by Colleges, Universities, Corporations and District	
Summons in Action.....	51.00	Councils to be charged at \$2.40 per line.	
Order of Supreme Court for Winding Up Action	34.10	Where the notice inserted varies significantly in length from	
Register of Interests—Section 84 (1) Exempt.....	77.00	that which is usually published a charge of \$2.40 per column line	
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Each Subsequent Estate.....	1.10		
Probate, Selling of	34.10		
Public Trustee, each Estate.....	8.75		

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Acts, Bills, Rules, Parliamentary Papers and Regulations					
Pages	Main	Amends	Pages	Main	Amends
1-16	1.95	0.85	497-512	28.10	27.00
17-32	2.70	1.70	513-528	28.90	27.75
33-48	3.50	2.50	529-544	29.70	28.75
49-64	4.45	3.35	545-560	30.50	29.75
65-80	5.20	4.30	561-576	31.25	30.50
81-96	6.00	5.00	577-592	32.30	31.00
97-112	6.90	5.85	593-608	33.10	32.00
113-128	7.70	6.75	609-624	33.90	33.00
129-144	8.65	7.65	625-640	34.60	33.50
145-160	9.50	8.50	641-656	35.40	34.50
161-176	10.40	9.30	657-672	36.00	35.25
177-192	11.20	10.20	673-688	37.50	36.00
193-208	12.00	11.10	689-704	38.30	37.00
209-224	12.80	11.80	705-720	38.80	38.00
225-240	13.60	12.60	721-736	40.25	38.50
241-257	14.50	13.30	737-752	40.75	39.75
258-272	15.40	14.20	753-768	41.75	40.25
273-288	16.30	15.20	769-784	42.25	41.50
289-304	17.00	16.00	785-800	43.00	42.25
305-320	17.90	16.80	801-816	43.75	42.75
321-336	18.70	17.60	817-832	44.75	43.75
337-352	19.60	18.60	833-848	45.75	44.50
353-368	20.40	19.40	849-864	46.50	45.25
369-384	21.30	20.30	865-880	47.25	46.50
385-400	22.00	21.10	881-896	47.75	47.00
401-416	22.80	21.80	897-912	49.25	47.75
417-432	23.90	22.70	913-928	49.75	49.25
433-448	24.60	23.60	929-944	50.50	49.75
449-464	25.50	24.40	945-960	51.50	50.25
465-480	26.00	25.20	961-976	52.50	51.25
481-496	27.10	26.00	977-992	53.50	52.00

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CROWN LANDS ACT 1929: SECTION 5

TAKE NOTICE that pursuant to the Crown Lands Act 1929, I JOHN HILL, Minister for Environment and Conservation, Minister of the Crown to whom the administration of the Crown Lands Act 1929 is committed DO HEREBY:

1. Dedicate the Crown Land defined in The First Schedule as a Reserve for Recreation, Access and Public Jetty Purposes and declare that such land shall be under the care, control and management of The District Council of Tumby Bay, subject to the jetty structure located on portion of the said land being subject to the same terms and conditions comprised in Memorandum of Lease No. 8906111 dated 22 December 1999.
2. Dedicate the Crown Land defined in The Second Schedule as a Recreation Reserve and declare that such land shall be under the care, control and management of The District Council of Tumby Bay.

The First Schedule

Allotment 313, Town of Tumby Bay, Hundred of Hutchison, County of Flinders, exclusive of all necessary roads, being the whole of the land contained in Crown Record Volume 5879, Folio 413.

The Second Schedule

Allotments 37 and 312, Town of Tumby Bay, Hundred of Hutchison, County of Flinders, exclusive of all necessary roads, being the whole of the land contained in Crown Records Volume 5879, Folios 414 and 412 respectively.

Dated 23 January 2003.

J. HILL, Minister for Environment and Conservation

DENR 08/0671

CROWN LANDS ACT 1929: SECTION 5

TAKE NOTICE that pursuant to the Crown Lands Act 1929, I JOHN HILL, Minister for Environment and Conservation, Minister of the Crown to whom the administration of the Crown Lands Act 1929 is committed DO HEREBY:

1. Resume the land defined in The First Schedule.
2. Dedicate the Crown Land defined in The Second Schedule as an Emergency Services Reserve and declare that such land shall be under the care, control and management of the Minister for Emergency Services.

The First Schedule

Emergency Services Reserve, allotment 1 of DP 49266, Town of Tarpeena, Hundred of Mingbool, County of Grey, the notice of which was published in the *Government Gazette* of 19 December 2002 at pages 4739 and 4740, being the whole of the land contained in Crown Record Volume 5551, Folio 612.

The Second Schedule

Allotment 1 of DP 49266, Town of Tarpeena, Hundred of Mingbool, County of Grey, exclusive of all necessary roads, being the whole of the land contained in Crown Record Volume 5551, Folio 612, subject nevertheless to:

1. an easement to Telstra Corporation Limited for telecommunications purposes over that portion of allotment 1 marked A on DP 49266.
2. a right of way over that portion of allotment 1 marked B on DP 49266 and appurtenant to allotments 2 and 3 (DP 49266).

Dated 23 January 2003.

J. HILL, Minister for Environment and Conservation

DEHAA 09/1999

CROWN LANDS ACT 1929: SECTION 5

TAKE NOTICE that pursuant to the Crown Lands Act 1929, I JOHN HILL, Minister for Environment and Conservation, Minister of the Crown to whom the administration of the Crown Lands Act 1929 is committed DO HEREBY:

1. Resume the land defined in The First Schedule.
2. Dedicate the Crown Land defined in The Second Schedule as an Emergency Services Reserve and declare that such land shall be under the care, control and management of the Minister for Emergency Services.

The First Schedule

Emergency Fire Fighting Services and Ambulance Reserve, allotment 12, town of Padthaway, hundred of Parsons, county of MacDonnell, the proclamation of which was published in the *Government Gazette* of 20 July 1967 at page 442, being the whole of the land contained in Crown Record Volume 5666, Folio 437.

The Second Schedule

Allotment 12, Town of Padthaway, Hundred of Parsons, County of MacDonnell, exclusive of all necessary roads, being the whole of the land contained in Crown Record Volume 5666, Folio 437.

Dated 23 January 2003.

J. HILL, Minister for Environment and Conservation

DEHAA 09/2063

DEVELOPMENT ACT 1993, SECTION 25 (17): CITY OF WHYALLA—COASTAL POLICIES PLAN AMENDMENT

Preamble

1. The Development Plan amendment entitled 'City of Whyalla—Coastal Policies Plan Amendment' (the Plan Amendment) has been finalised in accordance with the provisions of the Development Act 1993.

2. The Minister for Urban Development and Planning has decided to approve the Plan Amendment.

NOTICE

PURSUANT to section 25 of the Development Act 1993, I—

- (a) approve the Plan Amendment; and
- (b) fix the day on which this notice is published in the *Gazette* as the day on which the Plan Amendment will come into operation.

Dated 23 January 2003.

J. W. WEATHERILL, Minister for Urban Development and Planning

PLN 99/0488

DEVELOPMENT ACT 1993, SECTION 25 (17): CITY OF ADELAIDE—ADELAIDE (CITY) DEVELOPMENT PLAN—BUILT FORM POLICY REVIEW IN KEY PRECINCTS PLAN AMENDMENT

Preamble

1. The Development Plan amendment entitled 'City of Adelaide—Built Form Policy Review in Key Precincts Plan Amendment' (the Plan Amendment) has been finalised in accordance with the provisions of the Development Act 1993.

2. The Minister for Urban Development and Planning has decided to approve the Plan Amendment.

NOTICE

PURSUANT to section 25 of the Development Act 1993, I—

- (a) approve the Plan Amendment; and
- (b) fix the day on which this notice is published in the *Gazette* as the day on which the Plan Amendment will come into operation.

Dated 23 January 2003.

STEPHANIE KEY, Acting Minister for Urban Development and Planning

PLN 01/0635

DEVELOPMENT ACT 1993, SECTION 25 (17): CITY OF BURNSIDE—GENERAL PLAN AMENDMENT

Preamble

1. The Development Plan amendment entitled 'City of Burnside—General Plan Amendment' (the Plan Amendment) has been finalised in accordance with the provisions of the Development Act 1993.

2. The Minister for Urban Development and Planning has decided to approve the Plan Amendment.

NOTICE

PURSUANT to section 25 of the Development Act 1993, I—

- (a) approve the Plan Amendment; and
- (b) fix the day on which this notice is published in the *Gazette* as the day on which the Plan Amendment will come into operation.

Dated 23 January 2003.

J. W. WEATHERILL, Minister for Urban Development and Planning

PLN 97/0482

FISHERIES ACT 1982

Instrument of Authorisation

I, PAUL HOLLOWAY, Minister for Agriculture, Food and Fisheries, being the Minister responsible for the administration of the Fisheries Act 1982, do hereby authorise pursuant to section 6 (3) (b) (i) of the Expiation of Offences Act 1996, the following Fisheries Officers appointed pursuant to section 25 of the Fisheries Act 1982:

Amey, Tania Jane
 Bachmann, Stuart Andrew
 Barton, William Matthew
 Peter
 Chalmers, Brett Trevor
 Cresshull, Michael John
 Croft, Helen Christine
 Darter, Gary Martin
 Dodd, Yolande Michelle
 Donovan, Deryck James
 Donovan, Randel Todd
 Dowdell, Sean David
 Edwards, Brooke Nicole
 Faithow, Paul
 Ferraro, Tania
 Flockhart, Andrew Donaldson
 Gallagher, Patrick James
 Gassner, Shane Anthony
 Goncharov, Lena Tonia
 Grabowski, Adam Richard
 Gramola, Benn
 Grant, David Scott
 Hanson, Aaron Wade
 Hawken, Kevin Robert
 Heycock, Gregory John

James, Penny Cara
 Jeffs, Timothy Clausen
 Kempster, Steven Anthony
 William
 Koch, Michael John
 Lewis, Mark
 Lovelock, Gavin Stanley
 Mueller, Lisa Kay
 Nesbitt, Craig Stuart
 Parkes, Robin Nicholas
 Parsons, Leslie Allan
 Read, Matthew John
 Sheppard, James Sydney
 Snart, Melanie Anne
 Stanley, Phillip Lawrence
 Stening, Roger Grant
 Stewart, Michael John
 Storr, Gregory Laurence
 Tarr, Barry James
 Telfer, Hamish Alexander
 Wakefield, Kym James
 Ward, Michelle Linda
 Webb, Scott Raymond
 Williss, Brett Andison

to issue expiation notices for alleged offences under the Fisheries Act 1982, or Regulations made under the Fisheries Act 1982.

Dated 15 January 2003.

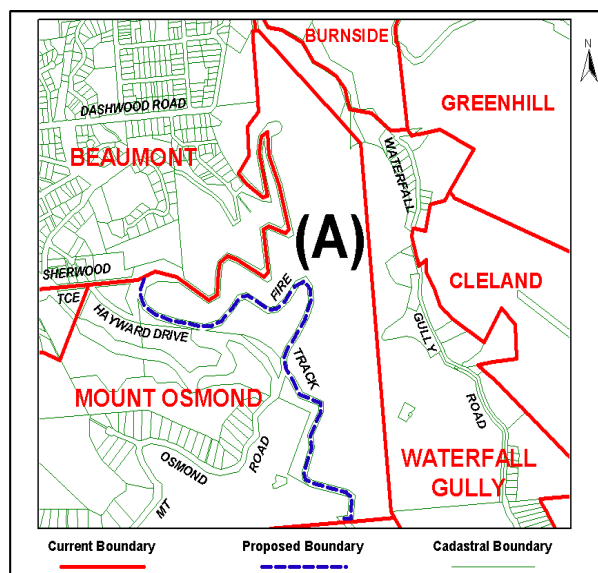
P. HOLLOWAY, Minister for Agriculture, Food and Fisheries

GEOGRAPHICAL NAMES ACT 1991

Notice to Alter the Boundary of a Suburb

NOTICE is hereby given pursuant to Section 11B (4) of the Geographical Names Act 1991, that I, PETER MACLAREN KENTISH, Surveyor-General and Delegate appointed by Jay Weatherill, Minister for Administrative Services, Minister of the Crown to whom the administration of the Geographical Names Act 1991, is committed, DO HEREBY exclude from the suburb of MOUNT OSMOND and include in the suburb of WATER-FALL GULLY that area mark (A) as shown on the plan below.

THE PLAN



Dated 15 January 2003.

P. M. KENTISH, Surveyor-General, Department for Administrative and Information Services
 04/0181

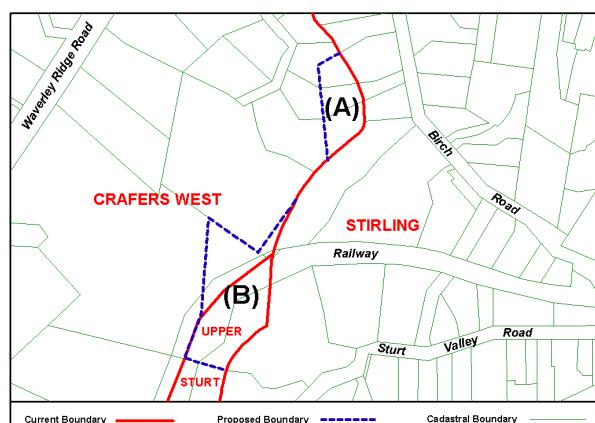
GEOGRAPHICAL NAMES ACT 1991

Notice to Alter the Boundary of a Suburb

NOTICE is hereby given pursuant to the provisions of the above Act that I, PETER MACLAREN KENTISH, Surveyor-General and Delegate appointed by Jay Weatherill, Minister for Administrative Services, Minister of the Crown to whom the administration of the Geographical Names Act 1991, is committed, DO HEREBY:

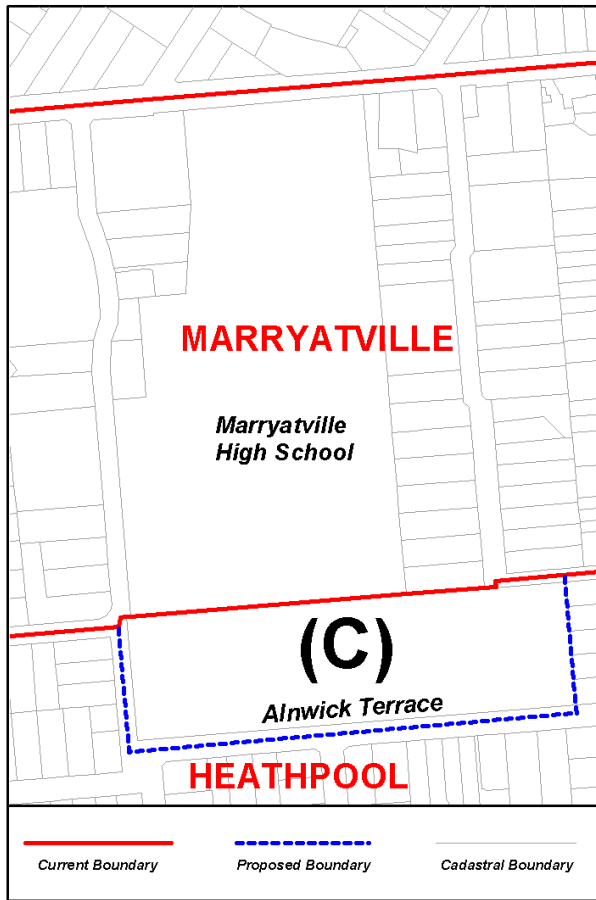
1. Exclude from the suburb of CRAFTERS WEST and include in the suburb of STIRLING the area marked (A).
2. Exclude from the suburb of CRAFTERS WEST and UPPER STURT and include in the suburb of STIRLING the area marked (B) as shown on the plan below.

THE PLAN



and

3. Exclude from the suburb of HEATHPOOL and include in the suburb of MARRYATVILLE the area marked (C).



Dated 15 January 2003.

P. M. KENTISH, Surveyor-General, Department for Administrative and Information Services

04/0377
04/0330

LIQUOR LICENSING ACT 1997

Notice of Application

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Tania Marie Kelly, c/o Camatta Lempens, 1st Floor, 345 King William Street, Adelaide, S.A. 5000 has applied to the Licensing Authority for the transfer of a Restaurant Licence in respect of premises situated at 218-220 Port Road, Hindmarsh, S.A. 5007 and known as Kisses.

The application has been set down for hearing on 24 February 2003.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Licensing Authority, and serving a copy of the notice on the applicant at the applicant's address given above, at least seven days before the hearing date.

Plans in respect of the premises the subject of the application are open to public inspection without fee at the Office of the Liquor and Gaming Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000.

Applicant

LIQUOR LICENSING ACT 1997

Notice of Application

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Andrew Wayne Hodge, c/o Wallmans Lawyers, 173 Wakefield Street, Adelaide, S.A. 5000 has applied to the Licensing Authority for the transfer of a Restaurant Licence in respect of premises situated at 173 Hutt Street, Adelaide, S.A. 5000 and known as Tantino.

The application has been set down for hearing on 24 February 2003.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Licensing Authority, and serving a copy of the notice on the applicant at the applicant's address given above, at least seven days before the hearing date.

Plans in respect of the premises the subject of the application are open to public inspection without fee at the Office of the Liquor and Gaming Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000.

Dated 16 January 2003.

Applicant

LIQUOR LICENSING ACT 1997

Notice of Application

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that International Vintners Pty Ltd (ACN 060 306 765), 248 Flinders Street, Adelaide, S.A. 5000 has applied to the Licensing Authority for the Removal of the Producer's Licence from premises situated at 136 The Parade, Norwood, S.A. 5067 to premises situated at 11 Birrallee Road, Regency Park, S.A. 5010.

The application has been set down for hearing on 21 February 2003 at 9 a.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Licensing Authority, and serving a copy of the notice on the applicant at the applicant's address given above, at least seven days before the hearing date.

Plans in respect of the premises the subject of the application are open to public inspection without fee at the Office of the Liquor and Gaming Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000.

Applicant

LIQUOR LICENSING ACT 1997

Notice of Application

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Horse Federation South Australia Inc. has applied to the Licensing Authority for a Direct Sales Liquor Licence in respect of premises situated at Morphettville Racecourse, Morphett Road, Glengowrie, S.A. 5044 and to be known as Horse SA.

The application has been set down for hearing on 21 February 2003.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Licensing Authority, and serving a copy of the notice on the applicant at the applicant's address given above, at least seven days before the hearing date.

Plans in respect of the premises the subject of the application are open to public inspection without fee at the Office of the Liquor and Gaming Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000.

Dated 16 January 2003.

Applicant

LIQUOR LICENSING ACT 1997

Notice of Application

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that C. J. Humphries Pty Ltd has applied to the Licensing Authority for a Wholesale Liquor Merchant's Licence in respect of premises situated at 18 Snead Crescent, Fairview Park, S.A. 5126 and to be known as C. J. Humphries.

The application has been set down for hearing on 21 February 2003 at 9 a.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Licensing Authority, and serving a copy of the notice on the applicant at the applicant's address given above, at least seven days before the hearing date.

Plans in respect of the premises the subject of the application are open to public inspection without fee at the Office of the Liquor and Gaming Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000.

Dated 15 January 2003.

Applicant

LIQUOR LICENSING ACT 1997

Notice of Application

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that South Australian Amateur Soccer League Inc. has applied to the Licensing Authority for a Limited Club Licence with an Extended Trading Authorisation and Entertainment Consent in respect of premises situated at corner of Military Road and Trimmer Parade, Grange, S.A. 5022 and to be known as South Australian Amateur Soccer League.

The application has been set down for hearing on 21 February 2003.

Condition

The following licence condition is sought:

Extended Trading Authorisation: Sunday, 8 a.m. to 11 a.m. and 8 p.m. to Midnight.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Licensing Authority, and serving a copy of the notice on the applicant at the applicant's address given above, at least seven days before the hearing date.

Plans in respect of the premises the subject of the application are open to public inspection without fee at the Office of the Liquor and Gaming Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000.

Dated 15 January 2003.

Applicant

LIQUOR LICENSING ACT 1997

Notice of Application

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Aldinga Cricket Club Inc. has applied to the Licensing Authority for a Limited Club Licence in respect of premises situated at Port Road, Aldinga, S.A. 5173 and to be known as Aldinga Cricket Club—Shark Park.

The application has been set down for hearing on 21 February 2003 at 9 a.m.

Condition

The following licence condition is sought:

Entertainment Consent is sought in the area as depicted in the plan.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Licensing Authority, and serving a copy of the notice on the applicant at the applicant's address given above, at least seven days before the hearing date.

Plans in respect of the premises the subject of the application are open to public inspection without fee at the Office of the Liquor and Gaming Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000.

Dated 15 January 2003.

Applicant

LIQUOR LICENSING ACT 1997

Notice of Application

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Brian Richard Smith has applied to the Licensing Authority for the transfer of a Retail Liquor Merchant's Licence in respect of premises situated at corner Main Loxton Street and Holder Street, Moorook, S.A. 5332 and known as Moorook General Store.

The application has been set down for hearing on 24 February 2003 at 10.30 a.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Licensing Authority, and serving a copy of the notice on the applicant at the applicant's address given above, at least seven days before the hearing date.

Plans in respect of the premises the subject of the application are open to public inspection without fee at the Office of the Liquor and Gaming Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000.

Dated 15 January 2003.

Applicant

LIQUOR LICENSING ACT 1997

Notice of Application

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Brian Leslie Stebbing and Kashi Ram Sharma have applied to the Licensing Authority for the transfer of a Restaurant Licence in respect of premises situated at 41 George Street, Parkside, S.A. 5063 and known as Solitaires Bistro and to be known as Namaste Nepalese Restaurant.

The application has been set down for hearing on 24 February 2003 at 10 a.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Licensing Authority, and serving a copy of the notice on the applicants at the applicants' address given above, at least seven days before the hearing date.

Plans in respect of the premises the subject of the application are open to public inspection without fee at the Office of the Liquor and Gaming Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000.

Dated 14 January 2003.

Applicants

MINING ACT 1971

NOTICE is hereby given in accordance with section 28 (5) of the Mining Act 1971, that the Minister for Mineral Resources Development proposes to grant an Exploration Licence over the undermentioned area:

Applicant: Adelaide Exploration Ltd

Location: Pildappa area—Approximately 100 km east of Streaky Bay

Term: 1 year

Area in km²: 139

Ref: 174/02

Plan and co-ordinates can be found on the PIRSA Sarig website: <http://www.minerals.pir.sa.gov.au/sarig> or by phoning Mineral Tenements on (08) 8463 3103.

H. TYRTEOS, Mining Registrar

MINING ACT 1971

NOTICE is hereby given in accordance with section 35A (1) of the Mining Act 1971, that an application for a mining lease over the undermentioned mineral claim has been received. Details of the proposal may be inspected at the Department of Primary Industries and Resources, Mineral Resources Group, Level 5, 101 Grenfell Street, Adelaide, S.A. 5000:

Applicant: Kara Resources Pty Ltd

Claim Number: 3192

Location: In section 206, Hundred of Kulpara, approximately 100 km north-west of Adelaide.

Purpose: To mine limestone in the form of quarry materials.

Reference: T2235

A copy of the proposal has been provided to the District Council of Barunga West.

Written submissions in relation to the granting of the mining lease are invited to be received at the Department of Primary Industries and Resources, Mineral Resources Group, Level 5, 101 Grenfell Street, Adelaide, S.A. 5000 or G.P.O. Box 1671, Adelaide, S.A. 5001 no later than 21 February 2003.

H. TYRTEOS, Mining Registrar

MINING ACT 1971

NOTICE is hereby given in accordance with section 35A (1) of the Mining Act 1971, that an application for a mining lease over the undermentioned mineral claim has been received. Details of the proposal may be inspected at the Department of Primary Industries and Resources, Mineral Resources Group, Level 5, 101 Grenfell Street, Adelaide, S.A. 5000:

Applicant: Kara Resources Pty Ltd

Claim Number: 3193

Location: In sections 207 and 208, Hundred of Kulpara, approximately 100 km north-west of Adelaide.

Purpose: To mine limestone in the form of quarry materials.

Reference: T2236

A copy of the proposal has been provided to the District Council of Barunga West.

Written submissions in relation to the granting of the mining lease are invited to be received at the Department of Primary Industries and Resources, Mineral Resources Group, Level 5, 101 Grenfell Street, Adelaide, S.A. 5000 or G.P.O. Box 1671, Adelaide, S.A. 5001 no later than 21 February 2003.

H. TYRTEOS, Mining Registrar

ROADS (OPENING AND CLOSING) ACT 1991:
SECTION 24**NOTICE OF CONFIRMATION OF ROAD
PROCESS ORDER**

*Peach Street, Reynella
Deposited Plan 60891*

BY Road Process Order made on 20 October 2002, the City of Onkaparinga ordered that:

1. The whole of the public road (Peach street) west of Walnut Street dividing allotments 152 and 153 from allotments 154 and 155 in Deposited Plan 582 more particularly lettered 'A' in Preliminary Plan No. PP02/0036 be closed.

2. The whole of the land subject to closure be transferred to Walnut Grove Estate Pty Ltd in accordance with agreement for transfer dated 10 October 2002 entered into between the City of Onkaparinga and Walnut Grove Estate Pty Ltd.

On 7 November 2002 that order was confirmed by the Minister for Administrative Services conditionally on approval and deposit of the survey plan by the Registrar-General. The condition has now been fulfilled.

Pursuant to section 24 (5) of the Roads (Opening and Closing) Act 1991, NOTICE of the order referred to above and its confirmation is hereby given.

Dated 23 January 2003.

P. M. KENTISH, Surveyor-General

GRANT OF PIPELINE LICENCE PL 15

Corrigendum

Office of Minerals and Energy Resources, Adelaide, 17 January 2003.

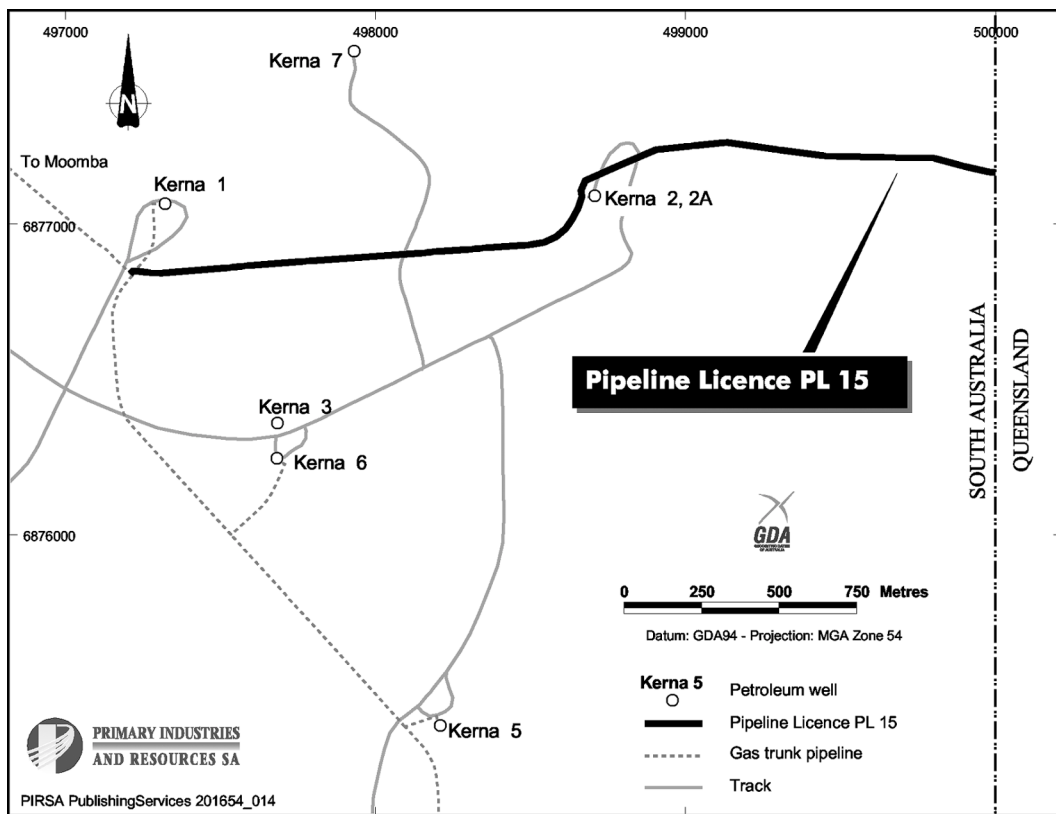
NOTICE is hereby given that the termination point of Pipeline Licence PL 15 was incorrectly described in *Gazette* No. 4 dated 9 January 2003, page 14. Details of the licence, granted under the provisions of the Petroleum Act 2000, pursuant to delegated powers dated 28 March 2002, *Gazetted* 11 April 2002, page 1573 are as follows:

B. A. GOLDSTEIN, Director Petroleum, Office of Minerals and Energy Resources,
 Delegate of the Minister for Mineral Resources Development

No. of Licence	Licensee	Locality of Route	Date of Expiry	Length of Pipeline	Reference
15	Santos Limited Santos Petroleum Pty Ltd Santos Australian Hydrocarbons Pty Ltd Vangas Pty Ltd Delhi Petroleum Pty Ltd Origin Energy Resources Limited Oil Company of Australia Limited	Commencing at the South Australia/ Queensland border and terminating at the Kerna #1 manifold near the Kerna #1 well in the Kerna Gas Field	5 January 2024	3 km	28/01/356

General Description of the Licence Area

The Pipeline is to be constructed along the route shown on the map following:



WATER MAINS AND SEWERS

Office of the South Australian Water Corporation
Adelaide, 23 January 2003

WATER MAINS LAID

Notice is hereby given that the following main pipes or parts of main pipes have been laid down by the South Australian Water Corporation in or near the undermentioned water districts and are now available for a constant supply of water to adjacent land.

ADELAIDE WATER DISTRICT

ADELAIDE HILLS COUNCIL
Orontes Avenue, Bridgewater. p10

CITY OF MARION

McFarlane Avenue, Mitchell Park. p52
Bahloo Avenue, Mitchell Park. p52

CITY OF ONKAPARINGA

Acacia Terrace, Aldinga Beach. p9
David Street, Christies Beach. p11
Seven Hills Heights, Sellicks Beach. p13
Kestrel Terrace, Aldinga Beach. p14
Dunrossil Avenue, Sellicks Beach. p15
Old Coach Road, Maslin Beach. p20
Main Road, McLaren Vale and Willunga. p28 and 29
Bunbury Road, Port Noarlunga South. p35
Mundulla Avenue, Woodcroft. p44
Sovereign Drive, Woodcroft. p44
Autumn Court, Woodcroft. p44
Rose Crescent, McLaren Flat. p46
Easement in Common Property in LTRO Community Plan 21382 (shown as Reynella Close), Hillier Road, Reynella. p53

CITY OF PLAYFORD

Campese Chase, Craigmore. p50
Beckham Rise, Craigmore. p50 and 51
Giggs Glen, Craigmore. p50
Warne Way, Craigmore. p51
Cathy Mews, Craigmore. p51

CITY OF PORT ADELAIDE ENFIELD

Derby Street, Rosewater and Gillman. p31

CITY OF SALISBURY

Caulfield Crescent, Paralowie. p41
Majestic Avenue, Paralowie. p41
Wren Crescent, Paralowie. p41
Koala Crescent, Paralowie. p41 and 45
Easements in allotment piece 547 in LTRO DP 60208, Harvey Avenue, Walkley Heights. p43
Kempton Avenue, Paralowie. p45
Rosella Street, Mawson Lakes. p55
Harbour Lane, Mawson Lakes. p55
Portsmouth Lane, Mawson Lakes. p55

ARDROSSAN WATER DISTRICT

DISTRICT COUNCIL OF YORKE PENINSULA
Main Coast Road, Ardrossan. This main is available on the west side by application only. p22
Hogarth Street, Ardrossan. p27

CLINTON WATER DISTRICT

DISTRICT COUNCIL OF YORKE PENINSULA
Duryea Street, Clinton. p26

GOOLWA WATER DISTRICT

ALEXANDRINA COUNCIL
Gordon Street, Goolwa Beach. p3

KINGSCOTE WATER DISTRICT

KANGAROO ISLAND COUNCIL
Commercial Street, Kingscote. p7
Brownlow Road, Kingscote. p47 and 48
Easement in lot 503 in LTRO DP 44493, Brownlow Road, Kingscote. p48

MOONTA WATER DISTRICT

DISTRICT COUNCIL OF THE COPPER COAST
Moonta Road, Moonta Bay. p24

NURIOOTPA WATER DISTRICT

BAROSSA COUNCIL
Easements in lot 50 in LTRO DP 46038, Oxley Street, Nuriootpa. p49

PORT ELLIOT WATER DISTRICT

ALEXANDRINA COUNCIL
Waterport Road, Port Elliot. p1
Gregory Street, Port Elliot. p1
Wright Street, Port Elliot. p2

PORT MACDONNELL WATER DISTRICT

DISTRICT COUNCIL OF GRANT
Elizabeth Street, Port MacDonnell. This main is available on application only. p16

PORT VICTOR WATER DISTRICT

CITY OF VICTOR HARBOR
Seacrest Avenue, Encounter Bay. p6

PORT VICTORIA WATER DISTRICT

DISTRICT COUNCIL OF YORKE PENINSULA
Davies Terrace, Port Victoria. This main is available on the west side by application only. p25

SPRINGTON WATER DISTRICT

BAROSSA COUNCIL
Daly Street, Springton. p19
Charles Street, Springton. p19

STRATHALBYN WATER DISTRICT

ALEXANDRINA COUNCIL
Edinburgh Road, Strathalbyn. p32
Bosisto Lane, Strathalbyn. p34
Edward Street, Strathalbyn. p38

TUNGKILLO WATER DISTRICT

MID MURRAY COUNCIL
Adelaide-Mannum Road, Tungkillo. p21

YORKE PENINSULA COUNTRY LANDS WATER DISTRICT

DISTRICT COUNCIL OF YORKE PENINSULA
Davies Terrace, Port Victoria. p25

WATER MAINS ABANDONED

Notice is hereby given that the undermentioned water mains have been abandoned by the South Australian Water Corporation.

ADELAIDE WATER DISTRICT

CITY OF ONKAPARINGA
Main Road, McLaren Vale and Willunga. p28 and 29

CITY OF PORT ADELAIDE ENFIELD
Derby Street, Rosewater and Gillman. p31

CITY OF UNLEY
Cremorne Street, Malvern and Fullarton. p42

ADDENDA

Addendum to notice in "*Government Gazette*" of 12 March 1914

"Mains have been laid in the undermentioned streets, and water is now ready for distribution."

"MOUNT GAMBIER WATER DISTRICT"

"District of Mount Gambier West"

"Government road south of sections 383, 384, and 584, hundred of Blanche—3 420 ft of 3 in main, continuation of 3 in main, running west."

To this notice add "This main is not available for constant rateable supply." p23

Addendum to notice in "*Government Gazette*" of 18 October 1945

"WATER MAINS LAID"**"BLUE LAKE COUNTRY WATER DISTRICT"**

"District of Mount Gambier"

"Government road north of section 385, hundred of Blanche—1 159 ft of 3 in main, continuation of 3 in main, running west to part section 385."

To this notice add "This main is not available for constant rateable supply." p23

SEWERS LAID

Notice is hereby given that the following sewers have been laid down by the South Australian Water Corporation in the undermentioned drainage areas and are now available for house connections.

ADELAIDE DRAINAGE AREA

CITY OF CHARLES STURT
Northey Court, Henley Beach. FB 1109 p32

CITY OF MARION
Barry Road, Oaklands Park. FB 1109 p33

CITY OF MITCHAM
Easement in lot 2 in LTRO DP 24935, Mountain Road, Eden Hills. FB 1111 p22

CITY OF ONKAPARINGA
Easement in lots 142 and 141, Valley View Crescent, Hackham West. FB 1111 p5
Louisa Street, Morphett Vale. FB 1111 p7
Easement in Common Property in LTRO SP 6842, Louisa Street, Morphett Vale. FB 1111 p7
David Street, Christies Beach. FB 1111 p19
Easements in lot 2 in LTRO DP 56967, Glynville Drive, Hackham West. FB 1111 p18
Knox Drive, Woodcroft. FB 1111 p17
Bunbury Road, Port Noarlunga South. FB 1111 p23
Mundulla Avenue, Woodcroft. FB 1110 p53 and 54
Sovereign Drive, Woodcroft. FB 1110 p53 and 54
Autumn Court, Woodcroft. FB 1110 p53 and 54
Easements in lot 470 in LTRO FP 36211, Greenfield Rise, Aberfoyle Park. FB 1110 p40-42

CITY OF SALISBURY
Foster Street, Pooraka. FB 1111 p1
Caulfield Crescent, Paralowie. FB 1110 p43 and 44
Majestic Avenue, Paralowie. FB 1110 p43 and 44
Wren Crescent, Paralowie. FB 1110 p43 and 44
Koala Crescent, Paralowie. FB 1110 p43, 44 and 55
Easements in allotment piece 547 in LTRO DP 60208, Harvey Avenue, Walkley Heights. FB 1110 p45-49

ALDINGA DRAINAGE AREA

CITY OF ONKAPARINGA
Kitto Crescent, Aldinga Beach. FB 1111 p4
Esplanade, Port Willunga. FB 1111 p3 and 6
Jaguar Avenue, Port Willunga. FB 1111 p2 and 14
Standfield Road, Aldinga Beach. FB 1111 p16
Follett Street, Aldinga Beach. FB 1111 p11 and 15
Blacker Road, Aldinga Beach. FB 1111 p24
De Caux Avenue, Port Willunga. FB 1111 p13
Atkinson Crescent, Aldinga Beach. FB 1111 p12
Shelly Avenue, Port Willunga. FB 1111 p10
Harvey Crescent, Aldinga Beach. FB 1111 p9
Stone Street, Aldinga Beach. FB 1111 p8
Illman Crescent, Aldinga Beach. FB 1111 p8

STIRLING COUNTRY DRAINAGE AREA

ADELAIDE HILLS COUNCIL
Easements in lots 15 and 14, Milan Terrace, Stirling. FB 1111 p20

SEWERS ABANDONED

Notice is hereby given that the undermentioned sewer has been abandoned by the South Australian Water Corporation.

VICTOR HARBOR COUNTRY DRAINAGE AREA

CITY OF VICTOR HARBOR
Easement in lot 1, Bridge Terrace, Victor Harbor. FB 1111 p25

A. HOWE, Chief Executive Officer, South Australian Water Corporation.

South Australia

Dog Fence (Constitution of Local Dog Fence Boards) Variation Proclamation 2003

under section 35C(a) of the *Dog Fence Act 1946*

Part 1—Preliminary

Short title

1. This proclamation may be cited as the *Dog Fence (Constitution of Local Dog Fence Boards) Variation Proclamation 2003*.

Commencement

2. This proclamation comes into operation on the day on which it is made.

Variation provisions

3. In this proclamation, a provision under a heading referring to the variation of a specified proclamation varies the proclamation so specified.

Part 2—Variation of proclamation under Dog Fence Act 1946 constituting local dog fence boards (Gazette 2.10.1975 p 1819) as varied

Amendment of Second Schedule

4. (1) Second Schedule, under heading *Central Local Dog Fence Board*—delete "Archie Jamison McTaggart" and substitute:

James William Gibson

(2) Second Schedule, under heading *Marree Local Dog Fence Board*—delete "Ambrose James Reynolds" and substitute:

Trevor John Mengersen

(3) Second Schedule, under heading *Marree Local Dog Fence Board*—delete "Francis Eric McCourt" and substitute:

Leonard Nutt

EC03/0015CS

Made by the Governor

**on the recommendation of the Dog Fence Board and with the advice and consent of the Executive Council
on 23 January 2003.**

South Australia

National Parks and Wildlife (Reserves) (Seal Bay and Vivonne Bay Conservation Parks) Variation Proclamation 2003

under section 43(4) of the *National Parks and Wildlife Act 1972*

Preamble

1. By proclamation made under Part 3 of the *National Parks and Wildlife Act 1972* on 4 November 1993 (see *Gazette* 4.11.1993 p 2175)—

(a) the following land was added to the Seal Bay Conservation Park:

Section 3, Hundred of Seddon;

(b) the following land was added to the Vivonne Bay Conservation Park:

Sections 6 and 125, Hundred of Newland.

2. The proclamation provided that rights of entry, prospecting, exploration and mining under the *Mining Act 1971* or under the *Petroleum Act 1940* (as it then was) could in certain circumstances be acquired or exercised in relation to the land added to the Conservation Parks.

3. It is now intended that the proclamation be varied so that—

(a) rights of entry, prospecting, exploration or mining under the *Mining Act 1971* are no longer able to be acquired in relation to the land added to the Seal Bay Conservation Park; and

(b) rights of entry, prospecting, exploration or mining under the *Petroleum Act 1940* (or its successor) are no longer able to be acquired or exercised in relation to the land added to the Seal Bay Conservation Park; and

(c) rights of entry, prospecting, exploration or mining under the *Mining Act 1971* or the *Petroleum Act 1940* (or its successor) are no longer able to be acquired or exercised in relation to the land added to the Vivonne Bay Conservation Park.

4. Resolutions requesting the making of this proclamation have been passed by both the House of Assembly and the Legislative Council.

Part 1—Preliminary

Short title

1. This proclamation may be cited as the *National Parks and Wildlife (Reserves) (Seal Bay and Vivonne Bay Conservation Parks) Variation Proclamation 2003*.

Commencement

2. This proclamation comes into operation on the day on which it is made.

Variation provisions

3. In this proclamation, a provision under a heading referring to the variation of a specified proclamation varies the proclamation so specified.

Part 2—Variation of proclamation under National Parks and Wildlife Act 1972 constituting, adding land to, and preserving mining rights in, reserves (Gazette 4.11.1993 p 2175)

Variation of clause 2

4. (1) Clause 2—delete "schedule 2" and substitute:

schedules 2, 3 and 4

(2) Clause 2—delete "of that schedule" and substitute:

of the schedule

Insertion of clause 4A

5. After clause 4 insert:

4A. Subject to clause 5, rights of entry, prospecting, exploration or mining under the *Mining Act 1971* existing immediately prior to the commencement of this clause may continue to be exercised in respect of the land described in schedule 3.

Variation of clause 5

6. Clause 5—delete "schedules 1 or 2" and substitute:

schedule 1, 2 or 3

Variation of Schedule 2

7. Schedule 2—delete the items relating to Seal Bay Conservation Park and Vivonne Bay Conservation Park

Insertion of Schedules 3 and 4

8. After Schedule 2 insert:

SCHEDULE 3		
Reserve	Description of land	
Seal Bay Conservation Park	Hundred Seddon	Section 3
SCHEDULE 4		
Reserve	Description of land	
Vivonne Bay Conservation Park	Hundred Newland	Sections 6, 125

EC 02/0058 CS

Made by the Governor

pursuant to the resolution of both Houses of Parliament referred to in the preamble and with the advice and consent of the Executive Council on 23 January 2003.

South Australia

National Parks and Wildlife (Lashmar Conservation Park) Variation Proclamation 2003

under section 43(4) of the *National Parks and Wildlife Act 1972*

Preamble

1. By proclamation made under sections 30 and 43 of the *National Parks and Wildlife Act 1972* on 16 September 1993 (see *Gazette* 16.9.1993 p 1128), the following land was constituted as the Lashmar Conservation Park:

Section 76, Hundred of Dudley, County of Carnarvon

2. The proclamation provided that rights of entry, prospecting, exploration or mining under the *Mining Act 1971* could in certain circumstances be acquired or exercised in relation to that land.

3. It is now intended that the proclamation be varied so that such rights are no longer able to be acquired or exercised in relation to that land.

4. A resolution requesting the making of this proclamation has been passed by both the House of Assembly and the Legislative Council.

Part 1—Preliminary

Short title

1. This proclamation may be cited as the *National Parks and Wildlife (Lashmar Conservation Park) Variation Proclamation 2003*.

Commencement

2. This proclamation comes into operation on the day on which it is made.

Variation provisions

3. In this proclamation, a provision under a heading referring to the variation of a specified proclamation varies the proclamation so specified.

Part 2—Variation of proclamation under National Parks and Wildlife Act 1972 constituting, and preserving mining rights in, Lashmar Conservation Park (Gazette 16.9.1993 p 1128)

Revocation of clauses 2, 3 and 4

4. Clauses 2, 3 and 4—delete the clauses

EC 02/0058 CS

Made by the Governor

pursuant to the resolution of both Houses of Parliament referred to in the preamble and with the advice and consent of the Executive Council on 23 January 2003.

South Australia

National Parks and Wildlife (Reserves) (Flinders Chase National Park) Variation Proclamation 2003

under section 43(4) of the *National Parks and Wildlife Act 1972*

Preamble

1. By proclamation made under Part 3 of the *National Parks and Wildlife Act 1972* on 14 August 1997 (see *Gazette* 14.8.1997 p 336), the following land was added to the Flinders Chase National Park:

Section 53, Hundred of Borda, County of Carnarvon.

2. The proclamation provided that certain rights relating to the construction and operation of a pipeline under the *Petroleum Act 1940* (as it then was) could in certain circumstances be acquired and exercised in relation to that land.

3. It is now intended that the proclamation be varied so that such rights are no longer able to be acquired or exercised in relation to the land.

4. A resolution requesting the making of this proclamation has been passed by both the House of Assembly and the Legislative Council.

Part 1—Preliminary

Short title

1. This proclamation may be cited as the *National Parks and Wildlife (Reserves) (Flinders Chase National Park) Variation Proclamation 2003*.

Commencement

2. This proclamation comes into operation on the day on which it is made.

Variation provisions

3. In this proclamation, a provision under a heading referring to the variation of a specified proclamation varies the proclamation so specified.

Part 2—Variation of proclamation under National Parks and Wildlife Act 1972 adding land to, and preserving mining rights in, reserves (Gazette 14.8.1997 p 336)

Variation of clause 3

4. Clause 3(1)(b)—delete paragraph (b) and the word "and" immediately preceding that paragraph

Variation of clause 4

5. Clause 4(2)—delete subclause (2)

EC 02/0058 CS

Made by the Governor

**pursuant to the resolution of both Houses of Parliament referred to in the preamble
and with the advice and consent of the Executive Council
on 23 January 2003.**

South Australia

Fisheries (General) Variation Regulations 2003

under the *Fisheries Act 1982*

Contents

Part 1—Preliminary

1. Short title
2. Commencement
3. Variation provisions

Part 2—Variation of Fisheries (General) Regulations 2000 (Gazette 31.8.2000 p 1235) as varied

4. Variation of regulation 4—Interpretation
-

Part 1—Preliminary

Short title

1. These regulations may be cited as the *Fisheries (General) Variation Regulations 2003*.

Commencement

2. These regulations come into operation on the day on which they are made.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in this regulation.

Variation provisions

3. In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of Fisheries (General) Regulations 2000 (Gazette 31.8.2000 p 1235) as varied

Variation of regulation 4—Interpretation

4. Regulation 4(1), definition of "**pilchard net**"—delete the definition and substitute:

"**pilchard net**" means a purse seine net that—

- (a) is no more than 1000 metres in length; and
- (b) is no more than 200 metres in depth; and

- (c) has a minimum mesh size of 14 millimetres; and
- (d) has a maximum mesh size of 22 millimetres;

MAFF 02/0075 CS

No. 7 of 2003

**Made by the Governor
with the advice and consent of the Executive Council
on 23 January 2003.**

South Australia

Dog Fence Variation Regulations 2003

under the *Dog Fence Act 1946*

Contents

Part 1—Preliminary

1. Short title
2. Commencement
3. Variation provisions

Part 2—Variation of Dog Fence Regulations 1997 (Gazette 22.1.1998 p 287)

4. Variation of regulation 4—Prescribed rate
-

Part 1—Preliminary

Short title

1. These regulations may be cited as the *Dog Fence Variation Regulations 2003*.

Commencement

2. These regulations come into operation on the day on which they are made.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in this regulation.

Variation provisions

3. In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of Dog Fence Regulations 1997 (Gazette 22.1.1998 p 287)

Variation of regulation 4—Prescribed rate

4. Regulation 4—delete "\$4.50" and substitute:

\$5.50

EC 02/0057 CS

No. 8 of 2003

Made by the Governor

**on the recommendation of the Dog Fence Board and with the advice and consent of the Executive Council
on 23 January 2003.**

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CITY OF CHARLES STURT

ROADS (OPENING AND CLOSING) ACT 1991

Giles Street, Kilkenny

NOTICE is hereby given pursuant to section 10 of the Roads (Opening and Closing) Act 1991, that the council proposes to make a Road Process Order to close, sell and transfer to Spring Grove Estate Pty Ltd the remainder of Giles Street adjoining allotment 50 in Deposited Plan 45534, shown marked 'A' on Preliminary Plan No. 02/0134.

A copy of the plan and statement of persons affected are available for public inspection at the Council Office, 72 Woodville Road, Woodville and the office of the Surveyor-General, 101 Grenfell Street, Adelaide during normal office hours.

Any application for easement or objections must be made in writing within 28 days from 23 January 2003, to the Council, P.O. Box 1, Woodville, S.A. 5011 and the Surveyor-General, G.P.O. Box 1354, Adelaide, S.A. 5001, setting out full details. Where a submission is made, council will give notification of a meeting to deal with the matter.

Dated 23 January 2003.

P. LOCKETT, Chief Executive Officer

CITY OF MOUNT GAMBIER

Resignation

NOTICE is hereby given that Rick Smith, Councillor for the South East Ward, has resigned from council as at 17 January 2003.

The provisions of section 6 (2) of the Local Government (Elections) Act 1999, will now apply i.e. there is no need to fill the casual vacancy.

G. MULLER, Chief Executive Officer

CITY OF NORWOOD, PAYNEHAM & ST PETERS

Supplementary Election for Councillor—Nominations Received

NOTICE is hereby given that at the close of nominations at 12 noon on Thursday, 16 January 2003, the following persons were accepted as candidates and are listed in the order in which they will appear on the ballot paper:

Councillor for Payneham Ward (one vacancy):

Duke, Kevin
Winderlich, David

Postal Voting

The election will be conducted entirely by postal voting. No polling booth will be open for voting on polling day. Voting is not compulsory.

Voting material will be dispatched by post to every natural person, body corporate and group listed on the voters roll as at roll closure on Friday, 29 November 2002.

The mailout will commence on 28 January 2003, with all voting materials to be delivered by 3 February 2003.

A person who has not received voting material by 3 February 2003 and who believes that he or she is entitled to vote should apply to the State Electoral Office on 8401 4324.

A pre-paid addressed envelope for each elector entitlement will be provided. Completed ballot material must be returned to reach the Returning Officer no later than 12 noon on Monday, 17 February 2003.

A ballot box will be provided at the Council Office, 175 The Parade, Norwood and the Payneham Customer Service Office (Council Library), 374 Payneham Road, Payneham for electors who wish to personally deliver their completed ballot material during office hours.

Place of Counting Votes

The scrutiny and counting of votes will take place in the Mayor's Parlour of the City of Norwood, Payneham & St Peters, 175 The Parade, Norwood, as soon as practicable after 12 noon on Monday, 17 February 2003. A provisional declaration will be made at the conclusion of the election count.

Campaign Donations Return

All candidates must forward a campaign donations return to the Council Chief Executive Officer within six weeks after the conclusion of the election.

STEVE TULLY, Returning Officer

CITY OF WEST TORRENS

*Development Plan—Bulky Goods (Metropolitan) Zone Plan
Amendment Report—Draft for Public Consultation*

NOTICE is hereby given that the City of West Torrens has prepared a draft Bulky Goods (Metropolitan) Zone Plan Amendment Report (PAR) to amend the City of West Torrens Development Plan.

The PAR will amend the City of West Torrens Development Plan by creating a zone, at Mile End South, which will enable the establishment of a metropolitan scale Bulky Goods Village. The area affected is bounded by Sir Donald Bradman Drive to the north, London Road to the south, Railway Terrace to the east and the proposed City West Bypass to the west.

The major policy changes introduced by this PAR are:

- rezoning of the affected area from Industry Zone and Commercial (Arterial Road) to Bulky Goods (Metropolitan) Zone;
- introduction of a Structure/Concept Plan for the affected area;
- introduction of zone policies that encourage bulky goods stores and discourages residential and the majority of retail type uses.

The draft PAR will be available for public inspection during normal office hours at the Civic Centre, City of West Torrens, 165 Sir Donald Bradman Drive, Hilton, from Tuesday, 28 January 2003 to Friday, 28 March 2003. The draft PAR will also be available for inspection at the City of West Torrens Library, Brooker Terrace, Hilton, the Thebarton Library, 166 South Road, Torrensville and the City of West Torrens website at www.wtcc.sa.gov.au. A copy of the PAR can be purchased from the Civic Centre at a cost of \$10 each.

Written submissions regarding the draft PAR will be accepted by the City of West Torrens until 5 p.m. on Friday, 28 March 2003. Written submissions should also clearly indicate whether you wish to speak at the public hearing on your submission. All submissions should be addressed to the Chief Executive Officer, City of West Torrens, 165 Sir Donald Bradman Drive, Hilton, S.A. 5033.

Copies of all submissions received will be available for inspection by interested persons at the Civic Centre, 165 Sir Donald Bradman Drive, from Monday, 31 March 2003 until the date of the public hearing.

A public hearing will be held at 7.30 p.m. on Thursday, 10 April 2003 at the Civic Centre, 165 Sir Donald Bradman Drive, Hilton. The hearing may not be held if no submission indicates an interest in speaking at the public hearing.

For further information, please contact the Principal Planner, Policy and Projects, Paul Weymouth on 8416 6247.

Dated 23 January 2003.

T. M. STARR, Chief Executive Officer

ADELAIDE HILLS COUNCIL
ROADS (OPENING AND CLOSING) ACT 1991

Argosy Road, Birdwood

NOTICE is hereby given pursuant to section 10 of the Roads (Opening and Closing) Act 1991, that the Adelaide Hills Council proposes to make a Road Process Order to close, sell and transfer to Adelaide Brighton Cement Ltd that portion of Argosy Road adjoining section 6397, Hundred of Talunga and shown as 'A' on Preliminary Plan 02/0143.

A copy of the plan and statement of persons affected are available for public inspection at the Council Office, 28 Main Street, Woodside and the office of the Surveyor-General, 101 Grenfell Street, Adelaide during normal office hours.

Any application for easement or objection must be made in writing within 28 days from 23 January 2003 to the Council, P.O. Box 44, Woodside, S.A. 5244 and the Surveyor-General, G.P.O. Box 1354, Adelaide, S.A. 5001 setting out full details.

Where a submission is made council will give notification of a meeting to deal with the matter.

P. PEPPIN, Chief Executive Officer

DISTRICT COUNCIL OF LOWER EYRE PENINSULA

*Supplementary Election for Two Area Councillors—
Nominations Received*

NOTICE is hereby given that at the close of nominations at 12 noon on Thursday, 16 January 2003, the following persons have been accepted as candidates and are listed in the order in which they will appear on the ballot paper:

Area Councillor (two vacancies):

Trotman, Wesley
Murray, Leon
Hill, Max
Johnson, Frank
Holman, Wendy
Pedler, Paul

Postal Voting

The election will be conducted entirely by postal voting. No polling booth will be open for voting on polling day. Voting is not compulsory.

Voting material will be dispatched by post to every natural person, body corporate and group listed on the voters roll as at roll closure on Friday, 29 November 2002.

The mailout will commence on Tuesday, 28 January 2003, with all voting materials to be delivered by Monday, 3 February 2003.

A person who has not received voting material by Monday, 3 February 2003 and who believes that he or she is entitled to vote should apply to the State Electoral Office on 1300 655 232.

A pre-paid addressed envelope for each elector entitlement will be provided. Completed ballot material must be returned to reach the Returning Officer no later than 12 noon on Monday, 17 February 2003.

A ballot box will be provided at the Council Office, Railway Terrace, Cummins and the sub-office Washington Street, Port Lincoln for electors who wish to personally deliver their completed ballot material during office hours.

Place of Counting Votes

The scrutiny and counting of votes will take place at the Council Office, Railway Terrace, Cummins as soon as practicable after 12 noon on Monday, 17 February 2003. A provisional declaration will be made at the conclusion of the election count.

Campaign Donations Return

All candidates must forward a campaign donations return to the Council Chief Executive Officer within six weeks after the conclusion of the election.

STEVE TULLY, Returning Officer

IN the matter of the estates of the undermentioned deceased persons:

Bone, Lloyd George, late of 22 Harrow Terrace, Kingswood, retired company director, who died on 20 August 2002.

Foale, Leonard Spencer, late of 262 Cross Road, Kings Park, retired quarry proprietor, who died on 1 December 2002.

Gordon, Gwendoline Gertrude, late of 54 Gloucester Avenue, Belair, of no occupation, who died on 23 November 2002.

Huntington, Alison Madge, late of 6 Ellis Street, Enfield, widow, who died on 8 November 2002.

Kain, Darryl, late of 18 Swan Street, Mount Gambier, machine operator, who died on 30 August 2002.

Lelys, Pranas Algirdas, late of 6 James Street, Cheltenham, of no occupation, who died on 8 July 2002.

Lindsay, Ronald Ross, late of 8 Cocos Grove, West Lakes, retired telecommunications technician, who died on 10 October 2002.

O'Brien, Eileen Jean, late of 29 Norman Street, Woodville, retired cleaner, who died on 7 November 2002.

Page, Harold, late of 580 Lower North East Road, Campbelltown, retired painter, who died on 30 November 2002.

Ullucci, Lorenza, late of 2 Maurice Road, Murray Bridge, home duties, who died on 12 February 2001.

Notice is hereby given pursuant to the Trustee Act 1936, as amended, the Inheritance (Family Provision) Act 1972, and the Family Relationships Act 1975, that all creditors, beneficiaries, and other persons having claims against the said estates are required to send, in writing, to the Public Trustee, 25 Franklin Street, Adelaide, S.A. 5000, full particulars and proof of such claims, on or before 21 February 2003, otherwise they will be excluded from the distribution of the said estate; and notice is also hereby given that all persons who are indebted to the said estates are required to pay the amount of their debts to the Public Trustee or proceedings will be taken for the recovery thereof; and all persons having any property belonging to the said estates are forthwith to deliver the same to the Public Trustee.

Dated 23 January 2003.

C. J. O'LOUGHLIN, Public Trustee

UNCLAIMED MONEYS ACT 1891-1975

Register of Unclaimed Moneys over \$10 held by Argo Investments Limited as at January 2003

Name of Owner on Books	Total Amount Due to Owner \$	Description of Unclaimed Moneys	Date of Last Claim
Abacus Nominees Limited	877.50	Dividend on shares	May 1995
John Fletcher Aitchison Esq.....	32.89	Dividend on shares	May 1995
	36.21	Dividend on shares	November 1995
	36.21	Dividend on shares	May 1996
	39.85	Dividend on shares	November 1996
Patricia Mary Blesing.....	14.95	Dividend on shares	May 1995
	16.45	Dividend on shares	November 1995
	16.45	Dividend on shares	May 1996
	18.07	Dividend on shares	November 1996
Box Nominees Limited (in liquidation) <A/C SURP>	13.75	Dividend on shares	May 1993
	12.69	Dividend on shares	November 1993
	14.17	Dividend on shares	May 1994
	13.08	Dividend on shares	November 1994
	14.17	Dividend on shares	May 1995
	15.60	Dividend on shares	November 1995
	15.60	Dividend on shares	May 1996
	17.16	Dividend on shares	November 1996
Charles Gilbert Brock Esq.....	10.73	Dividend on shares	November 1996
Michelle Kathleen Clissold.....	143.00	Dividend on shares	May 1996
	14.30	Dividend on shares	November 1996
Janette Joy Clonan.....	23.86	Dividend on shares	November 1995
Coastal Nominees Limited <A/C NI>.....	22.95	Dividend on shares	May 1995
	25.22	Dividend on shares	November 1995
	25.22	Dividend on shares	May 1996
	27.76	Dividend on shares	November 1996
Miles Andrew Crawley and Helen May Crawley <A/C The Crawley Superannuation Fund>.....	44.27	Dividend on shares	November 1995
Kendell Daly	16.12	Dividend on shares	November 1995
	16.12	Dividend on shares	May 1996
	17.75	Dividend on shares	November 1996
Kathryn Margaret Davidson	19.50	Dividend on shares	November 1996
Arthur William Etherington.....	24.12	Dividend on shares	May 1995
	26.52	Dividend on shares	November 1995
	26.52	Dividend on shares	May 1996
	29.19	Dividend on shares	November 1996
Gorton Nominees Limited	13.59	Dividend on shares	November 1995
	13.59	Dividend on shares	May 1996
	14.95	Dividend on shares	November 1996
Jane Elinor Hall.....	13.52	Dividend on shares	November 1996
Ibrahim Abdel Hamid.....	12.61	Dividend on shares	May 1992
	11.64	Dividend on shares	November 1992
	12.61	Dividend on shares	May 1993
	11.64	Dividend on shares	November 1993
	13.00	Dividend on shares	May 1994
	12.00	Dividend on shares	November 1994
	13.00	Dividend on shares	May 1995
	14.30	Dividend on shares	November 1995
	14.30	Dividend on shares	May 1996
	15.73	Dividend on shares	November 1996
Stanley G. Hammond-Seaman.....	449.09	Dividend on shares	November 1996
Nicolle Louise Hancock	28.60	Dividend on shares	November 1995
Timothy Stewart Hancock	28.60	Dividend on shares	November 1995
Kirsty Louise Hewitt	31.46	Dividend on shares	November 1996
Stephanie Dione Hodge.....	35.43	Dividend on shares	May 1995
	39.00	Dividend on shares	November 1995
	39.00	Dividend on shares	May 1996
	42.90	Dividend on shares	November 1996
Adrian Jeffrey Hodgson.....	34.91	Dividend on shares	November 1995
G. M. Hopkin and M. Beamish.....	16.12	Dividend on shares	May 1995
	17.75	Dividend on shares	November 1995
	17.75	Dividend on shares	May 1996
	19.50	Dividend on shares	November 1996
Geoffrey William Hughes Esq.....	36.47	Dividend on shares	May 1995
	40.11	Dividend on shares	November 1995
	40.11	Dividend on shares	May 1996
	44.14	Dividend on shares	November 1996
Louise Marjorie Hurd.....	26.00	Dividend on shares	May 1995
	28.60	Dividend on shares	November 1995
	28.60	Dividend on shares	May 1996
	31.46	Dividend on shares	November 1996

Name of Owner on Books	Total Amount Due to Owner \$	Description of Unclaimed Moneys	Date of Last Claim
Suzanne Shalom Huston	10.60	Dividend on shares	May 1995
	11.64	Dividend on shares	November 1995
	11.64	Dividend on shares	May 1996
	12.81	Dividend on shares	November 1996
Gordon Thomas Hutchison	15.73	Dividend on shares	May 1996
Grosvenor Thomas Inglis Deceased	155.74	Dividend on shares	May 1992
Somone Kylie Johns	16.12	Dividend on shares	May 1995
	17.75	Dividend on shares	November 1995
	17.75	Dividend on shares	May 1996
	19.50	Dividend on shares	November 1996
Phillippa Mary Kenihan	61.62	Dividend on shares	November 1996
Michael Brendan Lamond	12.81	Dividend on shares	May 1996
	14.11	Dividend on shares	November 1996
Sondra Louise Locke	53.63	Dividend on shares	November 1996
Thomas Richard Harman Luce Esq	13.98	Dividend on shares	May 1995
	15.41	Dividend on shares	November 1995
	15.41	Dividend on shares	May 1996
	16.97	Dividend on shares	November 1996
Malcolm Allan Mattschoss and Marjoria Ellen Mattschoss ..	73.13	Dividend on shares	May 1995
	80.47	Dividend on shares	November 1995
	80.47	Dividend on shares	May 1996
	88.53	Dividend on shares	November 1996
Julie Ann McEwin, Heather Rosalyn Yates <A/C Kerry A., Brett L. McEwin, Lachlan I. and Kirsten J. Yates.	57.20	Dividend on shares	November 1995
	57.20	Dividend on shares	May 1996
	62.92	Dividend on shares	November 1996
Anne Maree McFarland	23.60	Dividend on shares	November 1996
Lewis John Oliver McGill	16.12	Dividend on shares	May 1995
	17.75	Dividend on shares	November 1995
Margaret Anne McGowan	10.47	Dividend on shares	November 1996
Paul Francis McLean	21.45	Dividend on shares	May 1995
	23.60	Dividend on shares	November 1995
	23.60	Dividend on shares	May 1996
	25.94	Dividend on shares	November 1996
Susan Jane Milne	81.06	Dividend on shares	May 1996
Charles David Munn	10.86	Dividend on shares	November 1996
John Scott Neale	29.45	Dividend on shares	May 1996
Robert Maxell Neale	26.78	Dividend on shares	May 1995
	29.45	Dividend on shares	November 1995
	29.45	Dividend on shares	May 1996
	32.37	Dividend on shares	November 1996
Suzanne Louise Newton	17.75	Dividend on shares	November 1996
Hamish Oliver	26.00	Dividend on shares	May 1995
	28.60	Dividend on shares	May 1996
	31.46	Dividend on shares	November 1996
Lisa Patrick	24.18	Dividend on shares	May 1996
Prudence Noel Pennefather	77.16	Dividend on shares	May 1995
	84.89	Dividend on shares	November 1995
	84.89	Dividend on shares	May 1996
	93.41	Dividend on shares	November 1996
Jean Agnes Prider	213.92	Dividend on shares	November 1995
Margaret Joan Pryer	53.50	Dividend on shares	May 1996
Elizabeth Rimmington	30.03	Dividend on shares	May 1995
	33.02	Dividend on shares	November 1995
	33.02	Dividend on shares	May 1996
	36.34	Dividend on shares	November 1996
Frances Joy Robertson	33.74	Dividend on shares	November 1996
David John Rodgers	40.11	Dividend on shares	November 1996
Anna Hellain Russell	15.93	Dividend on shares	May 1995
	17.55	Dividend on shares	November 1995
	17.55	Dividend on shares	May 1996
	19.31	Dividend on shares	November 1996
Justin Alan Salter	31.46	Dividend on shares	November 1996
Paul Peter Sandercock	15.60	Dividend on shares	May 1996
Richard Bruce Sanderson	31.98	Dividend on shares	May 1996
	35.17	Dividend on shares	November 1996
Darrell Gordon Sard and Samantha Ann Sard	116.03	Dividend on shares	November 1996
Brian George Sinfield Esq	10.73	Dividend on shares	November 1996
Gary Stevens and Jillian Kaye Stevens	10.60	Dividend on shares	May 1995
	11.64	Dividend on shares	November 1995
	11.64	Dividend on shares	May 1996
	12.81	Dividend on shares	November 1996
Debbie Tayler	10.27	Dividend on shares	May 1995
Emma Jane Timmins	11.64	Dividend on shares	May 1996

Name of Owner on Books	Total Amount Due to Owner \$	Description of Unclaimed Moneys	Date of Last Claim
Kathleen Ruth Tolland	16.51	Dividend on shares	May 1995
	18.14	Dividend on shares	November 1995
	18.14	Dividend on shares	May 1996
	19.96	Dividend on shares	November 1996
Gaye Tonkin	12.48	Dividend on shares	May 1995
	13.72	Dividend on shares	November 1995
	13.72	Dividend on shares	May 1996
	15.08	Dividend on shares	November 1996
Elwin Arthur Tribe and Mary Pamela Anne Tribe	13.00	Dividend on shares	May 1995
	14.30	Dividend on shares	November 1995
	14.30	Dividend on shares	May 1996
	15.73	Dividend on shares	November 1996
Cynthia Joan Turner and Frederick Edward Turner	16.19	Dividend on shares	November 1995
	16.19	Dividend on shares	May 1996
	17.81	Dividend on shares	November 1996
Mary Gwyneth Viveash	41.15	Dividend on shares	May 1995
	45.24	Dividend on shares	November 1995
	45.24	Dividend on shares	May 1996
	49.79	Dividend on shares	November 1996
Charles Brian Wakefield Esq.	21.13	Dividend on shares	May 1995
	23.27	Dividend on shares	November 1995
	23.27	Dividend on shares	May 1996
	25.61	Dividend on shares	November 1996
David John Walker	41.34	Dividend on shares	November 1996
Rosemary Jean Warr	42.90	Dividend on shares	May 1995
	47.19	Dividend on shares	November 1995
	47.19	Dividend on shares	May 1996
	51.94	Dividend on shares	November 1996
Cassandra Kiri Watt	14.30	Dividend on shares	November 1995
Miles Daniel Webster	88.53	Dividend on shares	November 1996
Eleanor Patricia Williams	25.03	Dividend on shares	May 1995
	27.56	Dividend on shares	November 1995
	27.56	Dividend on shares	May 1996
	30.29	Dividend on shares	November 1996
George Stanley Wright Deceased and Margaret J. Wright	10.40	Dividend on shares	November 1996

UNCLAIMED MONEYS ACT 1891-1975

Register of Unclaimed Moneys over \$10 held by Bounty Investments Limited as at January 2003

Name of Owner on Books	Total Amount Due to Owner \$	Description of Unclaimed Moneys	Date of Last Claim
David Graham Beer and Rodney Alexander Beer	80.73	Dividend on shares	April 1996
James Rolland Black	408.53	Dividend on shares	April 1996
Greta Carmel Bradley	27.24	Dividend on shares	April 1995
	31.78	Dividend on shares	October 1995
	29.51	Dividend on shares	April 1996
	34.93	Dividend on shares	October 1996
John Ronald Doulton	228.54	Dividend on shares	April 1995
	266.63	Dividend on shares	October 1995
	247.59	Dividend on shares	April 1996
	293.30	Dividend on shares	October 1996
David Charles Harkin	115.44	Dividend on shares	April 1995
	134.68	Dividend on shares	October 1995
	125.06	Dividend on shares	April 1996
	148.12	Dividend on shares	October 1996
Frederick Richard Thiele	20.23	Dividend on shares	October 1995
	18.79	Dividend on shares	April 1996
	22.26	Dividend on shares	October 1996

UNCLAIMED MONEYS ACT 1891-1975

Register of Unclaimed Moneys over \$10 held by Wakefield Investments (Australia) Limited as at January 2003

Name of Owner on Books	Total Amount Due to Owner \$	Description of Unclaimed Moneys	Date of Last Claim
Ronald Graham Adams	96.00	Dividend on shares	September 1996
Michael Anthony Page	11.80	Dividend on shares	March 1996
Kate Elizabeth Turner	300.00	Dividend on shares	March 1995
	350.00	Dividend on shares	September 1995
	325.00	Dividend on shares	March 1996
	400.01	Dividend on shares	September 1996
Joseph Richard Britten Vincent	10.50	Dividend on shares	September 1995
Thomas Robinson Vincent	13.99	Dividend on shares	September 1996

ATTENTION

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