

Finemore Walters & Story

SOLICITORS

www.fws.com.au

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MUNDUBBERA 68 Lyons Street, (PO Box 210) Mundubbera Qld 4626
P 07 4165 4611 F 07 4165 4052

GIN GIN Visited Office: 4 Dear Street, Gin Gin Qld 4671

11 October 2022

Contact: Sarah Protani
Phone: 07 4153 0081
Email: sarahprotani@fws.com.au
Our Ref: SJP:DAF:20224216

Please reply to our Bundaberg office

G & D Rigo Pty Ltd as trustee for
G & D Rigo Superannuation Fund
127a Woongarra Street
BUNDABERG QLD 4670

Dear Mrs Rigo

RIGO AS TRUSTEE LEASE TO TEDNELL PTY LTD - EXERCISE OF OPTION PREMISES: 247 BOURBONG STREET, BUNDABERG

We refer to the above matter.

We advise a copy of the fully signed Lease has been forwarded to the Tenant's Solicitor.

Your original copy of the Lease has been placed in our Safe Custody on your behalf.


We confirm our advice to you:-

1. The lease term is for 5 years with a further 5 x 5 options;
2. During the lease term and subsequent options, there is no rent review available;
3. The rental amount is to be 15% of the Tenants gross revenue earned by the Tenants business for each month;
4. We recommended you seek financial advice in respect of the changes to the Lease; and
5. You understand future implications that may arise in respect to the value of the property should you wish to sell.

A copy of the Lease together with a Summary of Lease Terms and Conditions are **enclosed** for your records.

Pursuant to the terms of the Lease, each party is responsible for payment of their respective legal costs. Accordingly, we will forward our tax invoice on account of our professional fees and outlays in this matter in due course.

PARTNERS 915735
Hal Ing BCom, LLB
Annette Wesche LLB, LLM
Danielle Britton LLB
Zack McKay LLB

CONSULTANT
Mark Story BCom, LLB  ACCREDITED SPECIALIST
SUCCESSION LAW

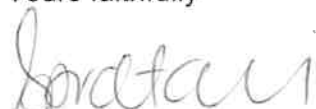
SENIOR ASSOCIATES
Charlotte Nielson LLB
Brianna Hockey BBus, LLB

ASSOCIATES
Sarah Protani LLB
Rebecca Hill BJus LLB (Hons)
Madeleine Harling LLB

SOLICITORS
Timothy Slocomb BFF, LLB
Paige Caldwell LLB

As our instructions are now complete, we will attend to closure of our file. We take this opportunity to thank you for your instructions.

Yours faithfully

A handwritten signature in black ink, appearing to read "Sarah Protani". The signature is written in a cursive, flowing style.

Sarah Protani | Associate
Finemore Walters & Story

**LEASE: G & D RIGO PTY LTD ACN AS TRUSTEE FOR G & D RIGO
SUPERANNUATION FUND TO
SUMMARY OF TERMS & CONDITIONS OF LEASE**

Landlord:	G & D Rigo Pty Ltd as trustee for G & D Rigo Superannuation Fund
Tenant:	Tednell Pty Ltd ACN 133 198 839
Premises:	247 Bourbong Street, Bundaberg
Leased Area:	The whole of the land described as Lot 4 on RP65886 Title Reference 12714209, Lot 1 on RP86714 Title Reference 13150216 and Lot 2 on RP86714 Title Reference 13077162.
Initial Term:	5 years commencing on 03/11/2022 and expiring on 02/11/2027.
Option Term:	<p>First Option: 1 x 5 years Second Option: 1 x 5 years Third Option: 1 x 5 years Fourth Option: 1 x 5 years Fifth Option: 1 x 5 years</p> <p>The Option for Renewal is automatic and the Tenant does not need to give notice to the Landlord to exercise the Option period. However, if the Tenant does not wish to exercise the Option the Tenant must give 3 months' notice to the Landlord prior to the Option date.</p>
Rent:	Initial Term:- 15% of the gross amount of revenue earned by the business for the month.
Rent Free Period:	Not Applicable
Permitted Use:	Motel
Outgoings:	The Tenant is not responsible for payment of outgoings in addition to the Rent
Insurance:	The Tenant is to effect insurance for:-

	<p>public liability (in the names of the Tenant and the Landlord for their respective interests) for a minimum of \$20,000,000-00;</p> <p>plate glass (in the names of the Tenant and the Landlord for their respective interests) for its full replacement value;</p> <p>special industry risks (if any) due the specific Permitted Use (in the names of the Tenant and the Landlord for their respective interests)</p> <p>workers' compensation including employer's liability insurance (unlimited cover)</p> <p>The Landlord must effect insurance for the Building.</p>
Airconditioning - Repair and Maintenance:	The Tenant is responsible for and repair and maintenance of the air conditioning.
Air Conditioning - Replacement:	The Landlord is responsible for replacement of air conditioning.
Maintenance and Repair of Premises:	The Tenant's obligations in relation to maintenance and repair are set out in clause 7. Please note the obligations in relation to painting. The Tenant's obligations in relation to cleaning of the Premises are set out in clause 7.1.
Guarantors:	Gregory Edward Ward and Eleanor Dale Ward

Dealing Number



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1. Lessor	Lodger (Name, address, E-mail & phone number)	Lodger Code
G & D RIGO PTY LTD AS TRUSTEE UNDER INSTRUMENT 702273975 AND 710737292		

2. Lot on Plan Description	Title Reference
LOT 4 ON RP 65886	12714209
LOT 1 ON RP 86714	13150216
LOT 2 ON RP 86714	13077162

3. Lessee	Given names	Surname/Company name and number	(include tenancy if more than one)
		TEDNELL PTY LTD A.C.N. 133 198 839	

4. Interest being leased
FEE SIMPLE

5. Description of premises being leased
THE WHOLE OF THE LOT DESCRIBED IN ITEM 2 ABOVE

6. Term of lease	7. Rental/Consideration
Commencement date/event: 03/11/2022 Expiry date: 02/11/2027 and/or Event: #Options: 5 x 5 years <i>5</i> #Insert nil if no option or insert option period (eg 3 years or 2 x 3 years)	

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;

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

.....Signature *G + D RIGO PTY LTD BY ITS SOLE DIRECTOR*

.....full name

.....qualification

Witnessing Officer

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

05,10,2022 Execution Date

A.C. Rigo Lessor's Signature

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

Diana Lancaster Signature

Diana Lancaster full name

JP Qual 103167 qualification

Witnessing Officer

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

14/9/2022 Execution Date

[Signature] Lessee's Signature



Title Reference (12714209, 13150216 & 13077162)

PARTICULARS

Item 1	Landlord	GUISEPPE RIGO AND DIANNE RIGO AS TRUSTEE UNDER INSTRUMENT 702273975 AND 710737292	
Item 2	Landlord's Address	127A Woongara Street Bundaberg QLD 4670	
Item 3	Tenant	TEDNELL PTY LTD A.C.N. 133 198 839	
Item 4	Tenant's Address		
Item 5	Address of Motel	247 Bourbong Street Bundaberg QLD 4670	
Item 6	Phone Number of Motel	07 4151 2341	
Item 7	Rent	See Clause 3	
Item 8	Review Date	(a) Index Review Dates: Not applicable	
		(b) Market Review Dates: Not applicable	
Item 9	Permitted Use	Motel	
Item 10	Guarantor	Gregory Edward Ward & Eleanor Dale Ward	
Item 11 Option Periods	(a) First Option Period:	Commencement Date:	03/11/2027
		Expiry Date:	02/11/2032
	(b) Second Option Period:	Commencement Date:	03/11/2032
		Expiry Date:	02/11/2037
	(c) Third Option Period:	Commencement Date:	03/11/2027
		Expiry Date:	02/11/2042
	(d) Fourth Option Period:	Commencement Date:	03/11/2042
		Expiry Date:	02/11/2047
	(e) Fifth Option Period:	Commencement Date:	03/11/2047
		Expiry Date:	02/11/2052
Item 12	Public Risk	\$20,000,000.00	
Item 13	AAA Rating	3 ½ star	

1. UNDERSTANDING THIS LEASE

1.1 The Meaning of Certain Words

Words in bold print in this clause have the meaning set out opposite them.

AAA: the motoring club, association or body in the State in which the Motel is located which is affiliated with the Automobile Association of Australia and includes its successors.

AAA Rating: the star rating set out in the Particulars or any other rating agreed by the Tenant and the Landlord.

AAA Report: the hotel, motel classification assessment for the Motel prepared by the AAA or the organisation which AAA uses to prepare the assessment under the National Accommodation Classification Scheme.

Air-conditioning Equipment: the plant, machinery, duct work and equipment used to heat, cool or circulate air within the Building or any part of it.

Title Reference 12714209 & 13150216, 13077162

API: the Australian Property Institute (Inc) Queensland Division.

Building: all structures and improvements that already exist or are erected on the Land during this Lease. This includes the Landlord's Property and any modifications, extensions or alterations of the Building or the Landlord's Property.

Business Name: the business or trade name of the Motel and any business or trade name registered or used by the Tenant in connection with the Motel.

Commencement Date: the Commencement Date set out on the Form 7.

Competent Authority: any Court, state, federal or local government authority, instrumentality or body, or any other person having jurisdiction over the Motel), the Landlord's Property, or the Tenant's Property.

CPI: the Consumer Price index (all Groups) for the capital city of the State in which the Motel is located as published by the Australian Bureau of Statistics.

If the CPI no longer exists or is changed so that it does not (in the Landlord's reasonable opinion) reflect the changes which have occurred in the cost of living for that capital city during any year, then CPI means that index agreed upon by the Landlord and the Tenant.

End of the Lease: the Expiry Date or the date that the Lease is terminated as a result of default.

Expiry Date: the Expiry Date set out on the Form 7.

Dispose: to assign, transfer, sub-let, demise, part with, declare a trust, assign for the benefit of creditors, mortgage or charge, share the possession of, or grant any license affecting, or otherwise dealing with, or the disposing of any estate or interest in the Motel or the rights and powers under this Lease or of any estate or interest in the Tenant's Business.

Index Review Date: means each of the dates (if any) stated in Item 8(a) of the Lease Particulars.

Insolvency Event: includes:

- (a) a winding up order is made; or
- (b) a liquidator or provisional liquidator is appointed; or
- (c) a meeting is convened or resolution passed to appoint an official manager in respect of a corporation; or
- (d) a corporation enters into, or resolves to enter into, a scheme of arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any of them; or
- (e) a corporation resolves to wind itself up, or otherwise dissolve itself, or gives notice of intention to
- (f) do so, or is otherwise wound up or dissolved; or
- (g) a corporation is or states that it is unable to pay its debts when they fall due; or
- (h) a corporation takes any steps to obtain protection or is granted protection from its creditors, under any applicable legislation; or
- (i) a person becomes an insolvent under administration as defined in section 9 of the Corporations Law or action is taken which could result in that event; or
- (j) anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction.

Land: the property described in the statutory form.

Title Reference 12714209 & 13150216, 13077162

Landlord's Agents: employees, agents, contractors, consultants, customers, workmen, invitees, clients, and visitors (whether with or without invitation) or any other person who may claim through or under the Landlord.

Landlord's Property: all the plant and equipment, fixtures and fittings of the Landlord. *This Clause includes the following types of items (this is not an exhaustive list):*

- Services;
- toilet amenities and wash basins
- the floor, wall and bathroom tiles;
- built-in cupboards and shelves;
- all paving and sealed driveway and parking areas;
- drainage and conduits;
- gas and electrical fittings and wiring;
- other property in, or fixed to the Motel that is not the Tenant's Property.

Lease: includes the statutory form, the Particulars, all plans and annexures.

Liquor Licence: the liquor licence attaching to the Motel.

Liquor Act: the legislation for the State in which the Motel is located which regulates the sale and distribution of liquor.

Market Review Date: means each of the dates (if any) stated in Item 8(b) of the Lease Particulars.

Motel: the premises described in the statutory form to this Lease including the Land and the Building.

Outgoings: the costs incurred by the Landlord in respect of the Landlord's ownership and supply of the Motel, including:

- (a) rates, taxes, charges and other levies payable to a Competent Authority for the Motel (This includes a goods and services tax or equivalent whether present or future, however does not include Land Tax where the Motel is in Queensland); and
- (b) insurance premiums and other charges in connection with insurance cover against insurable risks which the Landlord considers are appropriate for the Motel, the Landlord's Property, persons in the Motel for any reason, the Tenant's Business and this Lease (including loss of profits) and including any excesses payable on claims made; and
- (c) garbage and waste removal (including trade waste).

Particulars: the particulars to this Lease.

Redecorate: includes:

- (a) the washing down of the whole of the exterior of the Building;
- (b) the washing down of the whole of the interior of the Building including all partitions and additions made to the Building;
- (c) the treatment as previously treated of all external and internal surfaces of the Building by painting, staining, polishing or otherwise in colours and to a specification approved by the Landlord; and
- (d) the replacing of all carpet and/or floor tiles which in the reasonable opinion of the Landlord are worn or damaged and in need of replacement with material of equal quality and in colours approved by the Landlord

Rent: the yearly rent specified in Item 7 of the Particulars as varied by the terms of this Lease.

Review Date: an Index Review Date or a Market Review Date as the context requires.

Services: the services running through or servicing the Motel.

This Clause includes the following (this is not an exhaustive list):

Title Reference 12714209 & 13150216, 13077162

- power
- water;
- gas
- sewerage
- septic
- drainage
- the Air-conditioning Equipment
- fire sprinkler and fire protection systems
- alarm systems
- automatic opening and closing door systems
- lifts and elevators
- telecommunications
- piped music; and
- public address system

Tenant's Agents: employees, agents, contractors, consultants, customers, workmen, invitees, clients, visitors (whether with or without invitation), subtenants and licensees or any other person who may claim through or under the Tenant.

Tenant's Business: the Motel business and any other business conducted by the Tenant in the Motel including, but not limited to, any licensed restaurant or entertainment facility or any conference, tourist or hospitality related facility.

Tenant's Property: all property, plant and equipment, fixtures and fittings owned and used by the Tenant in the operation of the Tenant's Business excluding any items of property that are the Landlord's Property.

This Clause includes the following types of items (this is not an exhaustive list):

- movable furniture
- office equipment
- individual air conditioning units (NOT the Air-conditioning Equipment)
- carpets or loose floor coverings
- shower screens
- curtains and blinds
- telephone headsets and system
- light fittings; and
- hot water systems
- other property in, or fixed to the- Motel that is not the Landlord's Property

Valuer: means a person who:

- i. is a full member, and has been for not less than five years, of the Australian Institute of Valuers and Land Administrators Incorporated (Queensland Division); and
- ii. is the holder of a current licence or registration to practice as a valuer.

1.2 More than 1 Tenant

It there is more than 1 Tenant:

- a) the obligations contained in this Lease, apply to each Tenant individually and to any 2 or more Tenants together; and
- b) any 1 Tenant may exercise rights in relation to this Lease on behalf of all of the Tenants, and all of the Tenants will be bound.

1.3 General

- (a) **Governing Law:** this Lease is governed by the law in the State in which the Motel is located.
- (b) **Exercise of rights:**

Title Reference 12714209 & 13150216, 13077162

- (i) the Landlord may exercise a right, power or remedy at its discretion, and separately or together with another right, power or remedy; and
 - (ii) if the Landlord does not exercise or delays in exercising a right, power or remedy, the Landlord may still exercise it at a later time; and
 - (iii) the Landlord is not liable for any loss caused by the exercise, attempted exercise, failure to exercise or delay in exercising a right, power or remedy under this Lease.
- (c) **Waiver and variation:** Any provision or right under this Lease may only be waived or varied in writing signed by the parties to be bound.
- (d) **Additional Remedies:** The rights, powers and remedies provided in this Lease are in addition to (not exclusive of) the rights, powers or remedies provided by law.
- (e) **Future legislation:** Any present or future legislation which varies the obligations of the Tenant or the Guarantor under this Lease so that the Landlord's rights, power or remedies are adversely affected is excluded to the extent allowed by law.
- (f) **Execute documents:** The Tenant and the Guarantor must, at their expense, if asked, execute and cause their successors to execute any documents and do everything else necessary to bind the Tenant or the Guarantor and its successors under this Lease.
- (g) **Exclusion of statutory provisions:** the following provisions do not apply in this Lease:
- a. if the Motel is located in Queensland - sections 105, 107, 109 and 112 of the Property Law Act 1974 (Qld); and
 - b. if the Motel is located in New South Wales - sections 34, 84, 132, 133, 133A and 1338 of the Conveyancing Act 1919 (NSW)
- (h) **Prior obligations:** The End of the Lease does not affect the Tenant's or the Guarantor's obligations:
- i. to make any payment under this Lease, due before the End of the Lease; or
 - ii. to provide information to the Landlord to enable it to calculate those payments
- (i) **Severability:** If any part of this Lease is void, unenforceable or illegal then it may be severed from this Lease. The remainder of this Lease has full force and effect.
- (j) **Counterparts:** This Lease may consist of a number of separate parts. All of the parts together make up one and the same document.
- (k) **Entire agreement:** This Lease is the entire agreement between the parties.
- (l) **Representations:** The Landlord and Tenant both agree that they have not been induced to enter into this Lease by any representation, verbal or otherwise, made by or on behalf of the other party and which is not set out in this Lease.
- (m) **Rent and other moneys:** The Tenant and the Guarantor must make payments under this Lease without set-off or counterclaim and free from deduction.
- (n) **May demand difference:** If the Tenant or the Guarantor pays an amount and it is found later that the amount payable should have been higher, the Landlord may demand payment of the difference.
- (o) **Demand not required:** The Landlord need not make demand for any amount required to be paid by the Tenant under this Lease unless expressly stated otherwise,
- (p) **At Tenant's cost:** Anything which the Tenant is required to do under this Lease must be done at the Tenant's cost unless expressly stated otherwise.

Title Reference 12714209 & 13150216, 13077162

1.4 **Other References**

- (a) A reference to any organisation (example: the Law Society, Insurance Council of Australia, the Australian Institute of Valuers and Land Economists or any Competent Authority) means the organisation in the State in which the Motel is located.
If the organisation no longer exists then It will be the organisation that the Landlord considers has similar powers or functions.
- (b) A reference to any legislation (or any section) includes any amendment, re-enactment or substitution for it and any regulation issued under it.
- (c) A reference to the Landlord's right of access to the Motel includes all persons authorised by the Landlord. (This will include agents, professional advisers, contractors, workmen and others.)
- (d) A reference to any whole includes any part.
- (e) A reference to "month" means a calendar month.
- (f) Any obligation by the Tenant not to do any act or thing includes an obligation not to permit and to use its best endeavours to prevent such act or thing being done.
- (g) The singular indicates the plural and vice versa.
- (h) Any gender includes the other gender.
 - i. A reference to person includes an individual and a corporation.
- (i) A reference to any party in this Lease includes its successors and assigns.
- (k) Every obligation or covenant is a separate and independent covenant.
- (l) The headings and examples in this Lease are included for convenience only and do not affect the interpretation of this Lease.
- (m) Anything that is required to be done on a Saturday, Sunday or public holiday in the place where the Motel is situated, may be done on the next business day.
- (n) All obligations under this Lease must be performed punctually and properly.
- (o) If this Lease requires the Tenant to obtain the consent or approval of the Landlord for any action then the Tenant must obtain the consent or approval in writing before starting to take the action.
- (p) If the Landlord is requested to consent to any thing under this Lease then that consent must not be unreasonably withheld.
- (q) If the Landlord has agreed to obtain a person's consent in respect of anything in connection with this Lease then the Landlord must do everything reasonably necessary to obtain that consent.
- (r) The Tenant authorises the Landlord and its solicitors before at or after the Commencement Date to complete any blanks in this Lease with a proper date or to make any formal correction necessary to enable registration of this Lease.

2. **TERM**

2.1 **Initial Term**

This Lease begins on the Commencement Date and ends on the Expiry Date.

Title Reference 12714209 & 13150216, 13077162

2.2 Grant of Option

- (a) The Landlord must grant a further Lease of the Motel to the Tenant for each of the Option Periods if the Tenant has observed and performed all of the terms, covenants and restrictions in this Lease.
- (b) The Tenant must, if the Tenant does not wish to be granted a further Lease, give notice to the landlord at least 3 months before the Expiry Date.

To avoid any doubt, the options are automatic and the Tenant does not need to give notice to the Landlord to exercise the option period. However the Tenant must give 3 months notice to the Landlord if it does not want to exercise the option.

2.3 Terms of the Further Lease

The further Lease will be on the same terms as this Lease, including any Guarantee in existence immediately prior to the last preceding term which shall continue to have effect for the further term whether re-executed by the Guarantor or not, except that:

- (a) the number of Option Periods specified in the Particulars is reduced by 1; and
- (b) once the last Option Period has been exercised clauses 2.2 and 2.3 are to be deleted from the further Lease; and
- (c) the Rent for each further Lease will be determined in accordance with Clause 3.

2.4 Holding Over

If the Tenant remains in occupation of the Motel after the Expiry Date then the occupation:

- a) is to be on a monthly tenancy; and
- b) is on the same terms and conditions as this Lease so far as they relate to a monthly tenancy; and
- c) may be terminated by either party by giving the other party 1 month's written notice. *(For example if the Tenant gives notice to the Landlord on 15 May then the Lease will terminate on 15 June.)*

3. RENT

3.1 Rent

- (a) The Tenant must pay the Rent to the Landlord. The amount of rent payable by the Tenant to the Landlord is equal to 15% of the gross amount of revenue earned by the business for the month.
- (b) The Rent must be paid:
 - (i) by equal monthly instalments in advance; and
 - (ii) on the first day of each month; and
 - (iii) if the Lease commences on a day other than the first of the month then the first payment of Rent must be apportioned on a daily basis.
- (c) The first instalment of Rent must be paid on the Commencement Date
- (d) The Tenant must not make any deduction from the Rent.

4. OTHER COSTS

4.1 Outgoings

The Tenant must:

Title Reference 12714209 & 13150216, 13077162

- (a) pay the Outgoings on or before their due date; and
- (b) provide evidence of payment of the Outgoings to the Landlord, on demand.

4.2 Service Costs

The Tenant must pay all costs charged in relation to the Services provided to the Motel or in relation to the Tenant's Business, whether charged to the Landlord or the Tenant.

4.3 Legal Costs

- (a) The Landlord must pay its own costs in relation to the negotiation, preparation, and completion of this Lease.
- (b) The Tenant must pay.
 - (i) its own costs in relation to the negotiation, preparation, and completion of this Lease; and
 - (ii) all stamp duties assessed on this Lease (regardless of when the duty is assessed);
 - (iii) registration fees (including registration fees on the exercise of the option); and
 - (iv) survey fees; and
 - (v) the Landlord's reasonable costs:
 - (A) if the Landlord is made a party to any litigation commenced by or against the Tenant without default on the part of the Landlord; and
 - (B) of obtaining the consent of the Landlord's mortgagee; and
 - (C) associated with the exercise of an Option Period including the preparation, execution and stamping of the new Lease; and
 - (D) in relation to an assignment, subletting or surrender of this Lease; and
 - (E) in considering any request for the Landlord's consent required under this Lease; and
 - (F) in relation to the *signing* of documentation required by a mortgagee of this Lease or the Tenant's Business; and
 - (G) resulting from the default of the Tenant

4.4 Interest on Late Payments

- (a) The Tenant must pay interest on any moneys that are due and payable under this Lease and have not paid been paid within 14 days from the due date.
- (b) Interest is charged at the rate of 2% over the annual overdraft rate for an equal sum of money that is charged by the Landlord's bank.
- (c) Interest is payable from the date that the moneys were due until the date that the moneys are actually paid,
- (d) This Clause does not prevent the Landlord from exercising any other right under this Lease

Title Reference 12714209 & 13150216, 13077162

4.5 Tender after Determination

If the Landlord makes a demand for any money or if the Tenant tenders any money after a default under this Lease the acceptance of the money by the Landlord:

- (a) does not prevent the Landlord from exercising any other right under this Lease; and
- (b) is not an election by the Landlord not to exercise any other right

5. ASSIGNMENT AND OTHER PROHIBITIVE DEALINGS

5.1 Prohibited Dealings

The Tenant must not, without the written consent of the Landlord:

- (a) sublet; or
- (b) licence; or
- (c) franchise; or
- (d) part with possession of the Motel; or
- (e) assign this Lease; or
- (f) mortgage this Lease or the Tenant's Business.

5.2 Consent

The Landlord must consent to the proposed assignment if:

- (a) the Landlord has, by notice in writing, rejected the Tenant's offer to purchase the Tenant's Business made under Clause 5.6; and
- (b) the Tenant has transferred to the proposed assignee the Business Name; and
- (c) if the Tenant is a corporation which incorporates the Business Name, the Tenant has changed the name of the corporation; and
- (d) the proposed assignee is a respectable and financially sound person who is capable of:
 - (i) paying the Rent and Outgoings; and
 - (ii) performing all other obligations under this Lease; and
 - (iii) paying for the Tenant's Business;
- (e) the proposed assignee has a good-reputation and business skills which, in the opinion of the Landlord, will enable the proposed assignee to conduct the Tenant's Business competently; and
- (f) any default has been remedied by the Tenant or waived by the Landlord; and
- (g) the proposed assignee executes an instrument agreeing with the Landlord to be bound by this Lease as if the proposed assignee were the Tenant. The instrument must be in a form approved by the Landlord and may include, but is not limited to, the obligations to indemnify the Landlord as provided in this Lease and a power of attorney in the same form as in this Lease will be prepared and stamped by the Landlord's solicitors at the expense of the Tenant; and
- (h) if the proposed assignee is a corporation, any guarantee required under Clause 5.7 is provided; and

Title Reference 12714209 & 13150216, 13077162

- (i) the proposed assignee provides evidence that all insurances required under Clause 8 have been taken out; and
- (j) the Tenant and the proposed assignee comply with all reasonable requirements of the Landlord including the delivery to the Landlord of a copy of all documents which evidence the consideration for the relevant assignment and the level and terms of the proposed assignee's borrowings.

5.3 Assignment not Effective

An assignment does not take effect against the Landlord until:

- (a) Clause 5.2 has been complied with;
- (b) the Tenant and the proposed assignee have executed and given to the Landlord a stamped transfer of this Lease in the form required by the Landlord; and
- (c) the date agreed to by the Landlord, the Tenant and the proposed assignee.

5.4 Change in Control of Tenant

- (a) If the Tenant is a corporation, the Tenant must notify the Landlord if any persons who own a majority of shares in the corporation Dispose of those shares (except as a result of transfers by inheritance).
- (b) Upon receiving notice from the Tenant the Landlord may deem the change to be an assignment of this Lease.
- (c) This Clause does not apply if the Tenant is a corporation which is listed on a recognised Stock Exchange in Australia or at least 80% of its voting shares are owned by another company which is so listed.

5.5 Mortgages

- (a) If the Tenant has requested the Landlord's consent to mortgage this Lease or the Tenant's Business the Landlord must consent if:
 - (i) the Tenant satisfies the Landlord (acting reasonably) that the proposed mortgage or charge would not prevent the Tenant from paying the Rent and Outgoings and is created in good faith as a means of financing the Tenant's Business; or
 - (ii) the proposed mortgage or charge is to be given to any bank; and
- (b) The Landlord must sign any documentation that the proposed mortgagee may reasonably require as a condition of granting the loan to the Tenant.

5.6 Disposal of Tenant's Business

- (a) The Tenant must, prior to Disposing of the Tenant's Business, offer the Tenant's Business to the Landlord on the same terms and conditions and at the same price as any proposed Disposal.
- (b) The Landlord has 14 days from receiving the Tenant's offer to accept it in writing.
- (c) If the Landlord accepts the Tenant's offer:
 - (i) the parties must enter into a contract immediately; and
 - (ii) the contract is to be prepared by the Tenant's solicitors; and
 - (iii) the contract must incorporate the terms of the offer; and

Title Reference 12714209 & 13150216, 13077162

- (iv) the contract must include any other reasonable terms applying to the sale of a leasehold motel business.
- (d) If the Landlord does not accept the offer, the Tenant may (if consent is obtained in accordance with Clause 5.2) Dispose of the Tenant's Business on the same terms and conditions as offered to the Landlord.
- (e) Nothing in this clause limits the Tenant's right to enter into a Contract for the Disposal of the Tenant's Business conditional upon compliance with this clause.

5.7 Guarantees on Assignment or Change in Control of Tenant

If asked by the Landlord, the Tenant must obtain a guarantee and indemnity of:

- (a) the obligations to be assumed by the proposed assignee (if the assignee is a corporation) under this Lease given by a person acceptable to the Landlord; or
- (b) the obligations of the Tenant under this Lease (in the case of a person becoming or ceasing to be a director or shareholder of the Tenant), is given by the proposed new director or shareholder of the Tenant.

5.8 Assignment by Landlord

If the Landlord Disposes of the Motel to any person other than the Tenant, the Landlord must obtain from the purchaser a covenant in favour of the Tenant that:

- (a) the purchaser will recognise and be bound by any Option Period and the other terms of this Lease as the Landlord; and
- (b) if the purchaser Disposes of the Motel to any other person other than the Tenant then the purchaser will obtain a covenant from the subsequent purchaser in terms similar to this Clause whereupon the assigning Landlord shall be released from all liability to the Tenant in relation to the grant of options to extend this Lease unexercised.

6. USE OF THE MOTEL

6.1 What the Tenant Must Do

The Tenant must, at its own cost:

- (a) **Permitted Use:** use the Motel for the Permitted Use only; and
- (b) **Trading Hours:** keep the Motel open for business each and every day of the Term subject to any restrictions imposed by law; and
- (c) **Operation of Business:** conduct the Tenant's Business at all times in good faith, in a reputable manner and to the best of the Tenant's ability; and
- (d) **Compliance with Laws:** comply with all laws in relation to the Motel, the Tenant's Business or the Permitted Use; and
- (e) **Licences/Permits:** take out and maintain all licences, permits and registrations required by any Competent Authority for the carrying on of the Tenant's Business; and
- (f) **Air Conditioning Equipment:**
 - (i) comply with and observe any requirements of the Landlord and any person contracted to maintain and service the Air-conditioning Equipment; and

Title Reference 12714209 & 13150216, 13077162

- (i) promptly notify the Landlord of any fault in the operation of the Air-conditioning Equipment; and
- (g) **Services:** keep and maintain the roof guttering, waste pipes, drains, water supply, plumbing, conduits and other equipment or services in a clear and free flowing condition. If necessary the Tenant must employ licensed tradesmen to clear any blockages; and
- (h) **Grease Traps:** have all grease traps in the Motel serviced regularly; and
- (i) **Refuse:** cause all waste, trash, refuse, food and other garbage to be removed daily outside of normal trading hours; and
- (j) **Infectious Diseases:** where any infectious disease occurs in the Motel which requires notification under Legislation:
 - (i) give the required notices to the Competent Authority and give notice to the Landlord; and (ii) thoroughly fumigate and disinfect the Motel; and
- (k) **Fire Safety:**
 - (i) comply with all laws and requirements of any Competent Authority relating to fire safety; and
 - (ii) comply with any notice given by the Landlord in respect of fire safety; and
- (l) **Signs:** only use advertisements or signs that are usual for the Permitted Use and comply with the law or the requirements of a Competent Authority; and
- (m) **AAA Report**
 - (i) ensure that a AAA Report is prepared each year:
 - (ii) provide the Landlord with a copy of each AAA Report received by the Tenant;
 - (iii) comply with all requirements and recommendations contained in the AAA Report within the time specified or, if no time is specified, within a reasonable time; and
- (n) **Pest Control:** have regular pest inspections and treatments to control all pests, insects and vermin in the Motel; and
- (o) **Financial Statements:**
 - (i) within 21 days of whenever being requested in writing to do so, provide to the Landlord copies of the trading and profit and loss accounts of the Motel business for the respective 3 years ended on 30 June last prior to the date of such request; and
 - (ii) after reasonable prior notice permit the Landlord's valuer to enter the Motel and inspect its contents and records and truthfully respond to his inquiries to enable him to value the Landlord's interest in the Motel.

Provided always that no such request shall be made by the Landlord unless it proposed to sell the subject property or seeks to refinance its loan secured thereon in which latter case the Tenant's obligations under this Clause will be fulfilled by forwarding such copies to the Landlord's nominated proposed lender.

Title Reference 12714209 & 13150216, 13077162

- (p) **Driveways and Parking Areas:** maintain and repair all driveways and parking areas.

(To remove any doubt the Tenant does not need to carry out any work of a structural nature that is required or recommended in the AAA Report)

6.2 What the Tenant Must Not Do

The Tenant must not

- (a) **Business Name:** without the consent of the Landlord:
- (i) Dispose of, alter, or change the Business Name; or
 - (ii) use the Business Name as a company name or in connection with a corporation.
- (b) **Annoying Conduct:** carry on any annoying, noxious, or offensive conduct or any illegal business occupation or practice; or
- (c) **Nuisance:** do anything which is or becomes an annoyance, nuisance, grievance or disturbance to the Landlord, persons lawfully in the Motel or occupiers or owners of any neighbouring premises; or
- (d) **Source of Power:** use any form of light, power or heat other than electric current. However the Tenant may use alternative methods of power or lighting (other than an exposed flame) during any period of power failure or power restrictions; or
- (e) **Electrical Equipment:** install or connect any electrical equipment in the Motel that may overload the cables, switchboards or sub-boards through which the electricity is conveyed to the Motel without the Landlord's prior consent; or
- (f) **Landlord's Property:** use the Landlord's Property for any purpose other than those purposes for which they were designed or constructed; or
- (g) **Inflammable Substances:** bring on or store in the Motel any explosives, inflammable or corrosive fluids or chemicals. However the Tenant may store in the Motel, confined in proper containers, those fluids or chemicals that are normally used in the conduct of the Motel.

7. MAINTENANCE REPAIR AND ALTERATIONS

7.1 What the Tenant is Responsible For

The Tenant must:

- (a) keep the Motel (including the exterior facade of the Building, exterior and interior windows and doors and all plate glass, glass fixtures, carpets and signage) and the Landlord's Property clean and in good repair; and
- (b) keep the Tenant's Property clean and in good repair; and
- (c) repair any damage to the Motel and the Landlord's Property caused by the Tenant or the Tenant's Agents; and
- (d) replace damaged plate glass and other glass in the Building with glass of similar quality; and
- (e) maintain and repair the Services; and

Title Reference 12714209 & 13150216, 13077162

- (f) maintain the AAA Rating.

7.2 If the AAA Rating Ceases

If the AAA Rating ceases to exist and there is no alternative rating classification scheme, the Tenant must:

- (a) at reasonable times throughout the term on any extension thereof:
- (i) Redecorate the Motel; and
 - (ii) paint, repaint, recover, clean or otherwise treat with materials all of the interior and exterior of the Building; and
- (b) maintain the gardens and landscaping on the Land. If required in the Landlord's reasonable opinion, the Tenant must restore and replace the gardens and landscaping.

7.3 What the Tenant is Not Responsible For

- (a) Despite the provisions of Clauses 7.1 and 7.2, the Tenant is not responsible for:
- (i) structural repairs, unless the repair is required because of act or negligence of the Tenant or the Tenant's Agents; and
 - (ii) latent defects; and
 - (iii) the replacement of the Landlord's Property.
- (b) For the purposes of this Clause that Landlord's Property means any property which comes within a depreciation allowance under the Income Tax Assessment Act 1997 ("Tax Act") or which is "qualifying expenditure" within the meaning of the Tax Act or which is, in the absence of other factors, capable of being depreciated or capable of being "qualifying expenditure" under the Tax Act in the accounts of the Landlord.

To remove any doubt the following are examples of the types of items that the Landlord and the Tenant will be respectively obliged to replace when the item comes to the end of its life.

Items the Landlord must replace

- drains;
- guttering;
- underground pipes;
- tiles (either wall, floor or ceiling) where retiling is involved as distinct from replacing sundry broken and cracked tiles;
- built in vanity units;
- built in cupboards, desks, port racks and cabinets;
- air conditioning ducting;
- toilet cisterns and pedestals;
- shower systems excluding shower screens.

Items which The Tenant must replace

- light bulbs and fittings;
- moveable items (chairs and tables);
- hot water systems;
- carpets;

Title Reference 12714209 & 13150216, 13077162

- *curtains and blinds;*
- *swimming pool pumps, filters and fittings.*

7.4 What the Landlord is Responsible For

- (a) The Landlord must:
- (i) ensure that the Motel and the Landlord's Property are kept in a good structural state and condition; and
 - (ii) maintain the Motel and the Landlord's Property where that maintenance is required as a result of latent defects; and
 - (iii) replace the Landlord's Property.
- (b) For the purposes of this Clause that Landlord's Property includes any property which comes within a depreciation allowance under the Income Tax Assessment Act 1997 ("Tax Act") or which is "qualifying expenditure" within the meaning of the Tax Act or which is, in the absence of other factors capable of being depreciated or capable of being "qualifying expenditure" under the Tax Act in the accounts of the Landlord.

7.5 Notice of Damage

The Tenant must, immediately on becoming aware, inform the Landlord in writing of:

- (a) damage to the Motel and the Landlord's Property; or
- (b) damage to or the defective operation of the Services.

7.6 Tenant's Alterations

- (a) The Tenant must not make any additions or alterations to the Motel without the prior consent of the Landlord;
- (b) The Tenant must:
- (i) provide the Landlord with plans, specifications and any other information about the proposed work that the Landlord may reasonably require; and
 - (ii) pay the Landlord's reasonable costs of considering the proposed addition or alteration; and
 - (iii) obtain any necessary approvals or permits from the Competent Authority; and
 - (iv) use materials of the same or similar quality as those used when the Motel was constructed or last Redecorated; and
 - (v) ensure that doing the works, transporting material to and from the Motel and those works, when completed, do not cause any material interference to the orderly operation of the Motel or to the efficient operation of the Services.
- (c) The Tenant does not have to reinstate those parts of the Motel on which works are done in accordance with this Clause when the Tenant vacates the Motel.

8. INSURANCES

8.1 Maintain Insurances

The Tenant must maintain the following insurances:

Title Reference 12714209 & 13150216, 13077162

- (a) public risk insurance for the amount set out in the Particulars; and
- (b) plate glass insurance for its replacement value; and
- (c) building insurance; and
- (d) Landlord's loss of profits insurance; and
- (e) all other insurances reasonably required in connection with the Motel; and
- (f) workers' compensation.

8.2 Requirements for Insurances

The Tenant must:

- (a) take out the insurances with reputable insurers; and
- (b) ensure that the insurances (except workers compensation insurance) are in the names of the Tenant and the Landlord and, if asked, any other person for their respective rights and interests; and
- (c) give the Landlord a copy of the certificates of insurance, if asked; and
- (d) pay each premium by the due date and give the Landlord a copy of the receipts, if asked; and
- (e) notify the Landlord if an event occurs which gives rise to a claim under or which could prejudice a policy of insurance or if any policy of insurance is cancelled; and
- (f) pay any increases in premiums incurred by the Landlord where the increases are caused by the Tenant's use of the Motel.

8.3 Tenant Not to Prejudice

- (a) The Tenant must not:
 - i. do anything which increases the premium payable by the Landlord for insurance in connection with the Motel; or
 - ii. do anything which may make the Landlord's insurances invalid or capable of cancellation; or
 - iii. vary, cancel or allow any insurance taken out to lapse, without the Landlord's consent.

8.4 Proceeds of Insurance

The proceeds of an insurance policy which are not required by the insurer to be put towards the replacement or reinstatement of the thing insured must be held in a separate account in the names of the Landlord, the Tenant and any other person who has an interest in the proceeds, and paid:

- (a) first, to settle claims arising from or in connection with the event insured against or to replace or reinstate the thing insured; and
- (b) second, in equitable portions (having regard to their respective interests) to the Landlord, the Tenant and any other person who has an interest in the proceeds.

8.5 Risk

The Tenant uses and occupies the Motel at the Tenant's own risk.

Title Reference 12714209 & 13150216, 13077162

8.6 Indemnity

The Tenant indemnifies the Landlord against any liability, loss or damage to the Motel, and injury to or the death of any person caused by the act, negligence or default of the Tenant or the Tenant's Agents.

8.7 Landlord not Liable

- (a) The Landlord is not liable for loss, damage, injury, or death of any person except that caused by the negligence or default of the Landlord or the Landlord's agents.
- (b) The Landlord is not liable for any damage or loss caused by the neglect or default of the Landlord or the Landlord's Agents (despite any law to the contrary) to do any thing in respect of the Motel unless the Tenant has given notice in writing to the Landlord of such thing and the Landlord has not rectified such thing within a reasonable time.

8.8 Workplace Health and Safety

- (a) If any work undertaken by the Tenant would make the Motel a "construction workplace" within the meaning of section 14 of the Workplace Health and Safety Act 1995 ("Act"), the Tenant (as "owner" for the purposes of the Act) must appoint the person engaged by the Tenant to carry out the work "principal contractor" for the purposes of the Act.
- (b) The Tenant indemnifies the landlord against any liability of the Landlord under the Act as owner.
- (c) The provisions of this clause 8.8 apply regardless of whether the work is to be carried out under the supervision of the Landlord or any person nominated by the Landlord.

8.9 Continuing Obligation

Each indemnity in this Lease is:

- (a) a continuing obligation;
- (b) separate and independent from any other obligations of the Tenant or Guarantor;
- (c) and will remain in existence after the End of the lease.

8.9 Indemnity for Termination

8.9.1 If as a result of the Tenant's default this Lease is terminated, the Tenant must indemnify the Landlord against any liability, loss, costs, charges and expenses incurred:

8.9.1.1 in connection with re-entering the Motel; and

8.9.1.2 because the Landlord does not receive the benefit of this Lease from the date of that termination until the Expiry Date (having regard, for example, to the provisions relating to Rent and Outgoings); and

(iii) in connection with anything else relating to that termination including, but not limited to, in the Landlord attempting to mitigate its loss.

(b) The indemnity by the Tenant is not affected by:

- (i) the Landlord first converting this Lease into one which may be terminated by the Landlord only; or
- (ii) the Landlord re-entering the Motel; or
- (iii) the Landlord terminating this Lease; or

Title Reference 12714209 & 13150216, 13077162

- (iv) the Landlord accepting the Tenant's repudiation; or
- (v) the Tenant abandoning or vacating the Motel; or
- (vi) the conduct of either party constituting a surrender by operation of law.

9 END OF THE LEASE

9.9 Tenant's Obligations

The Tenant must, at the end of the Lease:

9.9.1 Tenant to vacate: vacate the Motel; and

9.9.2 Condition of Motel: leave the Motel in the same condition as that required under Clause 7.1 and 7.2; and

9.9.3 Transfer Business Name; transfer the Business name to the Landlord or a person nominated by the Landlord; and

9.9.4 Keys: give the all keys held by the Tenant, the Tenant's Agents, or any other person to the Landlord; and

9.9.5 Trading Figures: provide to the Landlord the full trading figures for the Motel for the last 3 years ended the 30 June prior to the end of the Lease.

9.10 Removal of Tenant's Property

The Tenant must not at the End of the Lease remove the Tenant's Property from the Motel.

9.11 Abandoned Property

If the Tenant vacates the Motel before the End of the Lease the Landlord may treat the Tenant's Property as abandoned and deal with it in any manner the Landlord sees fit.

9.12 Risk in Tenant's Property

The Tenant's Property is at the Tenant's risk at all times unless ownership has passed to the Landlord in accordance with this Lease.

10 LANDLORD'S OBLIGATIONS

10.1 Quiet Enjoyment

The Landlord must, subject to the Tenant's compliance with this Lease:

10.1.1 Quiet Enjoyment: allow the Tenant to occupy the Motel without interruption or disturbance from the Landlord or the Landlord's Agents; and

10.1.2 Supply of Services: take reasonable action to ensure that the Services are made available and continue to the Motel.

10.2 Landlord to Purchase Tenant's Property

10.2.1 At the end of the Lease the Landlord must purchase the Tenant's property.

10.2.2 The purchase price of the Tenant's property is to be agreed on by the Landlord and the

Title Reference 12714209 & 13150216, 13077162

Tenant.

10.2.3 If the purchase price can not be agreed then it will be determined by a valuer nominated by the President of the Law Society at the request of either the Landlord or the Tenant.

10.2.4 The valuer's decision will be final and is not to be disputed by either party.

10.2.5 The costs of the valuation must be paid equally by the Landlord and the Tenant.

10.2.6 The valuer must:

- (i) be a member of the Australian institute of Valuers; and
- (ii) have a minimum of 5 years experience in valuing property similar to the Tenant's Property; and
- (iii) value the Tenant's Property on the basis of net realisable value if the property was to be auctioned; and
- (iv) act as an expert and not an arbitrator.

10.2.7 The Landlord must pay the purchase price to the Tenant within 14 days of the price being agreed or determined by the valuer.

10.2.8 The Landlord may deduct the following amounts from the purchase price:

10.2.9 any amount payable by the Tenant under this Lease; and

- (ii) all reasonable costs and expenses incurred by the Landlord as a result of the Tenant's default.

The risk and ownership of the Tenant's Property passes to the Landlord upon payment of the purchase price to the Tenant.

The Landlord must not re-enter the Motel and use the Tenant's Property until the purchase price has been paid to the Tenant. This Clause does not apply where the Tenant has vacated or abandoned the Motel.

11 LANDLORD'S RIGHTS

11.1 Entry by Landlord

11.1.1 The Landlord may:

- i. enter the Motel at reasonable times to:
- ii. see that the Tenant is complying with this Lease; and
- iii. maintain or repair the Motel or the Landlord's Property; and
- iv. carry out any work to the Motel that the Tenant is not obliged to carry out; and
- v. carry out any work to the Motel that the Tenant is obliged to carry out but hasn't.
- vi. inspect, and take copies of, all records relating to any AA.A Report for the Motel. The production of this Lease is sufficient authority to permit the Landlord to make an inspection.

Title Reference 12714209 & 13150216, 13077162

11.2 Notice and Disturbance

- (a) The Landlord must give the Tenant reasonable notice of entry to the Motel, except in the case of an emergency.
- (b) The Landlord must, in carrying out any works mentioned in Clause 10.1(a), cause as little disturbance as is reasonably possible to the Tenant's Business.

11.3 Antecedent Breaches

- (a) The termination of this Lease as a result of the Tenant's default does not prejudice or affect any rights or remedies of the Landlord against the Tenant on account of any antecedent breach by the Tenant.

11.4 Entry by Landlord or Abandonment

- (a) If the Tenant vacates or abandons the Motel during the Term there will not be a re-entry, forfeiture or waiver of the Landlord's rights to recover in full all the rent and other moneys payable under this Lease if the Landlord or the Landlord's Agents:
 - i. accepts the keys; or
 - ii. enters the Motel for the purpose of an inspection; or
 - iii. enters the Motel for the purpose of showing the Motel to prospective tenants; or
 - iv. enters the Motel for the purpose of advertising the Motel for re-leasing.
- (b) This Lease will continue in full force and effect until the date from which a new tenant or licensee actually commences to occupy the Motel, or the expiry date, whichever is the earlier. Any entry by the Landlord until that date is deemed to be an entry by the licence of the Tenant.
- (c) This Clause does not apply if the Landlord has:
 - i. by written notice, accepted the Tenant's surrender of the Lease; or
 - ii. served a formal notice of forfeiture on the Tenant; or
 - iii. served a formal notice of re-entry on the Tenant.
 - iv. take out the insurances with reputable insurers; and
 - v. ensure that the insurances (except workers compensation insurance) are in the names of the Tenant and the Landlord and, if asked, any other person for their respective rights and interests; and
 - vi. give the Landlord a copy of the certificates of insurance, if asked; and
 - vii. pay each premium by the due date and give the Landlord a copy of the receipts, if asked; and
 - viii. notify the Landlord if an event occurs which gives rise to a claim under or which could prejudice a policy of insurance or if any policy of insurance is canceled; and
 - ix. pay any increases in premiums incurred by the Landlord where the increases are caused by the Tenant's use of the Motel.

12 Default

12.1 The Tenant is in default of this Lease if:

12.1.1 it breaches an essential term of this Lease; or

12.1.2 it fails to pay any money within 7 days of the due date; or

Title Reference 12714209 & 13150216, 13077162

- 12.1.3 it repudiates its obligations under this Lease; or
- 12.1.4 an Insolvency Event occurs in respect of the Tenant; or
- 12.1.5 its interest under this Lease is attached or taken in execution under any legal process; or
- 12.1.6 it does not comply with any other term of this Lease within a reasonable time after receiving notice from the Landlord to do so; or
- (g) the Motel is damaged or destroyed and:
 - 12.1.6.1 the damage or destruction was caused or contributed to by the Tenant or the Tenants Agents; or
 - 12.1.6.2 a policy of insurance in connection with the Motel has been made void or payment of policy money has been refused by the insurer because of an act or omission of the Tenant or the Tenant's Agents; or
- (h) without the consent of the Landlord, the Tenant or a Guarantor takes action to reduce its capital or passes a resolution referred to in Section 188 (2) of the Corporations Law.

12.2 Landlord's Right to Terminate

- 12.2.1 The Landlord may, if the Tenant is in default;
- i. terminate this Lease by re-entering the Motel; terminate this Lease by notice; or
 - ii. convert this Lease, by notice to the Tenant, into a tenancy which may be terminated by the Landlord but not the Tenant; or
 - iii. The Tenant will remain bound under this Lease.

13 LIQUOR LICENCE

13.1 What the Tenant Must Do

The Tenant or the Tenant's Agents must

- (a) **Hold Licence:** be the holder of a Licence; and
- (b) **Comply with Law:** strictly comply, and ensure that all of the Tenant's Agents strictly comply, with the Liquor Act; and
- (c) **Lodge renewals:** do all reasonable things necessary to keep the Licence current including making applications for renewal, complying with all provisions of the Liquor Act; and
- (d) **Transfer Licence on expiration:** at least 28 days prior to the End of the Lease, immediately execute and give to the Landlord a notice of transfer of the Licence and do all things necessary to enable the Landlord or any person nominated by the Landlord to obtain a transfer of the Licence; and
- (e) **Tender Licence:** at the End of the Lease, immediately hand over the Licence to the landlord or the Landlord's nominee; and
- (f) **Notices to Landlord:** forward a copy of all information supplied by the Tenant under the Liquor Act to the Landlord.

Title Reference 12714209 & 13150216, 13077162

13.2 What the Tenant Must Not Do

The Tenant and the Tenant's Agents must not:

13.2.1 Allow Licence to be Prejudiced: do anything where the Licence is or is liable to be cancelled, surrendered or forfeited; and

13.2.2 Restriction on transfer: without prior consent of the Landlord, transfer the Licence to any other person. If the Landlord consents to an assignment of this Lease under Clause 5.2 then the Landlord is taken to have consented to the transfer of the Licence; and

13.2.3 No deduction: if the Motel is located in New South Wales, recover from the Landlord by way of deduction from the Rent or otherwise any part of the licence fees paid by the Tenant for the Licence. The provisions of section 154 of the Liquor Act do not apply to this Lease.

13.3 Inspection by Landlord

The Landlord may inspect and take copies of any information provided by the Tenant to a Competent Authority under the Liquor Act. The production of this Lease is sufficient authority to the Competent Authority to permit the Landlord to make an inspection.

14 DAMAGE DESTRUCTION OR RESUMPTION

14.1 Obligation of Landlord

14.1.1 If the Motel is destroyed or damaged the Landlord must, within 2 months after damage, notify the Tenant of its intentions whether or not to reinstate or repair the Motel.

14.1.2 If the Landlord decides not to reinstate the Motel then either party can terminate this Lease, without compensation, by giving 14 days notice to the other party;

14.1.3 If the Landlord decides to reinstate the Motel and such works have not been completed within a reasonable time then the Tenant may:

- (i) give the Landlord written notice of an intention to terminate the Lease if the Motel is not reinstated within 1 month; and
- (ii) terminate the Lease after 1 month has expired.

14.2 No Obligation to Reinstate

This Clause does not oblige the Landlord to reinstate or repair the Motel.

14.3 Abatement of Rent

If the Motel is destroyed or damaged (whether or not including the obstruction of the normal means of access to the Motel):

14.3.1 the Tenant is not obliged to pay Rent or Outgoings from the date of the damage until the Motel has been reinstated; or

14.3.2 If the Motel is partially damaged, the Rent and Outgoings will be reduced by a proportion equal to the loss of usage of the Motel caused by the damage. This proportion is to be agreed between the Landlord and the Tenant.

Title Reference 12714209 & 13150216, 13077162

14.4 Not to Prejudice

The Tenant is not entitled to terminate this Lease or receive a reduction in Rent and Outgoings where:

14.4.1 the damage is caused by, contributed to by, or arises from, an act or omission of the Tenant or the Tenant's Agents; or

14.4.2 a policy of insurance in connection with the Motel is cancelled or made void because of some act or omission of the Tenant or of the Tenant's Agents.

14.5 Resumption

If the Motel is resumed by a Competent Authority so that it is inaccessible or unusable, either party may terminate this Lease, without compensation, by giving 1 month's notice to the other party.

15 POWER OF ATTORNEY

- (a) The Tenant, if in default under this Lease, appoints the Landlord and any other person authorised by the Landlord, jointly and severally to be the attorney of the Tenant.
- (b) The statutory declaration of the Landlord or any person duly authorised by the Landlord is sufficient proof of default.
- (c) The Tenant must ratify anything lawfully done by the attorney or its delegate if requested by the Landlord.
- (d) The attorneys may:
 - (i) do anything that the Tenant may do under this Lease; and
(for example:
 - execute deeds;
 - transferring or surrendering this Lease;
 - transferring, surrendering or renewing the Licence;
 - transferring the Business Name; and
 - instituting, conducting and defending legal proceedings.)
 - (ii) delegate its powers (including this power) to any person for any period; and
 - (iii) revoke any delegation; and
 - (iv) exercise its powers even if there is a conflict of duty or a personal interest in the exercise of its powers.

16 NOTICES

16.1 Validity

To be valid and effective a notice or document must be:

16.1.1 in writing; and

16.1.2 served on the Landlord, the Tenant, or the Guarantor by:

16.1.2.1 personal delivery; or

16.1.2.2 posted by registered post to the address in the Particulars or if a company to its registered office; or

Title Reference 12714209 & 13150216, 13077162

16.1.2.3 sent by facsimile; or

16.1.2.4 sent by any other electronic means (*example email*).

16.2 When Received

A notice or document is taken to be received;

16.2.1 if delivered - on the date received by the party to whom the notice or document is addressed;

16.2.2 if posted - on the date that it would have been delivered in the ordinary course of the post; and

{c) if faxed - on that date on the transmission report that indicates that the facsimile was sent in its entirety to the facsimile number of the recipient; and

(d) if sent by another form of electronic means - on that date on the transmission report that indicates that the notice or document was sent in its entirety to the recipient.

17 GUARANTEE AND INDEMNITY

17.1 Guarantee

17.1.1 The Guarantor guarantees the payment of all amounts payable under this Lease and the performance by the Tenant of the covenants and provisions contained in this Lease.

17.1.2 The Guarantor must on demand by the Landlord if the Tenant is in default of this Lease pay, observe and perform the obligations of the Tenant under this Lease.

17.2 Indemnity

The Guarantor indemnifies the Landlord from any loss caused by the default of the Tenant.

17.3 Liability of Guarantor

This liability of the Guarantor is not affected by:

17.3.1 re-entry to the Motet by the Landlord; or

17.3.2 default by the Tenant; or

17.3.3 termination of this Lease; or

17.3.4 allowing any concession to the Tenant or, any other person; or

17.3.5 the death, mental incapacity, bankruptcy, assignment for the benefit of creditors, arrangement with creditors, winding-up, reconstruction, official management, receivership, liquidation, striking of or other demise of the Tenant or of any Guarantor; or

17.3.6 the Landlord failing or neglecting to exercise or waiving or deferring any or all of its rights or remedies under this Lease; or

17.3.7 any lack of capacity or power by the Tenant to enter into this Lease or by the Guarantor to enter into this guarantee; or

Title Reference 12714209 & 13150216, 13077162

17.3.8 any act or omission on the part of the Landlord contrary to the interests of the Guarantor;
or

17.3.9 the obtaining of any judgment against the Tenant or the Guarantor; or

17.3.10 any actual or alleged set-off, defence, counterclaim or other deductions on the part
of the Tenant or the Guarantor; or

17.3.11 any variation of the terms of this Lease; or

17.3.12 any other event, act, omission, mistake, laches or default of the Landlord whereby the
Guarantor's liability to the Landlord would, but for this provision, have been affected
or discharged.

17.4 More than 1 Guarantor

If there is more than 1 Guarantor:

17.4.1 each Guarantor is liable individually and together; and

17.4.2 the liability of 1 Guarantor is not affected if the guarantee in this Lease is void,
defective or informal in relation to another Guarantor.

17.5 Assignment

17.5.1 The Landlord may, on assignment of its interest in the Motel, also assign the benefit
of the Guarantors obligations.

17.5.2 The Guarantor must, if requested and at the expense of the Landlord, enter into a
deed with any assignee from the Landlord in terms substantially similar to those
contained in this guarantee and indemnity.

17.6 Principal Obligations

The obligations of the Guarantor are principal obligations.

*(To remove any doubt the obligations of the Guarantor are not affected by any security or right which
the Landlord may hold in relation to any indebtedness of the Tenant).*

17.7 Proof

If the Tenant becomes bankrupt resulting in claims by creditors:

17.7.1 the Guarantor must not prove or claim in competition with the Landlord so as to
diminish any distribution which, but for such proof, the Landlord would be entitled to
receive arising out of the bankruptcy; and

17.7.2 the Guarantor must, if asked by the Landlord, prove or claim in the bankruptcy and
any amount received by the Guarantor from any distribution must be received and
held by the Guarantor in trust for the Landlord.

17.8 Warranty by Guarantor

The Guarantor warrants that it has full and unrestricted power to covenant, agree and indemnify
and to execute this guarantee and indemnity and Lease.

Title Reference 12714209 & 13150216, 13077162

18 WHERE THE TENANT IS A TRUSTEE

18.1 Tenant's Declarations

If the Tenant is a trustee then the Tenant declares that:

- 18.1.1** it is the sole trustee; and
- 18.1.2** it is not in breach of its obligations under the trust; and
- 18.1.3** it is or has a right to be the legal owner of the trust property; and
- 18.1.4** it has the power and the authority to enter into this Lease.

18.2 Liability of the Tenant

If the Tenant is a trustee then the Tenant is liable under this Lease both personally and as trustee.

18.3 Obligations of the Tenant

The Tenant must, unless it has first obtained the consent of the Landlord, ensure that;

- 18.3.1** the Tenant remains the sole trustee; and
- 18.3.2** the trust is not vested; and
- 18.3.3** the trustee's right of indemnity against the trust property is not reduced; and
- 18.3.4** the trust documents are not varied; and
- 18.3.5** there is no delegation of trust powers; and
- 18.3.6** the power to appointment is not exercised.

19 DISPUTE RESOLUTION

If either party disputes any matter under this Lease then the following procedure is to be followed:

- (a) The party disputing the matter must give a notice to the other party setting out the dispute. ("Dispute Notice").
- (b) If the parties cannot subsequently resolve the dispute within 14 days from the Dispute Notice being served, the Landlord or the Tenant may ask the President of the Law Society to appoint an independent expert to determine the dispute.
- (c) The decision made by the expert will be final.
- (d) The Landlord and the Tenant must share the costs of the expert equally.

20 GOODS AND SERVICES TAX

In this Clause "GST" and "Taxable Supply" refers to goods and services tax under A New Tax System (Goods and Services Tax) Act 1999 or any other value added tax (or similar tax). The terms used in this Clause have the meanings referred to in A New Tax System (Goods and Services Tax) Act 1999.

- (b) The amount of Rent and other payments specified in this lease do not include GST.

If the landlord is or becomes liable to pay GST in respect of a supply for which payment is to be made by the Tenant under this Lease, the amount payable by the Tenant will be increased so that the net amount

Title Reference 12714209 & 13150216, 13077162

retained by the Landlord after payment of that GST is the same as if the Landlord was not liable to pay any GST in respect of that supply.

EXECUTION

The Landlord enters into this Lease at the request of the guarantors and on the basis of the guarantors giving the guarantee in clause 17 evidenced by their execution below.

SIGNED SEALED and DELIVERED by)
as guarantor in the presence of:)

Diana Lancaster
Signature of Witness

Diana Lancaster
Print Full Name of Witness

Gregory Edward Ward

Gregory Edward Ward

SIGNED SEALED and DELIVERED by)
as guarantor in the presence of:)

Diana Lancaster
Signature of Witness

Diana Lancaster
Print Full Name of Witness

E. Ward

Eleanor Dale Ward

