

Dealing Number 715287312



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|   |   |          |                 |
|---|---|----------|-----------------|
| 1. Lessor   | Lodger (Name, address, E-mail & phone number)   |          | Lodger Code     |
| HERCULES PROPERTY DEVELOPMENT PTY LTD<br>ACN 144 803 243 AS TRUSTEE UNDER INSTRUMENT<br>704361673 | JAMES VARITIMOS, SOLICITOR<br>105 VULTURE STREET,<br>WEST END QLD 4101<br>PH: 3846 3066 FAX: 3844 6895<br>EMAIL: javalaw@powerup.com.au |          | 221A            |
| 2. Lot on Plan Description  | County  | Parish   | Title Reference |
| LOT 1 ON RP41776  | STANLEY   | ENOGGERA | 11833138        |
| 3. Lessee   | (include tenancy if more than one)  |          |                 |
| Given names   | Surname/Company name and number   |          |                 |
|   | VIBE NATURAL HEALTH PTY LTD<br>ACN 160 818 459  |          |                 |

4. Interest being leased  
FEE SIMPLE

5. Description of premises being leased

That part of the ground level of the building erected on the above described land hatched in black on the attached sketch plan and known as "6"

6. Term of lease

Commencement date/event: 15/06/2013  
Expiry date: 14/06/2018 and/or Event:  
\*Options: 1 x 5 years  
#Insert n// if no option or insert option period (eg 3 years or 2 x 3 years)

7. Rental/Consideration

The rental for the first year of the Lease shall be \$46,000.00 per annum plus GST payable in accordance with Section 1 of the Schedule attached

8. Grant/Execution

The Lessor leases the premises described in item 5 to the Lessee for the term stated in item 6 subject to the covenants and conditions contained in:- \*the attached schedule; ~~\*the attached schedule and document no. \_\_\_\_\_~~;

\*document no. \_\_\_\_\_; \*Option in registered Lease no. \_\_\_\_\_ has not been exercised.

\* delete if not applicable

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994  
Hercules Property Development Pty Ltd ACN 144 803  
243 as Trustee under instrument 704361673

.....signature

.....full name

.....qualification

Witnessing Officer

(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

9. Acceptance

The Lessee accepts the lease and acknowledges the amount payable or other considerations for the lease.

Vibe Natural Health Pty Ltd ACN 160 818 459

.....signature

.....full name

.....qualification

Witnessing Officer

(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

716113  
Execution Date

.....Director

.....Director

.....Lessor's Signature

.....Director

.....Director

.....Lessee's Signature

616113  
Execution Date

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The Lessor hereinafter called "the Lessor") being the registered proprietor of an estate in fee simple in all that piece of land described in Item 2 of the Form 7 DO HEREBY LEASE to the Lessee (hereinafter called "the Lessee") the premises described in Item 5 of the Form 7 (which premises so demised are hereinafter called "the demised premises") to be held by the Lessee as tenant for the period set out in Item 6 of the Form 7 at the rental calculated and payable as hereinafter provided and subject to the following covenants conditions and restrictions.

#### **SECTION 1 - RENT**

1.1 The Lessee will pay rent by equal calendar monthly instalments on the first day of each month such rental to be payable in advance without any deduction whatsoever the first of such payments to be made on the date of commencement with such rent to be paid at such place or places in Australia as the Lessor shall from time to time in writing direct.

1.2 The Lessee shall pay rent during the term hereby granted on the following basis and in the following amounts, namely:-

- (i) The rent for the first year of the lease is to be the amount set out in Item 7.
- (ii) The rental for the second and each subsequent years of the term hereby granted or any extended term hereof other than for the first year of any option period contained herein shall be the rent for the previous year increased by 4%.
- (iii) The rental for the first year of any option period shall be a Market Review.

#### **1.4 Market Rent**

If Market Rent is to be the applicable rent for any year then the Market Rent shall be the amount as agreed between the parties or failing agreement is to be calculated in accordance with the provision of the RSLA as if that Act applied to this Lease.

#### **SECTION 2 - OTHER CHARGES AGAINST LESSEE**

2. (a) The Lessee shall pay promptly all charges for electricity which may from time to time during the term be imposed or be charged in respect of the demised premises.

2. (b) The Lessee shall pay promptly all charges for gas which may from time to time during the term be consumed in the demised premises.

2. (c) If a separate water meter shall at any time at the option of the Lessor be installed in respect of the demised premises the Lessee shall pay the meter rental (if any) and all charges and assessments for water consumed on the demised premises together with all trade waste charges assessed or levied by the local authority which are to be assessed on the basis that all water shown on the meter as entering and being used at the premises is subsequently discharged as trade waste.

2. (d) In the event that any local authority or other competent authority or body providing any cleansing or refuse service for the demised premises (whether it be at the request of the Lessor or by direction of any officer of such authority) the Lessee shall pay or reimburse the cost of the assessing authority or body. The Lessee shall be responsible for the regular disposal of the Lessee's rubbish and waste at its cost for any rubbish in excess of the receptacle provided by the local authority.

2. (e) In the event that the demised premises are air conditioned, the Lessee shall pay to the Lessor in respect of each accounting period that proportion of the air conditioning costs (but not capital repair costs) calculated as follows:-

- (i) If the demised premises are not individually air conditioned then that proportion of the costs of the Lessor of maintaining, servicing, repairing and operating the air conditioning equipment servicing the demised premises (less any moneys required to be contributed thereto by any occupier of any part of the centre in respect of operation of such air conditioning equipment outside normal retail trading hours of the centre) which the floor area of the demised premises bears to the total lettable area of the centre serviced by such air conditioning equipment PLUS that proportion of the costs to the Lessor of maintaining, servicing, repairing and operating such air

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conditioning equipment outside normal retail trading hours as is attributable to the demised premises as is determined by the Lessor;

- (ii) If the demised premises are individually air conditioned then the Lessee shall pay promptly to the Lessor upon demand the whole of the cost to the Lessor of operating, maintaining, servicing and repairing such air conditioning equipment (including any fees and or premiums payable to specialist contractors) servicing the demised premises. The Lessor may require the Lessee to enter into a Service Agreement with such Contractor as is acceptable to the Lessee for the service and maintenance of the air conditioner and provided that occurs the Lessee will not have to pay for any repair costs.

2. (f) The Lessee shall pay to the Lessor in each accounting period that percentage of the variable outgoings (referred to and defined in Section 20 hereof) as referred to in Item 5 of Appendix 1 of the Lease hereto for that accounting period. This amount shall be paid in the manner provided for in Section 20 hereof.

2. (g) Each party shall pay their own legal costs of and incidental to the preparation, execution, stamping if required and registration (if applicable) of this lease. The Lessee shall be responsible for all Mortgagee's Consent fees and registration fees. The Lessor shall be responsible for all survey costs associated with the preparation of the relevant lease plan and all Solicitors costs, filing fees and outlays associated with the obtaining of any requisite approval of the Lease plan from any relevant Local Authority. The Lessee shall also pay the Lessors legal expenses on a Solicitor and own client basis incurred by the re-entry by the Lessor into the demised premises, the surrender of this lease, any default by the Lessee hereunder and the granting or obtaining of any consents by or from the Lessor. The Lessee shall also be responsible for the payment of any stamp duty which may be assessed on this Lease.

2. (h) If any expenditure in this clause is paid by the Lessor, the Lessee shall within fourteen (14) days of receipt of a written demand from the Lessor reimburse the Lessor for the amount paid.

**SECTION 3 - USE**

3. (a) The Lessee shall use the demised premises for that purpose set out in Item 1 of Appendix 1 of this Lease and will not permit or suffer the use of the same for any other purpose without the consent in writing of the Lessor being first had and obtained which consent may not be unreasonably or capriciously withheld or permit or suffer any storage space forming part of the demised premises to be used for any purpose other than storage without the consent in writing of the Lessor being first had and obtained which consent may not be unreasonably or capriciously withheld. The Lessor shall not execute the Lease to any other tenant for the land carrying on a similar purpose.

3. (b) The Lessor does not warrant that the use to be made of the demised premises by the Lessee is permissible in law and this Lease shall continue notwithstanding that such use is not permissible or becomes not permissible.

3. (c) The Lessee shall keep all windows in the demised premises in a thorough state of cleanliness.

3. (d) The Lessee shall not use any form of light, power or heat other than electric current or gas supplied through meters provided that this covenant shall not prevent the Lessee from using auxiliary power or lighting during any period of power failure or power restrictions.

3. (e) The Lessee shall observe the maximum floor loading weights nominated by the Lessor and shall not permit the floors of the demised premises to be broken, strained or damaged by overloading the same in any manner whatsoever. In particular, the Lessee shall not install any safes or other heavy equipment except in such positions and subject to such conditions as the Lessor may in writing approve prior to such installation.

3. (f) The Lessee shall not use or permit to be used any appurtenances contained in or about the demised premises for any purpose other than those for which they are constructed and shall not place or permit to be placed therein any tea leaves, sweepings, rubbish, rags or other deleterious substances.

3. (g) The Lessee shall not interfere with any drains, water supply, gas, electrical, plumbing or other services contained in or about the demised premises or any of the appurtenances therein without the consent in writing of the Lessor first had and obtained.

3. (h) The Lessee shall not without the prior consent in writing of the Lessor or the Lessors' agent (which shall not be unreasonably withheld) erect any sign on any external portion of the building in which the demised premises are located and the Lessee undertakes to forthwith remove any sign upon the termination of the term hereby created or any

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extension thereof and to make good any damage caused by the erection and or removal of the sign and further the Lessee shall indemnify the Lessor against any action, damage or loss (including consequential loss) which may arise in any way as a result of the positioning, erection or removal of the said sign.

3. (i) The Lessee shall not erect or affix any blinds, awnings or fittings of any kind whatsoever to the outside of the demised premises or any blinds (venetian or otherwise) to the interior of the demised premises or affix any partitions, fittings of any kind whatsoever to the walls or the ceiling thereof without the consent in writing of the Lessor first had and obtained which consent shall not be unreasonably or capriciously withheld.

3. (j) The Lessee shall not cut, make holes in, mark, deface or damage or suffer to be cut, holed, marked, defaced, drilled or damaged any of the floors, walls, ceilings or other parts of the demised premises except so far as may be reasonably necessary for the erection of any approved signs, blinds, awnings, or fittings as aforesaid and on the removal of any signs, blinds, awnings, or fittings, the Lessee shall reinstate, repair and make good any damage caused in or about the erection or removal thereof notwithstanding that the Lessor may have consented thereto.

3. (k) The Lessee shall at their own cost and expense keep the demised premises free and clear from rodents, termites, cockroaches and other vermin.

3. (l) The Lessee shall not bring upon or store in the demised premises any explosive or inflammable or corrosive fluids or chemicals except as are normally consumed or sold by the Lessee in the conduct of his business.

3. (m) The Lessee shall not at any time do permit or suffer to be done or omit to do any act, matter or thing upon the demised premises whereby any insurances on the said building may be vitiated or rendered void or voidable or (except with the approval in writing of the Lessors) whereby the rate of premium on any such insurance policy shall be liable to increase without the Lessors written consent. The Lessee shall do permit or suffer to be done immediately upon the request of the Lessor all things necessary to continue in force any insurance which may have been effected by the Lessor.

3. (n) The Lessee shall advise the Lessor promptly in writing of any damage sustained to the demised premises or any part thereof or of the defective operation of any of the appurtenances therein and shall forthwith upon its coming to the Lessee's notice rectify the damage if such should be proved as being the Lessee's responsibility.

3. (o) The Lessee shall cause all exterior doors and windows in the demised premises to be securely locked and fastened at all times when the demised premises are not being used and authorises the Lessor's representative from time to time to enter the demised premises for the purpose of locking any such door or window left unlocked or unfastened.

3. (p) The Lessee shall not carry on or permit to be carried on in any part of the demised premises any annoying, noxious, offensive or illegal business, occupation or practice nor shall the Lessee do or permit to be done therein any act or thing to use or permit to be used any plant or machinery which through noise, odours, vibration or otherwise shall annoy or cause damage to any other tenant of the said building or the Lessor or to the occupiers of any neighbouring premises, save and except from the operation of the Lessee's usual business and any plant or machinery used in connection therewith.

3. (q) The Lessee shall obtain and maintain from time to time all licenses, permits and registrations required for the purpose of the business of the Lessee.

3. (r) The Lessee shall observe permit and fulfil all requirements of any statutes, regulations, ordinances or by-laws so far as the same apply to the demised premises or to any business from time to time being conducted therein and in particular without limiting the generality of the foregoing shall comply with the requirements of all such statutes, regulations, ordinances or by-laws relating to health, water supply, sewerage and fire (save and except such of them as may require structural alterations or additions to the demised premises unless such alterations or additions be occasioned by the nature of the business) and shall not knowingly or wilfully do or omit to do anything which may conflict with any such statutes, regulations, ordinances or by-laws.

3. (s) In the event that the demised premises occupies a part only of the land or a building is erected on the land the Lessee accepts joint responsibility together with the other Lessees of the Centre (while there are other lessees of the Centre who are obliged by their lease(s) in terms similar to those contained in this clause) for the general cleanliness and tidiness of the common toilets on the subject property, and further accepts joint responsibility with the other lessees for the cleanliness of all common areas. However, the Lessor will be primarily responsible for keeping the common areas clean and tidy.

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**SECTION 4 – MAINTENANCE, REPAIRS, ALTERATIONS AND ADDITIONS**

**4.1 Lessee to Repair and Maintain**

4.1 (a) The Lessee shall at all times during the lease term keep and maintain the Demised Premises in good and substantial repair and condition, subject to fair wear and tear and damage by fire (other than where any policy of insurance effected on the Demised Premises or the Centre shall have been avoided, or payment of any policy monies refused or reduced in consequence of any act, omission, neglect, default or misconduct of the Lessee) lightning, storm, flood, tempest, earthquake, riot, strike, civil commotion or act of God excepted.

4.1 (b) However, nothing in paragraph (a) of this clause shall require the Lessee to effect any structural repairs except where made necessary by any act, omission, neglect, default or misconduct on the part of the Lessee, any use or occupation of the Demised Premises by the Lessee and by the installation or use of any fixtures, fittings, plant, equipment, partitions or other articles and chattels of any kind owned or supplied by or on behalf of the lessee or any one or more of the same.

4.1 (c) Despite anything to the contrary contained or implied in this Lease, the Lessee shall at its cost to the reasonable satisfaction of the Lessor:

- (i) immediately repair any damage done to the Demised Premises or the Centre caused by any act, omission, neglect, default or misconduct of the Lessee, but without prejudice to any other right or remedy of the Lessor under this Lease;
- (ii) immediately replace any glass in or about the Demised Premises that may be damaged or broken with glass of at least the same quality and gauge or, where specified by the Lessor or by statute, the quality, type and gauge so specified;
- (iii) replace any damaged or non-operative electric light bulbs, globes, tubes, associated fittings and other means of illumination within the Demised Premises; and
- (iv) repair or (where appropriate) replace all fixtures, fittings, plant, equipment, partitions and other articles and chattels of all kinds owned or supplied by or on behalf of the Lessor, including all window coverings and blinds in the Demised Premises that may be broken or damaged.

4.1 (d) The Lessee shall:

- (i) keep all property owned or supplied by or on behalf of the Lessee in or about the Demised Premises clean and shall be responsible for all repairs, maintenance and insurance of the same; and
- (ii) effect and maintain with reputable specialist contractors, comprehensive service, maintenance and repair contracts on such terms and conditions as the Lessor may approve in respect of:
  - (A) all plant and equipment (including any separate air conditioning unit) in or otherwise appurtenant to the Demised Premises; and
  - (B) all fire protection equipment (including all fire sprinklers and the electrical monitoring box) servicing the Demised Premises; and
- (iii) provide a full copy of each contract entered into under paragraph (ii) of this clause to the Lessor forthwith upon demand; and
- (iv) maintain accurate service and maintenance records and provide true copies of those records to the Lessor forthwith upon demand.

**4.2. Lessor's Right of Inspection**

The Lessor may at all reasonable times upon reasonable prior written notice to the Lessee (except prior notice shall not be required in the case of emergency as to which the Lessor shall be the sole judge) enter the Demised Premises and view the state of repair and condition of the same.

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#### **4.3 Enforcement of Repairing Obligations**

The Lessor may at any time and from time to time do all or any of the following:

- (a) serve on the Lessee a written notice of any failure by the Lessee to carry out any of its obligations to repair, maintain, replace, or clean the Demised Premises; and
- (b) require the Lessee to carry out any such repair, maintenance, replacement and cleaning within a reasonable time. In default of the Lessee doing so, the Lessor may, without prejudice to any other rights or remedies of the Lessor, and without any further notice to the Lessee, enter the Demised Premises and carry out all or any of such works at any time and in such manner as the Lessor may in its sole discretion see fit, without any liability on any account whatever to the Lessee. All reasonable costs and expenses of the Lessor of and incidental to the same shall be paid by the Lessee to the Lessor as a liquidated debt on demand.

#### **4.4 Lessor May Enter to Repair**

If any one or more or all of the following at any time and from time to time occur:

- (a) the Lessor wishes to carry out any repair, maintenance, alteration, addition, installation or other work in respect of the Demised Premises or the Centre considered necessary or desirable by the Lessor or in relation to anything that the Lessor may be obliged to do under this Lease; or
- (b) the local and any other relevant governmental authority or any of them requires any repair, maintenance, alteration, addition, installation or other work to be undertaken in respect of the Demised Premises or the Centre that the Lessor may in its sole discretion elect to do or permit to be done and for which the Lessee is not liable under this Lease;

then the Lessor may at all reasonable times upon giving to the Lessee reasonable prior written notice (except prior notice shall not be required in the case of emergency as to which the Lessor shall be the sole judge) enter the Demised Premises and carry out any such repair, maintenance, alteration, addition, installation or other work without any liability on any account whatever to the Lessee. In so doing, the Lessor shall use all reasonable endeavours to cause as little inconvenience to the Lessee as is reasonably practicable.

#### **4.5 Alterations or Additions to the Demised Premises**

- (a) The Lessee shall not make any proposed alteration, addition or installation in or to any of the Demised Premises, the Centre, or any fixtures, fittings, plant, equipment, partitions or other articles and chattels of all kinds owned or supplied by or on behalf of the Lessor, the Lessee or any other person in or about the Demised Premises ("the Lessee's Works") without the prior written consent of the Lessor.
- (b) In seeking any such consent of the Lessor to the Lessee's Works, the Lessee shall submit full plans and specifications in reasonable detail of the Lessee's Works. The Lessor shall (unless otherwise notified to the Lessee in writing) require as a condition of its consent that:
  - (i) the Lessee's Works shall be supervised by the Lessor or a person approved by the Lessor;
  - (ii) the Lessee's Works shall be carried out at the cost of the Lessee in a proper and workmanlike manner to the reasonable satisfaction of the Lessor by a registered builder having a current public liability insurance policy for an amount not less than \$10 million per occurrence and workers' compensation insurance approved by the Lessor;
  - (iii) the materials to be used in carrying out the Lessee's Works shall be new and of such a standard as to type, quality, colour and size approved by the Lessor;
  - (iv) the Lessee shall pay to the Lessor on demand all reasonable costs and expenses of the Lessor in considering the Lessee's Works and supervising the same, including the fees of any architect or other building consultant engaged by or on behalf of the Lessor whether or not any approval shall in any case be granted. The Lessor may require the Lessee to deposit with the Lessor the amount (estimated by or on behalf of the Lessor) of such costs and expenses of the Lessee's Works before any of the Lessee's Works are commenced;

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- (v) the Lessee shall obtain and keep current all necessary approvals and permits from the local and all other relevant governmental authorities necessary to enable the Lessee's Works to be lawfully carried out, and shall produce to the Lessor complete copies of all such approvals and permits;
- (vi) upon completion of the Lessee's Works, the Lessee shall immediately obtain and produce to the Lessor all unconditional certificates of compliance with all relevant statutes and of satisfactory completion of the Lessee's Works issued or required to be issued by the local and all other relevant governmental authorities; and
- (vii) the Lessee shall pay to the Lessor on demand all reasonable costs and expenses incurred or likely to be incurred by the Lessor in connection with the Lessee's Works, including any resulting modification or variation to the Demised Premises or the Centre.

4.6 Lessee's Fitout

The Lessee shall fitout the Demised Premises with interior finishes, floor coverings, partitions and such other fixtures and fittings as the Lessor may reasonably require for the conduct of the business of the Lessee and good appearance of the Demised Premises. However, the Lessee must not install the same without the prior written consent of the Lessor on the same terms and conditions as for an alteration, addition or installation to the Demised Premises under this Part.

4.7 The Lessee shall at his own cost and expense forthwith ~~and during the last three months of the term hereof~~ paint the walls and ceilings of the interior of the demised premises which have at any time been previously painted with not less than two coats of first quality paint in a proper and workmanlike manner in the original colours thereof or in such colours as may be approved of in writing by the Lessor.

4.87 In the event that the Lessor is the owner of the floor coverings installed in the demised premises then the Lessee shall at its own cost and expense, replace to the reasonable satisfaction of the Lessor, at least once during the term of the Lease, all floor coverings (if any) in or on the demised premises, in a proper and workmanlike manner, in the original colour and materials thereof, or in such other colours or materials as may be approved in writing by the Lessor.

**SECTION 5 - DAMAGE OR DESTRUCTION TO DEMISED PREMISES**

5. (a) In case of the total or partial destruction of or damage to any part of the demised premises or to any part of the Centre (if the demised premises are a part of the building on the land) by fire, flood, storm, tempest, explosion, riot, civil commotion, war or otherwise by inevitable accident or act of God and without any neglect or default on the part of the Lessee (where that neglect or default results in the Lessors' claim under its insurance policy being rejected) whereby the demised premises shall be rendered wholly or partially unfit for the occupation or use by the Lessee in the conduct of his business payment of the rent and any outgoings or a proportionate part thereof according to the extent of the damage sustained and the covenants to repair herein contained so far as they relate to any such destruction or damage shall be suspended until the demised premises or centre as the case may be shall have been restored and again put in a proper condition fit for use by the Lessee for the purpose of his business but subject to clause 6 nothing herein contained or implied shall oblige the Lessor to restore the demised premises or to restore the same according to the former specifications thereof so long as the positioning vis a vis other tenancies, layout and dimensions of the demised premises be not substantially different from the positioning layout and dimensions of the demised premises prior to such damage or destruction and the materials employed therein be not of inferior quality or aesthetic appearance to the materials formerly used therein. The Lessee shall not in the event of the demised premises being destroyed or damaged by fire request the insurer of the building to apply the money for which the building is insured to be paid out and expended except so far as such moneys go towards rebuilding reinstatement or repairing the building.

5. (b) If any part of the demised premises or centre shall be destroyed or so damaged by any of the causes or agencies last mentioned and without any neglect or default on the part of the Lessee (where that neglect or default results in the Lessor's claim under its insurance policy being rejected) so that the demised premises are wholly unfit for occupation or use for the purposes for which they were demised and the restoration of the demised premises or the centre as the case may be shall not have been substantially commenced within four (4) months from the date of such destruction or damage the Lessee may give notice in writing to the Lessor of his intention to cancel this lease at the expiration of one (1) month from the giving of such notice and if such restoration has not been substantially commenced within such period of one (1) month the Lessee may thereafter at any time before such restoration has been substantially commenced forthwith cancel this lease by executing a form of surrender and delivering the same to the Lessor PROVIDED THAT should this lease be registered the Lessee shall execute a Surrender of Lease in a form capable of immediate registration in the Department of Natural Resources & Mines (or its successor) and this lease shall thereupon

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be determined without prejudice to any claim by either party against the other in respect of any antecedent breach of any of the provisions or agreements herein contained or implied.

5. (c) If the demised premises are a part of a centre constructed on the land and if the centre shall be destroyed or so damaged by any of the causes or agencies aforesaid so that the demised premises are wholly unfit for occupation or use for the purposes for which they were demised the Lessor may in lieu of restoring or causing the centre to be restored give notice in writing to the Lessee cancelling this lease and this lease shall thereupon be determined but without prejudice to any claim by either party against the other in respect of any antecedent breach of any of the provisions or agreements herein contained or implied.

5. (d) The Lessee shall during any period of reconstruction or repair of the demised premises continue his occupation of the demised premises so far as it may be reasonably practicable for the Lessee so to do having regard to the nature and extent of the damage sustained.

5. (d) If any dispute question or difference shall arise between the parties as to the meaning operation or effect of the preceding clauses of this section or as the rights or liabilities of either of the parties hereto under such clauses such dispute question or difference shall be referred to the arbitration or an independent arbitrator to be appointed by the President for the time being of the Queensland Law Society Incorporated and the decision or award of such arbitration shall be conclusive and binding on the parties and any such submission to arbitration shall be deemed to be a submission to arbitration within the meaning of the "Commercial Arbitration Act" 1990 and subject to the provisions of that Act an Award pursuant to a reference to arbitration in accordance with the provisions hereof shall be a condition precedent to any action or other legal proceedings between the parties relating to such dispute question or difference.

**SECTION 6 - RESERVATIONS**

6. (a) The Lessor expressly reserves the right and the Lessee shall permit the Lessor with contractors, workmen and others with all necessary materials, machinery and appliances at all reasonable times and subject to the Lessor giving reasonable written notice to the Lessee to enter upon the demised premises for any of the following purposes:-

- (i) Effecting any alterations, remodelling or repairs which may be incumbent upon the Lessor by law or which the Lessor may wish to carry out for ensuring the safety and preservation of the demised premises or any part of the building of which the demised premises forms part; or
- (ii) Effecting, laying or installing in or under or over the demised premises any poles, masts, posts, drains, conduits, pipes, mains, cables, electrical, wires, which may from time to time be required for any existing or future services to the demised premises; or
- (iii) Inspecting, removing, installing, maintaining, altering or adding to any water, gas, electrical or telephone plumbing or other services to the demised premises.

**PROVIDED ALWAYS** that except in any emergency (as to which the Lessor shall be the sole judge) when this right of entry may be exercised at any time the Lessor shall carry out such works in such manner as to minimise so far as may be practicable any inconvenience or interruption to the business of the Lessee.

6. (b) The Lessor reserves the right and the Lessee shall upon the Lessor giving reasonable written notice to the Lessee permit at all reasonable times of the day prospective purchasers of the land and building of which the demised premises forms part (and also prospective tenants of the demised premises during the period of three calendar months immediately preceding the date of determination of this lease should the Lessee not exercise the option herein contained) either bearing the written authority of or accompanied by the Lessor or the Lessors' agent to view the demised premises.

**SECTION 7 - PARKING AREAS AND COMMON AREAS**

7. (a) This section shall apply only if the demised premises does not comprise the whole of the land and building.

7. (b) Subject always to the limitations and restrictions herein contained and any rules and regulations from time to time in force in relation to the centre and or the common area, the Lessor shall permit the Lessee and its servants, agents and lawful invitees, licensees and suppliers of the Lessee, in common with others having the like rights, to exercise and enjoy the following rights:-



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- (b) (i) The right to pass and re-pass in vehicles on over and through the common areas;
  - (b) (ii) The right to use the sanitary conveniences and washroom facilities for the purpose for which they have been provided. The Lessee shall ensure that after use all doors leading to the sanitary conveniences and or washrooms are securely locked and fastened;
7. (c) The Lessor shall keep and maintain in good order and repair and in a clean and tidy condition the common areas from time to time provided for the use of the lessees of the centre and their respective servants, employees, agents, customers, clients, invitees and licensees provided always that the Lessee shall not be deemed to be in breach of its obligations hereunder by reason of any temporary breakdown or faulty operation of any of the appurtenances in the common area.
7. (d) Any directory boards provided by the Lessor shall be under the sole control of the Lessor who may allot space therein for the names and descriptions of the lessees of the centre. The form of the Lessee's name and description shall be approved of by the Lessor and erected by the Lessor at the expense of the Lessee.
7. (e) The Lessor may from time to time designate:-
- 7. (e) (i) areas of the car park which may or may not be used by the Lessee and his servants, agents or contractors for the parking of their motor vehicles; and
  - 7. (e) (ii) the days and or hours during which such areas may or may not be used by the Lessee his servants, agents or contractors for the parking of their motor vehicles.

In the event that the Lessor makes such a designation, the Lessee shall take all reasonable steps to ensure that his servants, agents and contractors abide by such designation.

The Lessee shall within seven (7) days of receipt of a request from the Lessor furnish to the Lessor the description and registration numbers of all motor vehicles owned and used by the Lessee in the conduct of his business from the demised premises and the descriptions and registration numbers of all motor vehicles that are owned or may be owned by the Lessee's employees that work in the demised premises.

7. (f) The Lessor may from time to time promulgate rules and regulations relating to the parking areas and the common areas not inconsistent with or in derogation of the rights of the Lessee hereunder including but not limited to:-
- (f) (i) The use, safety, care and cleanliness thereof;
  - (f) (ii) The preservation of good order therein;
  - (f) (iii) The comfort of persons lawfully using same;
  - (f) (iv) The closure thereof or any part thereof outside of normal business hours.

Any such rules and regulations may from time to time be repealed amended or added to at the discretion of the Lessor and upon notice in writing thereof under the hand of the Lessor or their agent being given to the Lessee same shall be and become as binding upon the Lessee as if the same were expressly set forth herein as covenants on the part of the Lessee.

**SECTION 8 - LESSORS LIABILITIES AND INDEMNITIES**

8. (a) (i) The Lessor warrants that the Lessee paying the rent hereby reserved and observing and performing the covenants conditions and restrictions on their part herein contained shall and may peaceably hold and enjoy the demised premises during the term without any interruption by the Lessor or any person rightfully claiming through under or in trust for the Lessor.
8. (a) (ii) The Lessor warrants that the waste pipes, drains, and conduits originating within the demised premises are at the commencement date of this lease in a clean and free flowing condition between the points of origin and their entry into any sewer.

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8. (b) The Lessor shall pay promptly or cause to be paid promptly as and when they fall due all rates, taxes, charges, assessments and other outgoings assessed or chargeable in respect of the land of which the demised premises are situated except so far as the terms hereof shall provide otherwise.

8. (c) The Lessee agrees to occupy and use the demised premises at the risk of the Lessee and the Lessor shall not in any circumstances (save for any loss or damage that is caused or contributed by the wilful or negligent act or omission of the Lessor, its servants, agents or contractors), be liable to the Lessee for any damage to the plant, equipment, fixtures, fittings, merchandise or any other property of any description of or in the possession of the Lessee and contained in or about the demised premises, occasioned by water, heat, electricity, vermin, explosion, tempest, riots, civil commotion or by the entry of water from any other source whatsoever or by the operation of any fire equipment nor for any loss of profits resulting therefrom and notwithstanding that the same may occur by reason of any defect in the construction of the building of which the demised premises forms part or any of the appurtenances therein or by reason of any act or omission by any contractor of the Lessor or by any other tenant of the building of which the demised premises forms part or their respective employees or by any member of the public.

8. (d) Notwithstanding any implication or rule of law to the contrary the Lessor shall not in any circumstances be liable to the Lessee (save for any loss or damage that is caused or contributed by the wilful or negligent act or omission of the Lessor, its servants, agents or contractors), for any loss or damage suffered by the Lessee for any malfunction or interference to the water, gas, or electricity services or the appurtenances contained in the demised premises or the building of which the demised premises forms part or for the blockage of any sewers, waste, drains, gutters, downpipes or stormwater drains.

**SECTION 9 – LESSEE'S INSURANCES AND INDEMNITIES**

**9.1 Insurance**

- (a) The Lessee shall at all times during the lease term at its cost obtain and keep in full force and effect the following insurances in the name of the Lessee (and note the interest of the Lessor and any mortgagee of the Lessor for their respective interests):
- (i) insurance on all property of the Lessee situated in or about the Demised Premises or for which the Lessee is legally liable (including all fixtures, fittings, plant, equipment, partitions and all alterations and additions made to or installed in the Demised Premises by the Lessee). This policy must be for an amount not less than the full replacement cost (as may be assessed from time to time by the Lessor) of the same with coverage against at least fire with standard extended coverage;
  - (ii) public risk liability insurance applying to all operations of the Lessee, for the amount referred to in Item 2 of the Appendix, bearing an endorsement to include all risks undertaken and all releases and indemnities given by the Lessee to the Lessor under this Lease and all other losses, damages, costs, claims and demands whatever arising out of or in connection with this Lease. This policy shall be written on a comprehensive basis with limits of not less than \$10 million per occurrence or such higher limits as the Lessor or its mortgagee may reasonably require from time to time;
  - (iii) insurance in respect of all plate and other glass in or otherwise enclosing the Demised Premises; and
  - (iv) any other form of insurance as the Lessor or its mortgagee may reasonably require from time to time in such names and for such amounts and for such other insurable risks against which a prudent tenant would protect itself in similar circumstances.
- (b) All insurance policies required to be effected by the Lessee under this Lease may be taken out as part of a global policy but must be taken out as primary cover with insurers and on policies and in forms approved from time to time by the Lessor. The Lessee agrees that certificates of insurance or, if required by the Lessor or its mortgagee, certified copies of each such insurance policy, shall be delivered to the Lessor as soon as practicable after the same are taken out.
- (c) If the Lessee fails to take out or to keep in force any insurance policy required under this Lease, or should any such insurance not be approved by either the Lessor or its mortgagee, the Lessor may, without prejudice to any other rights or remedies and without assuming any obligation or liability in connection with the same, effect such insurance at the cost of the Lessee.

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**9.2 Protection of Insurance**

- (a) The Lessee shall not do or permit to occur anything that shall or may.
- (i) increase the rate of any insurance premium on the Demised Premises or the Centre or on any property in the same; or
  - (ii) vitiate or render void or voidable any insurance in respect of the Demised Premises or the Centre or any property in the same; or
  - (iii) conflict with any statute or with any requirement of any insurer of the Lessor relating to fires, fire safety or fire prevention in respect of the Demised Premises or the Centre or any property in the same.
- (b) The Lessee shall pay to the Lessor as a liquidated debt on demand all extra costs of insurance on the Demised Premises and the Centre or any of the same and on any property in any of the same on account of any extra risk caused by any use or occupation of the Demised Premises by the Lessee.

**9.3 Lessee to Occupy Demised Premises at Its Risk**

Save to the extent of any negligent act or omission of the Lessor, its servants, agents or contractors the Lessee agrees that the Demised Premises and all property of any description whatever that may at any time be in or about the Demised Premises during the continuance of this Lease is at the sole risk of the Lessee.

**9.4 Lessee to Indemnify Lessor**

Save to the extent of any negligent act or omission of the Lessor, the Lessee releases and indemnifies the Lessor and agrees to keep the Lessor released and at all times indemnified to the fullest extent permitted by law from and against all actions, claims, demands, losses (including loss of any rent or other moneys), damages, costs and expenses of every description whatever incurred by the Lessor or for which the Lessor may be or become liable whether in contract, tort, by statute or otherwise however and whether during or after the Lease Term in respect of or arising directly or indirectly from any circumstances concerning this Lease. Including:

- (a) any loss, damage, death or injury from any cause whatever suffered by any person or caused to property of any description whatever at any time in or about the Demised Premises or the Common Area occasioned or contributed to by any use or occupation of the Demised Premises by the Lessee, and by any act, omission, neglect, default or misconduct on the part of the Lessee or any one or more of the same;
- (b) any negligent or careless use or neglect by the Lessee of any services, including water, gas, electricity or other supply apparatus that may at anytime be in or about the Demised Premises or the Centre;
- (c) any entry, overflow, leakage or escape of water (including rain water), fire, gas, electricity or any other harmful agent whatever whether originating inside or outside the Demised Premises caused or contributed to by any act, omission, neglect, default or misconduct on the part of the Lessee;
- (d) any improper or faulty erection or construction of any alterations, additions or other works installed or otherwise carried out by the Lessee in or about the Demised Premises; and
- (a) any default or other failure of the Lessee to perform or observe in a timely manner any of its covenants under this Lease that ought to be performed or observed by the Lessee.

9.5. Notwithstanding anything herein contained or any implication or rule of law to the contrary, the Lessor shall not be liable for damage or loss the Lessee may suffer by reason of the neglect or omission of the Lessor to do any act or thing to or in respect of the demised premises or the building of which the demised premises forms part and which (as between the Lessor and the Lessee) the Lessor might be legally liable to do unless the Lessee shall have given to the Lessor notice in writing of such neglect or omission and the Lessor has without reasonable cause failed within a reasonable time thereafter to take proper steps to rectify such neglect or omission.

**SECTION 10 - ASSIGNMENTS, SUB-LEASES AND MORTGAGES**

10. (a) The Lessee shall not assign this lease without the consent in writing of the Lessor first had and obtained PROVIDED such consent shall not be unreasonably withheld and PROVIDED:-

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- (i) The proposed assignee is a respectable and financially responsible person; and
- (ii) The Lessee pays to the Lessor all proper costs charges and expenses incurred by the Lessor of and incidental to any enquiries which may be made by or on behalf of the Lessor as to the respectability, responsibility, solvency, fitness and suitability of any proposed assignee;
- (iii) All rent and other moneys due or payable as at the date of assignment shall have been paid by the Lessee and there shall not then be any existing unremedied breach of the terms, covenants, conditions and restrictions herein contained which has not been waived by the Lessor; and
- (iv) The proposed assignee shall by deed, covenant with the Lessor to observe and perform the terms, covenants, conditions and restrictions on the part of the Lessee hereunder whether expressed or implied, positive or negative, including the obligation to indemnify the Lessor as provided herein and shall appoint the Lessor his attorney for the purpose described in Section 14 hereof such deed to be prepared and stamped by the Lessors' Solicitors at the cost and expense of the Lessee and to be in such form as the Lessors' Solicitors may reasonably require;
- (v) Where the proposed assignee is a corporation the Lessor may as a condition of his consent to such assignment require that the covenants on the part of the assignee referred to in the last preceding paragraph be guaranteed by the Directors and/or the Principal Shareholders of such corporation, such Guarantee to be prepared and stamped by the Lessors' Solicitor at the cost of the Lessee;

Where the Lessee is a corporation not listed on the Australian Stock Exchange any change in the principal shareholding thereof or any change in the principal shareholding of any company of the Lessee altering the effective control of the Lessee shall (for the purpose of this clause) be deemed to be an assignment of this lease and shall require the consent in writing of the Lessor as aforesaid.

10. (b) The Lessee shall not under-let (which expression shall be deemed not to extend to and include permitting any licensee or concessionaire to conduct business on his own accord in any part of the demised premises) or in any manner part with possession of the demised premises or any part thereof without the consent in writing of the Lessor first had and obtained which consent shall not be unreasonably withheld and may be granted on such terms and conditions including those referred to in clause 10(a) as the Lessor may reasonably require.

10. (c) The Lessee shall not mortgage, charge or otherwise encumber his estate or interest in this lease without the consent in writing of the Lessor first had and obtained which consent may be granted conditionally but shall not be unreasonably withheld by the Lessor.

**SECTION 11 - DEFAULT BY LESSEE AND REMEDIES**

If any one or more or all of the following circumstances at any time occur

- (a) any rent or other moneys payable by the Lessee under this Lease shall be unpaid for a period of seven (7) days after becoming payable whether formally demanded or not; or
- (b) the Lessee and the Guarantor or any of them (in the case of a natural person) is or becomes a bankrupt or enters into any agreement or makes any arrangement with creditors for liquidation of debts by composition or otherwise (not being an agreement or arrangement that would by reason of any statute relating to the bankruptcy of persons render this provision void); or
- (c) the Lessee and the Guarantor or any of them (in the case of a corporation) enters into liquidation, whether voluntarily, compulsorily or provisionally, or is wound up or dissolved (except for the purpose of reconstruction or amalgamation), or enters into a scheme of arrangement for creditors, or is placed under official management or administration, or any administrator, receiver, receiver and manager, mortgagee, chargee or any appointee of any of the same enters into possession of the Demised Premises or is appointed in respect of any assets of the Lessee or the Lessee is deregistered; or
- (d) the Guarantor is in breach of or otherwise fails to perform or observe on the due date any covenant under this Lease or under any guarantee in respect of the performance of the Lessee under this Lease; or
- (e) the Lessee fails to perform or observe in a timely manner any of the covenants or conditions contained in this

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Lease that ought to be performed or observed by the Lessee;

THEN the Lessee shall be deemed to have made default. The Lessor may elect to treat any such default as a repudiation of this Lease by the Lessee.

**11.2 Lessor's Remedies Upon Default**

- (a) If the Lessee makes any such default or otherwise repudiates this Lease then, without prejudice to any other rights or remedies:
  - (i) the Lessor may at any time (subject to any prior notice that may be required at law):
    - (A) terminate this Lease (including any extension or renewal that may have been granted by the Lessor prior to any such default) and re-enter into and take exclusive possession of the Demised Premises (by force if necessary) and eject the Lessee and any other person and remove or otherwise deal with any fixtures, fittings, plant, equipment, partitions and other articles, chattels and contents of all kinds found on the Demised Premises; or
    - (B) convert this Lease into a tenancy from month to month; and
  - (ii) the Lessee shall pay to the Lessor all losses, damages, costs and other expenses whatever suffered by the Lessor by reason of or arising from any such default or repudiation, including any costs of terminating this Lease, recovering possession of the Demised Premises, renovating, restoring, altering, cleaning, securing and advertising the Demised Premises, legal and accounting costs, and real estate commissions, charges and fees of and incidental to any re-letting or abortive re-letting of the Demised Premises.
- (b) Nothing shall oblige the Lessor to terminate this Lease if the Lessee makes any such default or repudiation.

**11.3 Essential Terms/Damages**

- (a) The Lessee agrees that each of the covenants of the Lessee in Section 1 (to pay all rent), Section 2 (to pay all monies referred to in that Part), section 3(a) (to observe the Permitted Use), Section 3(r) (to comply with all statutes), Section 4 (to repair and maintain the Demised Premises), Section 9 (to procure and maintain insurances), Section 10 (not to mortgage, assign, sublet or part with possession) and any other covenant for payment of money by the Lessee or expressed in this Lease or otherwise held by a Court to be essential, are essential terms of this Lease.
- (b) If the Lessor terminates this Lease following any default, repudiation or breach by the Lessee of an essential term or otherwise then, without prejudice and in addition to any other rights or remedies, the Lessor shall also be entitled to recover from the Lessee as liquidated damages all rent and other monies that would have been payable by the Lessee under this Lease for the unexpired residue of the Lease Term, less any amount the Lessor is able to obtain, or could in the Lessor's opinion reasonably be expected to obtain (at the time when the Lessor makes any claim for damages or, if litigation proceeds to judgement, at the time of the judgement) from a re-letting of the Demised Premises at a reasonable rent and on reasonable terms for the unexpired residue of the lease term.
- (c) To the extent that such damages represent an acceleration of payments that would otherwise have been received over a period of time, the amount of such damages shall, at the election of the Lessor, be rebated at a rate two percent less than the Stipulated Rate as at the date on which the amount is first claimed. The rebate shall be calculated with effect from the day following the date on which such damages (taking into account any such rebate) are received by the Lessor in full.

**11.4 Abandonment of Demised Premises by Lessee**

If the Lessee abandons or otherwise vacates the Demised Premises, either with or without the consent of the Lessor, then the Lessor shall be entitled to accept the keys for the Demised Premises and without further notice to the Lessee enter the Demised Premises at any time for the purpose of renovating, restoring, altering, cleaning and securing the Demised Premises and conducting any prospective tenant or other occupier through and otherwise to inspect the same and to advertise the Demised Premises for re-letting or do any one or more of those things. Any such conduct of the Lessor under this clause shall not of itself constitute acceptance of any breach or repudiation by the Lessee nor a surrender by operation of law.

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**11.5 Lessor's Rights to Cure Defaults**

The Lessor may but shall not be obliged to, remedy at any time without notice any default by the Lessee under this Lease at the cost of the Lessee.

**11.6 Effect of Waivers on Default**

Any failure or refusal by the Lessor to take advantage of any default, breach of covenant or repudiation by the Lessee shall not constitute a waiver of it. A waiver by the Lessor of any particular breach or default of the Lessee shall not be deemed to be a waiver of any subsequent or other breach or default. Any demand by the Lessor for or subsequent acceptance by or on behalf of the Lessor of any rent or other moneys payable under this Lease shall not constitute a waiver of any earlier or other breach or default by the Lessee.

**11.7 Interest**

- (a) The Lessee shall pay to the Lessor without any notice or demand interest at the Stipulated Rate on all rent and other moneys payable by the Lessee to the Lessor under this Lease that are not paid when the same become due and payable, and also upon any judgment the Lessor may obtain against the Lessee in respect of any such moneys.
- (b) The interest shall be calculated from the date when such rent or other moneys become due and payable up to and including the date of actual payment, and shall be deemed to accrue from day to day and shall be capitalised on the last day of each month.

**11.8 Condition Precedent**

Despite anything to the contrary contained or implied in this Lease or under any rule of law, the Lessor shall not be in default under this Lease or be regarded as having repudiated this Lease in any manner whatever unless the Lessee shall have given the Lessor written notice of such default or repudiation, and the Lessor shall have then failed within a reasonable time to take proper steps to rectify the same.

**SECTION 12 - DETERMINATION OF TERM**

12. (a) The Lessee shall at the expiration or sooner determination of the term hereof yield up the demised premises in the manner herein prescribed.

12. (b) Provided that the Lessee shall have duly paid the rent hereby reserved and duly observed performed and fulfilled all the covenants, terms and conditions on the Lessee's part to be observed, performed and fulfilled hereunder the Lessee may and if so requested by the Lessor shall during the last fourteen (14) days of the term hereof or any extension or renewal thereof remove from the demised premises all fixtures, fittings, signs and notices which have been erected or installed by the Lessee during or prior to the term hereof or purchased with the consent of the Lessor from any previous tenant of the demised premises and provided further that the Lessee shall make good any damage whatsoever caused to the demised premises by such removal.

12. (c) If the Lessee shall not have done so as of right under the provisions of the last preceding sub-clause, the Lessee shall if required so to do by the Lessor remove from the demised premises prior to the expiration or sooner determination of the term hereof any such fixtures, fittings, signs and notices (to which such requirement shall relate) upon the giving of reasonable notice to the Lessee's representative and will make good any damage whatsoever caused to the demised premises by such removal and if required by the Lessor shall re-alter any alterations made by the Lessee so that the demised premises shall be converted to their original condition provided always that the Lessor may at their option themselves cause any such damage to be made good and any such alterations to be so re-altered and may recover the reasonable costs thereof from the Lessee as a liquidated debt payable on demand.

12. (d) Any fittings, fixtures, or chattels not removed by the Lessee either as a right or by requirement of the Lessor shall be deemed abandoned by the Lessee and shall be and become the property of the Lessor, provided further that if upon the sale of such aforesaid fittings, fixtures or chattels whether by public auction or other means at the absolute discretion of the Lessor the proceeds of sale are not sufficient to pay all expenses, commissions or other costs incurred in the removal sale or making good any damage so caused or any other defect in the demised premises then the Lessor may recover such deficiency from the Lessee.

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12. (e) The determination of this lease shall not prejudice or affect any rights or remedies of the Lessor against the Lessee on account of any antecedent breach of the Lessee of any of the terms, covenants and restrictions on the part of the Lessee hereunder.

**SECTION 13 - POWER OF ATTORNEY**

13. (a) The Lessee irrevocably appoints the Lessor and (if the Lessor is or includes a corporation) the directors, the Chief Executive Officer and the secretary from time to time of the Lessor and all mortgagees, successors in title and attorneys from time to time of the Lessor and any substitute jointly and each of them severally as the lawful attorney of the Lessee (either in the name of the Lessor or the Lessee), without prejudice to any other rights or remedies of the Lessor, at any time and from time to time to do any one or more or all of the following:

(i) after expiration or earlier termination of this Lease:

- (A) execute a surrender of this Lease and register the same; and
- (B) generally do anything and execute any instrument (including a withdrawal of any caveat affecting the Land) or other document relating to the Demised Premises, the Complex and this Lease or any one or more of the same as fully and effectually as the Lessee could do itself;

(ii) after the Lessor has otherwise re-taken possession of the Demised Premises:

- (A) remove, store, sell or otherwise deal with any fixtures, fittings, plant, equipment, partitions and other articles, chattels and contents of all kinds found on the Demised Premises in such manner as the attorney may in its sole discretion see fit; and
- (B) apply any proceeds of sale of the same towards the cost of any such removal, storage, sale or other dealing, and towards any rent or other monies payable by the Lessee to the Lessor under this Lease.

13. (b) Sufficient proof of the existence of any circumstance entitling the exercise of any such powers shall be the statutory declaration of any such attorney. The Lessee consents to the registration of this power.

13. (c) The Lessee releases and indemnifies the Lessor and any such attorney and agrees to keep the Lessor and any such attorney released and indemnified from and against all costs, claims and other expenses whatever and shall ratify and confirm everything that the Lessor and any such attorney and any substitute or any of them may lawfully do or cause to be done relating to the exercise of any of these powers.

13. (d) Nothing in this Lease shall oblige any such attorney to act in respect of these powers.

**SECTION 14 - ARBITRATION**

14. In the event of any matters hereunder being stated to be determined by arbitration, the arbitrator shall be appointed by the President for the time being of the Queensland Law Society Incorporated and the arbitrator shall conduct the arbitration in accordance with the provisions of the Commercial Arbitration Act 1991 or any statutory amendment, modification or re-enactment thereof.

**SECTION 15 - LEASE CONTAINS ENTIRE AGREEMENT**

15. The Lessee acknowledges that the terms and conditions set out in this lease contain the entire agreement as concluded between the Lessor and the Lessee and that there are no other oral or collateral agreements between the parties relating to the demised premises or the centre notwithstanding any negotiations or discussions between the parties prior to the execution hereof. No representation made by the Lessor its servants or agents concerning the Centre or the demised premises shall be an implied term in this lease or form the subject matter of a separate agreement subsidiary to or collateral with this lease. The Lessee further acknowledges that it has not been induced to accept this lease by any representation oral or otherwise made by or on behalf of the Lessor its servants or agents which is not included in this lease.

**SECTION 16- IMPLIED COVENANTS**

16. It is expressly agreed and declared by and between the Lessor and the Lessee that all covenants, powers and other provisions implied by Section 105 and 107 (a), (b) and (d) of the Property Law Act 1974-1989 are hereby negated

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and that whenever any other inconsistency may exist between the covenants, powers and other provisions of this lease and those implied by the Property Law Act 1974-1989 or by the Land Titles Act 1994 (as amended) then the covenants, powers and other provisions of this lease shall prevail over those respectively implied by any of those said Acts except to the extent however that any such covenant, power or other provision of this lease may not be lawful in which event the relevant covenant, power or other provision of the Property Law Act or the Land Title Act 1994 (as amended) - as the case may be - shall apply.

16.1 The provisions of section 45 of the Retail Shop Leases Act shall not apply.

**SECTION 17 - TIME OF THE ESSENCE**

17. Time shall be of the essence in respect of all covenants and agreements and stipulations on the part of the lessee herein.

**SECTION 18 - NO AGENCY RELATIONSHIP**

18. The relationship between the Lessor and the Lessee is that of landlord and tenant, and any other relationship (including that of partnership, joint venture and principal and agent) is negated.

**SECTION 19 - OPTION FOR RENEWAL**

19. (a) If the Lessee shall duly perform and observe all the covenants, agreements and conditions herein contained on their part to be performed and observed the Lessee shall have the option to be exercised by notice in writing not less than three months and not more than six months before the date of expiration of the term hereby granted of taking a further lease of the demised premises for the further term as set out in Item 3 of Appendix 1 hereof at a rental for the first year to be a Market Rent determined as provided for in the Section 1 hereof with the commencement date of the option period being a Market Review Date. The rent for each of the second and subsequent years of the further option period shall be increased in accordance with the formulae contained in Section 1 hereof. The Lease shall be on the same terms and conditions contained in this Lease with the exception of this option for renewal and any provisions relating to rent free periods, rent incentives, Lessors works or any other covenants, terms or conditions which are or could be construed as an incentive or inducement for the Lessee to enter into this Lease or any preceding option.

19. (b) If the Lessee shall duly perform and observe all the covenants, agreements and conditions herein contained on their part to be performed and observed the Lessees shall have the further option to be exercised by notice in writing not less than three months nor more than six months before the date of expiration of the first option period of taking a further lease of the demised premises for the further term set out in Item 4 of the Appendix 1 hereof at a rental for the first year to be a Market Rent determined as provided for in Section 1 hereof with the commencement date of the option period being a Market Review Date. The rent for each of the second and subsequent years of the further option period shall be increased in accordance with the formulae contained in Section 1 hereof. The Lease shall be on the same terms and conditions contained in this Lease with the exception of this option for renewal and any provisions relating to rent free periods, rent incentives, Lessors works or any other covenants, terms or conditions which are or could be construed as an incentive or inducement for the Lessee to enter into this Lease or any preceding option.

19. (c) The Lessor covenants with the Lessee that so long as any option for renewal shall remain open for exercise and be unexercised by the Lessee, the Lessor shall procure from the Purchaser or Transferee thereof a covenant under seal in favour of the Lessee that such Purchaser or Transferee shall observe and be bound by the provisions of this clause and whereunder such Purchaser or Transferee agrees to obtain a similar covenant from any Purchaser or Transferee of the said land from such Purchaser or Transferee PROVIDED ALWAYS that upon delivery of such Deed of Covenant to the Lessee the outgoing Lessor shall be freed and discharged from any liability to the Lessee hereunder PROVIDED FURTHER that this sub-clause shall not apply if the lease is registered at the Department of Environment and Resource Management (Titles) or its successor.

**SECTION 20 - VARIABLE OUTGOINGS**

20. The term variable outgoings in this lease shall mean the aggregate of all amounts paid by the Lessor or for the payment of which the Lessor may be or become liable in any one (i) accounting period in respect of the land and building or the Centre (as the case may be) on account of:-

- (i) Rates and charges payable to any Local Authority or any other Government Authority responsible for the provision or reticulation of water and or sewerage and or drainage services. (Urban Utilities charges)



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- (a) The Lessor may forward to the Lessee a copy of any assessment, charge or invoice the Lessor receives for any of the variable outgoings and require the Lessee to pay that relevant amount directly to the Supplier; or
- (b) The Lessor may forward to the Lessee a tax invoice for the amount of any variable outgoings plus GST thereon and require payment thereof to it within the time specified in the tax invoice.

**SECTION 21 - PROHIBITION ON SMOKING**

21. The Lessee shall not allow throughout the term of this Lease or any renewal period any of its officers, employees, agents, invitees or customers to smoke a cigarette, cigar or any other tobacco product in the demised premises.

**SECTION 22 - RESUMPTION**

22. If the whole or any part of the Demised Premises shall be resumed or taken for any public purpose then the Lessor and Lessee shall be at liberty by notice in writing to the other to terminate the Lease from the date of the resumption and without right or claim on the part of either party for damage or compensation by reason of such termination (without prejudice to the rights of either party for any antecedent breach of covenant).

**SECTION 23 – GOODS AND SERVICES TAX**

- (a) In this clause:
  - (i) "GST" has the same definition as that term has in the GST Legislation;
  - (ii) "GST Legislation" means the *A New Tax System (Goods and Services Tax) Act 1999 (cth)* and any associated Commonwealth legislation, regulations and publicly-available rulings;
  - (iii) "GST Liability" means the liability of the relevant party making a Taxable Supply (the "Supplier") to another party (the "Recipient") under or pursuant to this document to pay GST under the GST Legislation in respect of that Taxable Supply; and
  - (iii) other expressions not defined above have the meanings as defined in the GST Legislation.
- (b) The Recipient must:
  - (i) pay to the Supplier the amount of the Supplier's GST Liability (if any); and
  - (ii) make that payment to the Supplier at the same time as the Recipient makes the payment for the relevant Taxable Supply.
- (c) The Supplier must deliver to the Recipient a tax invoice in a form which complies with the GST Legislation to enable the Recipient to claim any input tax credits that the Recipient may be entitled to claim in respect of the payment by the Recipient for the Taxable Supply. The tax invoice must be delivered, not later than the due date for the payment referred to in paragraph (b) of this clause.
- (d) Any amount to be reimbursed to a party ("Reimbursed Party") under this document by another party ("Reimbursing Party") which does not relate to a taxable supply made by the Reimbursed Party shall be reduced by the amount of any input tax credits to which the Reimbursed Party is entitled in respect of the creditable acquisition for which reimbursement is being sought. The intention is that the Reimbursing Party only reimburses the Reimbursed Party for the net cost of the acquisition so as to avoid any element of price exploitation.
- (e) It is agreed that all amounts payable by the Recipient to the Supplier under this document are exclusive of GST unless otherwise expressly stipulated.

**SECTION 24 – NOTICES**

24.1 For a notice under this Lease to be valid it must be:-

- (a) in writing;
- (b) served on the other party in accordance with the Lease.

**Title Reference [11833138]**

24.2 The Lessor must serve a notice on the Lessee either by:-

- (a) giving it to the Lessee personally; or
- (b) leaving it at the Demised Premises; or
- (c) leaving it at, posting it to or faxing it to the Lessee's Registered Office or the Lessee's Business address as last known to the Lessor.

25.3 The Lessee must serve a notice on the Lessor either by leaving it at, posting it to or faxing it to:-

- (a) The Lessor's registered office; or
- (b) The Centre Manager's office (if a Centre Manager has been appointed).

**SECTION 25 – OVERHOLDING AFTER EXPIRATION OF LEASE TERM**

25.1 (a) If the Lessee with the consent of the Lessor remains in occupation of the Demised Premises after the expiration of the Lease Term (other than pursuant to the grant of any further lease) then the Lessee shall be a monthly tenant of the Demised Premises from the Lessor on the terms of this Lease so far as the same are applicable to a monthly tenancy. Such monthly tenancy may, without prejudice to any antecedent rights or remedies of any party, be terminated by the Lessor or the Lessee on not less than one (1) month's written notice to the other which notice may be given at any time and (despite any statute to the contrary) shall expire at the end of the notice period. If the Lessee is in default in respect of such monthly tenancy, then such monthly tenancy may be terminated by the Lessor on not less than seventy-two (72) hours written notice to the Lessee.

25.1 (b) The rent payable by the Lessee under such monthly tenancy shall be the amount of rent payable monthly under this Lease immediately before such expiration and shall be payable monthly in advance at the times and in the manner referred to in this Lease. The rent may be reviewed whenever the Lessor determines it appropriate in its absolute discretion on one (1) month's written notice, and any provision in this Lease relating to a mechanism for the calculation of or any limitation on or right of review of any rent shall not apply in respect of this clause.

**SECTION 26 - GOVERNING LAW**

Despite the domicile or residence of any party, this Lease is governed by the laws of Queensland. Any proceedings relating to this Lease may, at the option of the Lessor, be instituted, removed to, heard and determined in any Court of competent jurisdiction in Queensland selected by and convenient to the Lessor.

**SECTION 27 - SEVERANCE**

If any provision of this Lease is or becomes invalid, illegal or unenforceable, the provision shall so far as possible shall be read down to give it a valid operation of a partial character. If that is not possible, the provision shall be severed and the remaining provisions shall not in any way be affected or impaired by the same.

**SECTION 28 – MANAGING AGENT**

The Lessor may from time to time appoint an agent ("the Managing Agent") to manage the Centre. The Managing Agent shall represent the Lessor in all matters relating to this Lease except to the extent that the Lessor may from time to time otherwise direct in writing.

**SECTION 29 - MORATORIUM NEGATIVED**

To the fullest extent permitted by law, the application of any statute (whether present or future) to this Lease having the effect of extending or reducing the lease term, reducing or postponing the payment or amount of any rent or other monies or otherwise adversely affecting in the sole opinion of the Lessor the operation of this Lease is excluded and negatived.

**SECTION 30 - ASSIGNMENT BY LESSOR**

If the Lessor transfers or otherwise assigns any interest in the Centre and in this Lease or any of the same, to the extent that any transferee or assignee is responsible for compliance with any covenants of the Lessor under this Lease, the transferring Lessor shall, without further written agreement, be deemed to be relieved of all further liability under this Lease.

Title Reference [11833138]

**SECTION 31 - BIND ALL SIGNATORIES**

This Lease immediately binds each of its signatories, even if any person intended to be bound has not or may never execute this Lease, or that any such execution is or becomes void or voidable.

**SECTION 32 - HEAD LEASE AND OTHER INTERESTS**

The Lessee shall at all times during the Lease Term permit any person having any estate or interest in the Demised Premises superior to or concurrent with the Lessor to exercise the powers of the Lessor and that other person or any of them to enter, view and carry out work in the Demised Premises and otherwise to exercise or perform all their lawful rights or obligations in relation to that estate or interest.

**SECTION 33 - BENEFIT OF COVENANTS**

If any person other than the Lessor becomes entitled to receive any rent or other monies payable under this Lease whether by operation of law or by direction of the Lessor or otherwise, such person shall, without further written agreement, have the benefit concurrently with the Lessor of all covenants of the Lessee and the Guarantor under this Lease and under any other document executed by the Lessee and the Guarantor or any of them as the Lessor may require in confirmation of the same.

**SECTION 34 - WAIVER**

Despite anything to the contrary contained or implied in this Lease, any failure or refusal by the Lessor to exercise any right to review any rent or other monies payable under this Lease on the due date for the same or to exercise any other right or remedy whether before or after the expiration or earlier termination of this Lease, shall not be an abandonment or waiver of any such right or remedy and the same shall (unless otherwise expressly waived by the Lessor) accrue retrospectively from the relevant due date for the same.

**SECTION 35 - TRUSTEE PROVISIONS**

- (a) If the Lessee and the Guarantor or any of them enters into or otherwise at any time holds this Lease as a trustee of any trust (the "Lessee's Trust"), then whether or not the Lessor has any notice (actual or constructive) of the Lessee's Trust, the following apply:
- (i) the Lessee warrants that it has full power under the Lessee's Trust to enter into and perform its obligations and liabilities under this Lease;
  - (ii) the obligations and liabilities of the Lessee and Guarantor under this Lease extend to the fund and any other assets of the Lessee's Trust ("the Trust Fund");
  - (iii) the Lessee and the Guarantor shall on the written demand or direction of the Lessor exercise all rights of indemnity that the Lessee and the Guarantor or any of them may at any time have against the Trust Fund and any beneficiaries or unit holders of the Lessee's Trust or any of the same for the benefit of the Lessor;
  - (iv) the Lessee and the Guarantor shall be and remain liable under this Lease both in their relevant personal capacities and as a trustee of the Lessee's Trust; and
  - (v) the Lessee shall produce the original stamped trust deed and all documents evidencing the Lessee's Trust and the Trust Fund to the Lessor within fourteen (14) days of written request for the same by the Lessor.
- (b) If the Lessor holds the reversion of this Lease as a trustee (the "Lessor's Trust"), whether disclosed or not, the liability of the Lessor is limited to the assets of the Lessor's Trust, the Lessor is only liable under this Lease in its capacity as trustee of the Lessor's Trust, and the Lessor has no personal liability under this Lease.

**SECTION 36 - NO CAVEATS**

The Lessee shall not caveat against the Land.

Title Reference [11833138]

**SECTION 37 - MORTGAGE BY THE LESSOR**

- (a) The Lessor may at any time mortgage, charge or otherwise encumber the reversion and this Lease shall be deemed to be subject to the same.
- (b) The Lessee and the Guarantor shall on the written request of the Lessor do all things and execute and deliver to the Lessor such form of consent containing such covenants as the Lessor may reasonably require or in the standard form required by the mortgagee in order to procure the consent of any mortgagee of the Lessor to this Lease.

**SECTION 38 - FOREIGN OWNERSHIP OF LAND REGISTER ACT**

The Lessee covenants that:

- (a) the Lessee is not a person to whom the *Foreign Acquisitions and Takeovers Act 1975* (Cwealth) and the *Foreign Ownership of Land Register Act 1988* (Q) applies; or
- (b) if any one or more of those Acts apply, the Lessee may unconditionally enter into this Lease without breaching any of those Acts, and shall comply with and not otherwise breach any of those Acts.

**SECTION 39 - DOCUMENTATION**

The Lessee expressly and irrevocably authorises the Lessor and the solicitors for the Lessor and any of them to complete this Lease and any guarantee by inserting the words or figures or by initialling, executing or correcting the same and (if necessary) inserting any sketch plan in this Lease identifying the location of the Demised Premises. This clause shall also apply in the same manner in respect of any further or other documents executed or required to be executed by the Lessee and the Guarantor or any of them under or pursuant to this Lease.

**SECTION 40 - LICENSING PROVISIONS**

This clause shall apply if the Lessee's business and/or the demised premises are required to be licensed or regulated pursuant to any statute regulation or ordinance.

- 40. (a) The Lessee will from time to time during the continuance of this Lease at the proper times for that purpose apply for and endeavour to obtain at its own expense all such licences as are or may be necessary for carrying on the permissible use in and upon the demised premises.
- 40. (b) The Lessee (or such one of the Lessee's if more than one as the Lessor approves) will hold in its own name during the term hereof all licences issued in respect of the Demised Premises AND will not appoint any nominee or transfer or permit to be transferred or attempt to apply or give or publish notice of application to transfer to any person the licences held in respect of the Demised Premises without the consent in writing of the Lessor first had and obtained which consent shall not be unreasonably withheld AND in case the licence held in respect of the Demised Premises will at any time during the term hereby created be held by any person or corporation other than the Lessee such person or corporation will not without the consent in writing of the Lessor first had and obtained transfer or attempt to apply or give or publish notice of application to transfer such licence to any other person or corporation.
- 40. (c) That neither the Lessee nor the holder for the time being of the licence issued in respect of the Demised Premises will at any time during the term hereof apply for or be a party or privy to or directly or indirectly be concerned or assist in any application for the removal of the present or any future licence of the Demised Premises therefrom to any other premises whatsoever without the consent in writing of the Lessor first had and obtained.
- 40. (d) The Lessee will not be a party or privy to the doing of any act whereby the goodwill trade or business of the Demised Premises may be prejudicially affected.
- 40. (e) The Lessee will at the expiration or sooner determination of the lease sign and give such notice or notices and allow such notice or notices of a renewal or transfer of any licence as may be required by law to be affixed to the Demised Premises to be thereto affixed and remain so affixed during such time or times as is necessary or expedient in that behalf and generally to do and perform all such further acts matters and things as are necessary to enable the Lessor or any person authorised by the Lessor to obtain the

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renewal of any licence or any new licence or the transfer of any licence then existing and in force to any person or corporation nominated by the Lessor.

40. (f) The lessee will not apply for nor will the Lessee permit or suffer its nominee or the holder of any licence in respect of the Demised Premises to apply for permission to absent itself or himself from the Demised Premises without first obtaining the consent in writing of the Lessor to such application and the approval in writing of the Lessor of the person in respect of whom the permission of the Licensing Commission to manage superintend or conduct the business on the Demised Premises during such absence is intended to be sought.
40. (g) On the expiration or sooner determination of the term hereof or any renewal hereof the Lessee will hand to the Lessor the original licence document and will at the direction of the Lessor and at the Lessor's sole discretion appoint the Lessor or any person to whom the Lessor has sold let or agreed to let the Demised Premises to be its agent to manage superintend or conduct the business of the Demised Premises for the period between the expiration by effluxion of time or sooner determination of the term hereof and the next meeting of the Licensing Commission at which a transfer of the said licence can be granted and will apply for lease to absent itself or its nominee from the Demised Premises during that period AND in consideration of the granting of this lease the Lessee DOES HEREBY IRREVOCABLY APPOINT the Lessor and if the Lessor is a corporation the directors of the Lessor jointly and severally to be its attorneys and attorney in the name and as the act and deed of the Lessee or in the name and as the act and deed of the said attorneys or attorney to apply for and sign and do all notices and acts necessary for obtaining a transfer to any such purchaser or Lessee as aforesaid or other the Lessor or the nominee of the Lessor of the licence of the Demised Premises at the expiration or sooner determination of the term hereof and for permission for the Lessee or its nominee to absent itself or himself from the Demised Premises and for the person to whom the Lessor has sold let or agreed to let the Demised Premises or other the Lessor or the nominee of the Lessor to manage superintend or conduct the business of the Demised Premises for the period between the expiration or sooner determination of the term hereof and the next meeting of the Licensing Commission at which a transfer of the licence of the Demised Premises can be granted and also from time to time to apply for a renewal of the licence of the Demised Premises as to the said attorneys or attorney seems fit AND the Lessee DOES HEREBY RATIFY AND CONFIRM and agree to ratify and confirm all and whatsoever the said attorneys or attorney do or cause to be done under and by virtue of these presents.
40. (h)(i) The Lessee will notwithstanding anything contained elsewhere in this Lease at its own cost duly and punctually perform and observe the provisions and requirements of the Liquor Act 1992 including the payment as and when due of all licence fees and will comply with any rules by-laws, regulations and statutory instruments made thereunder affecting or relating to the Demised Premises or to the licence and the holder thereof and any and all orders and notices and directions given or sent to or for or served upon the Lessor the Lessee or the holder of the licence and in particular without limiting the generality of the foregoing the Lessee will comply at its own expense with any orders made under the said Act.
40. (h)(ii) The Lessee will forthwith upon receipt of same give to the Lessor written notice of all orders, notices, directions and communications made or given pursuant to the Liquor Act 1992 and of all summonses convictions or orders issued or made in respect of the Lessor, the Lessee, or the holder of the said licence which relate to the use of the Demised Premises the holding of the said licence or any act matter or thing affecting the same.
40. (h)(iii) If the Lessee fails to comply with the obligations contained in this clause, the Lessor may in the exercise of its absolute discretion and without prejudice to its rights against the Lessee in respect of such failure to do such things and acts as may be necessary to so comply and recover from the Lessee any and all costs, expenses and outlays occasioned thereby.
40. (h)(iv) The Lessee will indemnify the Lessor in respect of any and all actions, proceedings, judgments, orders, decrees, damages, costs, losses or expenses of any nature whatsoever which the Lessor may suffer or incur as a result of any failure by the Lessee's employees, agents, contractors, authority actual or ostensible to comply with the same obligations as are imposed by the Lessee by this clause.
40. (h)(v) The Lessee will indemnify and hold harmless the Lessor in respect of any loss or damage whatsoever which the Lessor may sustain or incur in consequence of any act omission or default on the Lessee's part whereby or by reason whereof any licence to sell liquor or any other permit or authority issued under the

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provisions of the Liquor Act for the time being in force in the State of Queensland is revoked suspended or cancelled.

**SECTION 41 - LESSEE'S SECURITY**

- (a) The Lessee shall on or before the Date of Commencement pay to the Lessor as security for the due performance by the Lessee of all its covenants under this Lease the amount of the Security referred to in Item 7 of the Appendix.
- (b) On each of the days appointed for rent review under this Lease, the Lessee shall increase the Security in the same proportion as any increase in rental by reason of such review. Such increase shall be paid by the Lessee to the Lessor within fourteen (14) days of final determination of any such rent review, and shall be held by the Lessor as a Security for the purposes above.
- (c) The Lessee may, at its option, in lieu of paying cash for the Security deliver to the Lessor an unconditional signed and stamped banker's undertaking issued by a bank acceptable to the Lessor in favour of the Lessor and its successors in title under this Lease for the amount of the Security in such form as the Lessor may require.
- (d) If at any time the Lessee fails to duly and punctually perform or observe any of its covenants under this Lease, the Lessor may without notice to the Lessee resort to and otherwise apply the Security towards satisfaction of any such failure by the Lessee or otherwise to compensate the Lessor for any loss or damage suffered or that may be suffered by the Lessor by reason of that failure.
- (e) The Lessee shall within seven (7) days of written demand by the Lessor pay to the Lessor the amount drawn down to by the Lessor. That amount shall be held as a Security in accordance with this clause. Any amount not paid shall be a liquidated debt immediately payable by the Lessee to the Lessor under this Lease.
- (f) If upon the expiration or earlier termination of this Lease or any renewal, extension or overholding of the same, all obligations of the Lessee under this Lease are discharged and satisfied, the Lessor shall upon the written request of the Lessee return to the Lessee or otherwise discharge the Security to the extent not resorted to by the Lessor.
- (g) If the Lessor resorts to the Security, it shall be without prejudice to any other rights or remedies of the Lessor against the Lessee and any other person under this Lease and shall not be deemed to be a waiver or satisfaction of any such rights or remedies. Nothing shall oblige the Lessor to resort to the Security under this clause.
- (h) If the Lessee assigns this Lease with the consent of the Lessor, it shall be a condition of the Lessor's consent to any such assignment that such assignee shall on or before the relevant date of assignment substitute the Security by delivering to the Lessor the amount then required to be given by the Lessee under this clause. Upon the grant by the Lessor of consent to the assignment and in exchange for the substitute Security, the Lessor shall return to the Lessee or otherwise discharge the Security previously given by the Lessee to the extent not resorted to as above. The substitute Security shall serve as Security in lieu of the Security previously given by the Lessee and may be resorted to and otherwise applied by the Lessor in the same manner and for the same purposes referred to above.
- (i) If the Lessor transfers or assigns this Lease to any person, the Lessor may without notice to the Lessee transfer and otherwise assign the benefit of the Security (less any amount appropriated by the Lessor under this clause) to any such transferee or assignee, or require the Lessee to provide a replacement Security to such transferee or assignee. If the Lessee has given the Security by way of a banker's undertaking that is not assignable, the Lessor may convert the Security into cash and pay it to the transferee or assignee. The Lessor shall then be deemed to be relieved of all further liability in respect of the Security. Any such transferee or assignee may enforce and otherwise proceed on the Security in the manner referred to above.

**SECTION 42 - DEFINITIONS**

42.1 In this Lease, unless otherwise provided, the expressions following (either with or without capital letters have the meanings respectively assigned to them:

'Air Conditioning Equipment' means all plant, machinery and equipment for heating, cooling and otherwise circulating air and associated controls and ducting that may from time to time be in or appurtenant to the Demised Premises.

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**'Appurtenances'** means all stop-cocks, hydrants, fire hoses, alarm systems and other fire prevention and extinguishing equipment, water closets, lavatories, grease traps, water apparatus, wash basins, wash rooms, gas fittings, electrical fittings and apparatus and other services (including air conditioning) contained in or about the said building or the demised premises as the context requires.

**'Business Day'** means any day other than a Saturday, Sunday or public holiday in the City of Brisbane.

**'Business Hours'** means the hours the Lessor may from time to time in good faith designate as being the usual operating hours for conduct of the Permitted Use in the Centre or in respect of that part of the Centre.

**'Centre'** means collectively:

- (a) the Land together with all other land either adjacent to or in the vicinity of the Land that may from time to time be acquired or leased by the Lessor and incorporated into the Centre for any purpose; and
- (b) all buildings and other structures erected or to be erected on such land (save any buildings, structures or land that the Lessor may from time to time determine shall not form part of the Centre); and
- (c) all plant, equipment and other articles and chattels of all kinds from time to time in the same under the ownership or control of the Lessor.

**'Common Areas'** means all those parts of the Centre not demised to or occupied by and not intended to be demised to or occupied by any tenant or any other person but which may from time to time be set aside or made available by the Lessor for use by the tenants or other occupiers of the Centre and their respective employees, invitees and licensees and any other persons so authorised by the Lessor in common with each other.

**'Consent Policy'** means the Leasing-Consent Policy as amended from time to time by which the Lessor assesses proposed leasing transactions at the Centre and is issued by the Lessor to the tenants of the Centre.

**'Date of Commencement'** means the date specified in Item 6 of the Form 7 as the commencement date of this Lease.

**'Demised Premises'** means the tenancy taken by the Lessee referred to in Item 5 of the Form 7:

- (a) including all additions and improvements that may be made to the Demised Premises including any mezzanine floor (other than any property of the Lessee) and all fixtures, fittings, plant, equipment, doors, windows, furniture, furnishings, partitions and other articles and chattels of all kinds that may from time to time be in or appurtenant to the Demised Premises and owned or supplied by or on behalf of the Lessor, including all window and floor coverings, light fittings, wiring, the Appurtenances, the Air Conditioning Equipment and the Fire Equipment; and
- (b) extending to the internal surface of the floor, the ceiling and where there is no ceiling the external surface of the roof and any external building walls and to the centre line of any inter-tenancy walls.

**'Fire Equipment'** means all stop-cocks, hydrants, fire hoses, fire alarms and other fire prevention, detection and extinguishing equipment that may from time to time be in or appurtenant to the Demised Premises.

**'Form 7'** means the Form 7 commencing on the front page of this Lease.

**'Floor Area of the Centre'** means all areas leased or available for lease and includes licensed areas.

**'Floor Area Percentage'** means the percentage calculated by the following formula:-

$$\text{FAP} = \frac{\text{FADP} + \text{FAC}}{\text{FADP} + \text{FAC}}$$

where

FAP means Floor Area Percentage

FADP means Floor Area of the Demised Premises

FAC means Floor Area of the Centre

**'Further Term'** means the term of any renewal or extension of the Lease Term.

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person authorised by the Lessor, including each officer, employee, agent, contractor, consultant and worker and any plant, machinery, materials and equipment.

- (f) References to a thing include the whole and any one or more parts of the thing, and references to any party include any one or more or all of the persons comprising that party.
- (g) References to a covenant include a term, an agreement, an acknowledgment, an obligation and a condition, whether positive or negative, expressed or implied, and whether running with the land or not.
- (h) References to "writing" or words of a similar effect include printing, typing, electronic mail and facsimile and all other means of reproducing words in a visible form.
- (i) References to "month" mean calendar month.
- (j) References to any consent, approval or authority of the Lessor or words of a similar effect mean a consent, approval or authority (as the case may be) in writing signed by or on behalf of the Lessor. If anything under this Lease is dependent upon the consent or approval of the Lessor, it also requires the consent or approval of any mortgagee or superior landlord where such consent or approval is required. In the case of the Lessor, any such consent or approval shall not be unreasonably withheld, but may be granted subject to reasonable conditions, unless otherwise provided in this Lease.
- (k) Each covenant by a party not to do any act or thing includes an obligation not to permit the act or thing to be done and to use its best endeavours to prevent such act or thing being done by a third party.
- (l) Each covenant by the Lessee to pay or to be liable for any costs or other expenses includes all reasonable costs, charges, payments and other expenditure of any nature whatever paid by the Lessor (or for the payment of which the Lessor may be or become liable) and where appropriate all legal costs (on a solicitor and own client basis) and expenses of the Lessor in respect of the relevant covenant.
- (m) Words denoting a particular gender include each other gender, words denoting the singular number only include the plural number and vice versa, and words denoting an individual include a corporation and vice versa.
- (n) Each covenant by a party is a separate and independent covenant continuing throughout the Lease Term and during any period of renewal, extension or holding over and otherwise so long as the same remains to be performed, whether or not this Lease has otherwise been terminated.
- (o) The headings to Parts, clauses and sections in this Lease shall be ignored, save for headings in the Reference Data.
- (p) This Lease is executed and delivered by each party as a deed.
- (q) The date of this Lease is the date of execution by the party who executes it last.
- (r) Each person signing this Lease as an attorney, authorised officer or agent for any party warrants to all other parties that as at the date of execution, the person signing is duly constituted by and fully empowered to bind the principal for the purpose and has not received any notice of revocation of the relevant power.
- (s) Where the day or last day for doing anything or on which an entitlement is due to arise is not a Business Day, then the relevant day is the next following Business Day. However, this does not apply in respect of any covenant by the Lessee to use and occupy the Demised Premises. Otherwise, time is of the essence of all rights and obligations of the Lessee.

**SECTION 43 – PERSONAL PROPERTY SECURITIES**

**43.1 Notify of Security Interest**

The Lessee must notify the Lessor on or before the Commencement Date if any of the property owned or used by the Lessee which is either located in the Premises or relevant to this Lease is subject to a Security Interest.

**43.2 Exclusion of PPS Act**



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Where permitted by the PPS Act:

43.2.1 the Lessee waives its rights to receive notifications, verifications, statements, disclosures, proposals and any other documentation specified under sections 95, 118, 121(4), 130, 132(3)(d), 132(4), 135 and 157 of the PPS Act;

43.2.2 the Lessor and the Lessee agree that sections 95, 125, 129, 142 and 143 of the PPS Act do not apply to this Lease.

#### SPECIAL CONDITIONS

1. RENT RELIEF

- 1.1 Subject to the Lessee complying with all of the covenants terms and conditions of this lease during the whole of the term of the lease or any extension thereof the Lessor agrees to allow the Lessee to have a rent free period of occupation of the premises for two (2) months from the date of commencement.
- 1.2 In the event that the Lessee fails to comply with any of the covenants terms and conditions of this lease then the rent relief provided for herein shall not apply and the lessee forthwith be obliged to pay rent as and from the date of commencement.
- 1.3 The parties agree that the above rent relief shall not be taken into account in any calculations of rent increases by upward movements in the Consumer Price Index or reviews to market rent.

2. LESSOR'S WORKS

- 2.1 The Lessor agrees to supply and install double glazing on the shop front.

3. CAR PARKS

The Lessee shall be entitled to the use of three (3) car parks on the land attached to the demised premises at a location to be determined by the Lessor.

4. REPAIRS TO EXTERIOR OF THE BUILDING

- 4.1 Notwithstanding anything to the contrary hereinbefore written the parties agree that the Lessor shall be responsible for any damage to the exterior of the demised premises or the building and provided that the Lessee does not cause the damage, for any damage caused by a source outside of the demised premises.

Title Reference [11833138 ]

APPENDIX 1

Item 1

Permitted Use - Section 3(a)

Natural Therapies Clinic and related services

Item 2

Amount of Public Risk Insurance - Section 9.1(a)(ii)

\$10,000,000.00

Item 3

Period of Option - Section 19(a)

5 years

Item 4

Period of Further Option - Section 19(b)

Nil

Item 5

Percentage of Variable Outgoings - Section 2(h)

100% of all Urban Utilities charges (see Section 20). The Lessor will reimburse water consumption charge for the rear tenancy.

Item 6

Stipulated Rate

20% per annum

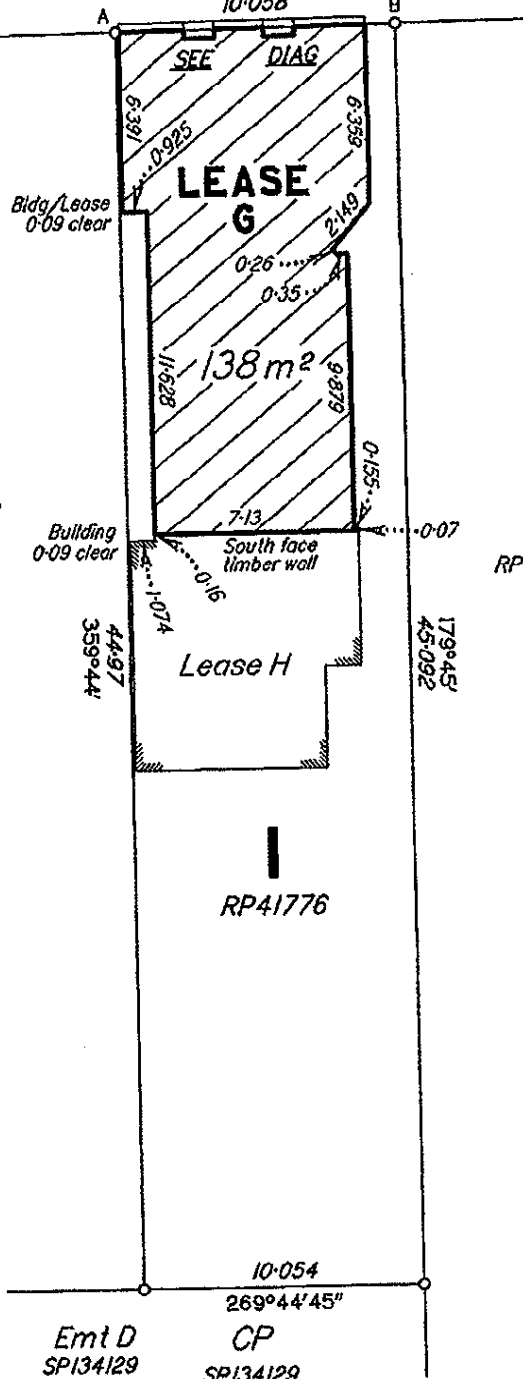
Item 7

Security - Section 41

Amount of Security:

The equivalent of three (3) months rent plus GST payable in the form of a bank guarantee or cash bond.

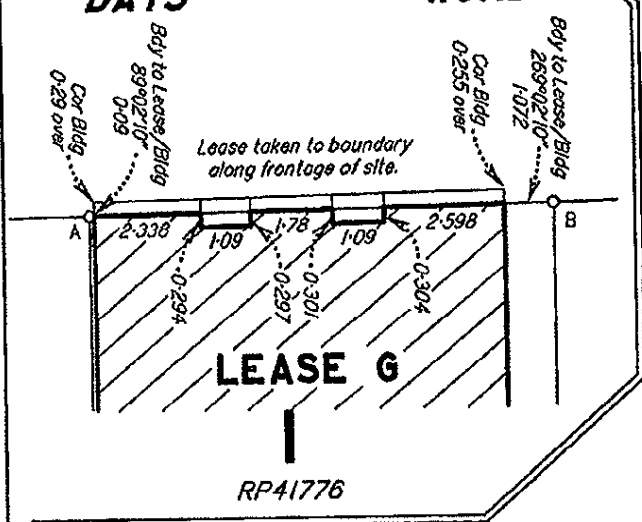

**DAYS**
**ROAD**

(A-B)  
89°02'10"  
10.058


Area calculated as per GLA  
Property Council of Australia  
guidelines being measurement  
to outside of external walls/glass,  
and boundary or as otherwise noted.

### DIAGRAM

Scale 1:150

**DAYS**
**ROAD**


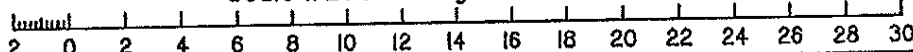
Title Ref: 11833138

Lease area shown hachured

Lease areas shown to nearest m<sup>2</sup>

Level A

Scale 1:250 - Lengths are in Metres.



LB 13164

I, Leonard James HEWITT Cadastral Surveyor  
hereby certify that the details shown  
on this sketch plan are correct.

31/5/2013  
Date

Cadastral Surveyor

### PLAN FOR LEASE PURPOSES

Lease G being part of the Ground Floor of the  
building situated on Lot 1 on RP41776  
210 Days Road, Grange

PARISH ..... ENOGGERA  
COUNTY ..... STANLEY  
LOCALITY ..... GRANGE  
LOCAL AUTHORITY ..... BRISBANE C.C.

Ph 0418 721530  
Email: len@jheiwitt.com.au

CLIENT  
HERCULES PROPERTY DEVELOPMENTS PTY LTD

DWG NO. DMS 1315-G

GENERAL CONSENT

| 1. Lot on Plan Description | County  | Parish   | Title Reference |
|----------------------------|---------|----------|-----------------|
| LOT 1 ON RP41776           | STANLEY | ENOGGERA | 11833138        |

2. Instrument/document being consented to

Instrument/document type LEASE .....

Dated 07/06/2013

Names of parties HERCULES PROPERTY DEVELOPMENT PTY LTD ACN 144 803 243 AS TRUSTEE UNDER  
INSTRUMENT 704361673 AS LESSOR AND VIBE NATURAL HEALTH PTY LTD ACN 160 818  
459 AS LESSEE .....

3. Instrument/document under which consent required

Instrument/document type MORTGAGE .....


Dealing No. 704361679 and 715253192 .....

Name of consenting party NATIONAL AUSTRALIA BANK LIMITED ACN 004 044 937 .....

4. Execution by consenting party

The party identified in item 3 consents to the registration of the instrument/document identified in item 2.

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

 .....signature  
ANDREW JAMES CLARK .....full name  
C.DEC No. 69050 .....

.....qualification  
**Witnessing Officer**

(Witnessing officer must be in accordance with Schedule 1  
of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

National Australia Bank Limited ABN 12 004 044 937  
by its Attorney who holds the position of Level 3  
Attorney under Power of Attorney No. 710425749

29 18 11 3  
Execution Date

 .....  
Consenting Party's Signature

Privacy Statement

Collection of this information is authorised by the Land Title Act 1994 the Land Act 1994 and the Water Act 2000 and is used to maintain the publicly searchable registers in the land registry and the water register. For more information about privacy in NR&W, see the department's website.