

**General tenancy agreement (Form 18a)**

Residential Tenancies and Rooming Accommodation Act 2008

**Part 1 Tenancy details****Item 1****1.1 Lessor**

Name/trading name Peter Lloyd &amp; Denise Kay Melville

## Address

255 Bourbong Street

Bundaberg West QLD

Postcode 4670

**1.2 Phone**

## Mobile

## Email

07 4153 6444

rentals@thefourwalls.com.au

**Item 2****2.1 Tenant/s**

Tenant 1 Full name/s Poolwerx

Phone 0457104630

Email rhonda.henson@poolwerx.com.au

Tenant 2 Full name/s

Phone

Email

Tenant 3 Full name/s

Phone

Email

**2.2 Address for service (if different from address of the premises in item 5.1)** Attach a separate list**Item 3****3.1 Agent** If applicable. See clause 43

Full name/trading name Four Walls Rentals PTY LTD t/as Four Walls Realty

## Address

255 Bourbong Street

BUNDABERG

QLD

Postcode 4670

**3.2 Phone**

## Mobile

## Email

07 41536444

rentals@thefourwalls.com.au

**Item 4****Notices may be given to**

(Indicate if the email is different from item 1, 2 or 3 above)

**4.1 Lessor**Email Yes  No Facsimile Yes  No **4.2 Tenant/s**Email Yes  No  rhonda.henson@poolwerx.com.auFacsimile Yes  No **4.3 Agent**Email Yes  No  rentals@thefourwalls.com.auFacsimile Yes  No **Item 5****5.1 Address of the rental premises**

224 Walker Street - AKA 224A Walker ST

Svensson Heights

QLD

Postcode 4670

**5.2 Inclusions provided.** For example, furniture or other household goods let with the premises. Attach list if necessary

As per the Entry Condition Report

**Item 6****6.1 The term of the agreement is**  fixed term agreement  periodic agreement**6.2 Starting on** 25 / 3 / 2022**6.3 Ending on** 24 / 3 / 2023

Fixed term agreements only.

For continuation of tenancy agreement, see clause 6



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**Item 7** Rent \$ 380.00 per  week  fortnight  month See clause 8(1)

**Item 8** Rent must be paid on the due day day of each week  
Insert day. See clause 8(2) Insert week, fortnight or month

**Item 9** **Method of rent payment** Insert the way the rent must be paid. See clause 8(3)

Electronic Transfer or CentrePay (CRN: 555 118 530L)

Details for direct credit

BSB no. 084 571 Bank/building society/credit union National Australia Bank

Account no. 245 198 238 Account name Four Walls Rentals Pty Ltd Trust Account

Payment reference POOLWERX224Walker

**Item 10** **Place of rent payment** Insert where the rent must be paid. See clause 8(4) to 8(6)

Four Walls Realty

**Item 11** **Rental bond amount** \$ 1520.00 See clause 13

**Item 12** **12.1 The services supplied to the premises for which the tenant must pay** See clause 16

Electricity  Yes  No Any other service that a tenant must pay  Yes  No  
 Gas  Yes  No Type Excess Water Usage See special terms (page 8)  
 Phone  Yes  No

**12.2 Is the tenant to pay for water supplied to the premises** See clause 17

Yes  No

**Item 13** **If the premises is not individually metered for a service under item 12.1, the apportionment of the cost of the service for which the tenant must pay.** For example, insert the percentage of the total charge the tenant must pay. See clause 16(c)

Electricity Not applicable Any other service stated in item 12.1 Not applicable  
 Gas Not applicable See special terms (page 8)  
 Phone Not applicable

**Item 14** **How services must be paid for** Insert for each how the tenant must pay. See clause 16(d)

Electricity Direct to supplier

Gas Direct to supplier

Phone Direct to supplier

Any other service stated in item 12.1 Reimbursed to the Landlord  
See special terms (page 8)

**Item 15** **Number of persons allowed to reside at the premises** 2 See clause 23

**Item 16** **16.1 Are there any body corporate by-laws applicable to the occupation of the premises by a tenant?**  Yes  No  
See clause 22

**16.2 Has the tenant been given a copy of the relevant by-laws** See clause 22  Yes  No

**Item 17** **17.1 Pets approved**  Yes  No See clause 24(1)

**17.2 The types and number of pets that may be kept** See clause 24(2)

Type Number Type Number

**Item 18** **Nominated repairers** Insert name and telephone number for each. See clause 31

Electrical repairs Four Walls Realty Phone 07 4153 6444

Plumbing repairs Four Walls Realty Phone 07 4153 6444

Other Four Walls Realty Phone 07 4153 6444

## Part 2 Standard Terms

### Division 1 Preliminary

#### 1 Interpretation

In this agreement -

- (a) a reference to **the premises** includes a reference to any inclusions for the premises stated in this agreement for item 5.2; and
- (b) a reference to a numbered section is a reference to the section in the Act with that number; and
- (c) a reference to a numbered item is a reference to the item with that number in part 1; and
- (d) a reference to a numbered clause is a reference to the clause of this agreement with that number.

#### 2 Terms of a general tenancy agreement

- (1) This part states, under the *Residential Tenancies and Rooming Accommodation Act 2008 (the Act)*, section 55, the standard terms of a general tenancy agreement.
  - (2) The Act also imposes duties on, and gives entitlements to, the lessor and tenant that are taken to be included as terms of this agreement.
  - (3) The lessor and tenant may agree on other terms of this agreement (**special terms**).
  - (4) A duty or entitlement under the Act overrides a standard term or special term if the term is inconsistent with the duty or entitlement.
  - (5) A standard term overrides a special term if they are inconsistent.
- Note* - Some breaches of this agreement may also be an offence under the Act, for example, if -
- the lessor or the lessor's agent enters the premises in contravention of the rules of entry under sections 192 to 199; or
  - the tenant does not sign and return the condition report to the lessor or the lessor's agent under section 65.

#### 3 More than 1 lessor or tenant

- (1) This clause applies if more than 1 person is named in this agreement for item 1 or 2.
- (2) Each lessor named in this agreement for item 1 must perform all of the lessor's obligations under this agreement.
- (3) Each tenant named in this agreement for item 2 -
  - (a) holds their interest in the tenancy as a tenant in common unless a special term states the tenants are joint tenants; and
  - (b) must perform all the tenant's obligations under this agreement.

### Division 2 Period of tenancy

#### 4 Start of tenancy

- (1) The tenancy starts on the day stated in this agreement for item 6.2.
- (2) However, if no day is stated or if the stated day is before the signing of this agreement, the tenancy starts when the tenant is or was given a right to occupy the premises.

#### 5 Entry condition report - s 65

- (1) The lessor must prepare, in the approved form, sign and give the tenant 1 copy of a condition report for the premises.
- (2) The copy must be given to the tenant on or before the day the tenant occupies the premises under this agreement.
- (3) The tenant must mark the copy of the report to show any parts the tenant disagrees with, and sign and return the copy to the lessor not later than 3 days after the later of the following days -
  - (a) the day the tenant is entitled to occupy the premises;
  - (b) the day the tenant is given the copy of the condition report.

*Note* - A well completed condition report can be very important to help the parties if there is a dispute about the condition of the premises when the tenancy started. For more information about condition reports, see the information statement.
- (4) After the copy of the condition report is returned to the lessor by the tenant, the lessor must copy the condition report and return it to the tenant within 14 days.

#### 6 Continuation of fixed term agreement - s 70

- (1) This clause applies if -
    - (a) this agreement is a fixed term agreement; and
    - (b) none of the following notices are given, or agreements or applications made before the day the term ends (the **end day**) -
      - (i) a notice to leave;
      - (ii) a notice of intention to leave;
      - (iii) an abandonment termination notice;
      - (iv) a notice, agreement or application relating to the death of a sole tenant under section 277(7);
      - (v) a written agreement between the lessor and tenant to end the agreement.
  - (2) This agreement, other than a term about this agreement's term, continues to apply after the end day on the basis that the tenant is holding over under a periodic agreement.
- Note* - For more information about the notices, see the information statement.

#### 7 Costs apply to early ending of fixed term agreement

- (1) This clause applies if -
    - (a) this agreement is a fixed term agreement; and
    - (b) the tenant terminates it before the term ends in a way not permitted under the Act.
  - (2) The tenant must pay the reasonable costs incurred by the lessor in reletting the premises.
- Note* - For when the tenant may terminate early under the Act, see clause 36 and the information statement. Under section 362, the lessor has a general duty to mitigate (avoid or reduce) the costs.

### Division 3 Rent

#### 8 When, how and where rent must be paid - ss 83 and 85

- (1) The tenant must pay the rent stated in this agreement for item 7.
- (2) The rent must be paid at the times stated in this agreement for item 8.
- (3) The rent must be paid -
  - (a) in the way stated in this agreement for item 9; or
  - (b) in the way agreed after the signing of this agreement by -
    - (i) the lessor or tenant giving the other party a notice proposing the way; and
    - (ii) the other party agreeing to the proposal in writing; or
  - (c) if there is no way stated in this agreement for item 9 or no way agreed after the signing of this agreement - in an approved way under section 83(4).

*Note* - If the way rent is to be paid is another way agreed on by the lessor and tenant under section 83(4)(g), the lessor or the lessor's agent must comply with the obligations under section 84(2).
- (4) The rent must be paid at the place stated in this agreement for item 10.
- (5) However, if, after the signing of this agreement, the lessor gives a notice to the tenant stating a different place for payment and the place is reasonable, the rent must be paid at the place while the notice is in force.
- (6) If no place is stated in this agreement for item 10 and there is no notice stating a place, the rent must be paid at an appropriate place.

*Examples of an appropriate place -*

- the lessor's address for service
- the lessor's agent's office

#### 9 Rent in advance - s 87

The lessor may require the tenant to pay rent in advance only if the payment is not more than -

- (a) for a periodic agreement - 2 weeks rent; or
- (b) for a fixed term agreement - 1 month rent.

*Note* - Under section 87(2), the lessor or the lessor's agent must not require a payment of rent under this agreement in a period for which rent has already been paid.

## 10 Rent increases - ss 91 and 93

- (1) If the lessor proposes to increase the rent, the lessor must give notice of the proposal to the tenant.
- (2) The notice must state the amount of the increased rent and the day from when it is payable.
- (3) The day stated must not be earlier than the later of the following -
  - (a) 2 months after the notice is given;
  - (b) 6 months after the day the existing rent became payable by the tenant.
- (4) Subject to an order of a tribunal, the increased rent is payable from the day stated in the notice, and this agreement is taken to be amended accordingly.
- (5) However, if this agreement is a fixed term agreement, the rent may be increased before the term ends only if a special term -
  - (a) provides for a rent increase; and
  - (b) states the amount of the increase or how the amount of the increase is to be worked out.
- (6) A rent increase is payable by the tenant only if the rent is increased under this clause.

## 11 Application to tribunal about excessive increase - s 92

- (1) If a notice of proposed rent increase is given and the tenant considers the increase is excessive, the tenant may apply to a tribunal for an order setting aside or reducing the increase.
- (2) However, the application must be made -
  - (a) within 30 days after the notice is received; and
  - (b) for a fixed term agreement - before the term ends.

## 12 Rent decreases - s 94

Under section 94, the rent may decrease in certain situations.

*Note* - For details of the situations, see the information statement.

## Division 4 Rental bond

### 13 Rental bond required - ss 111 and 116

- (1) If a rental bond is stated in this agreement for item 11, the tenant must pay to the lessor or the lessor's agent the rental bond amount -
  - (a) if a special term requires the bond to be paid at a stated time - at the stated time; or
  - (b) if a special term requires the bond to be paid by instalments - by instalments; or
  - (c) otherwise - when the tenant signs this agreement.

*Note* - There is a maximum bond that may be required. See section 146 and the information statement.

- (2) The lessor or the lessor's agent must, within 10 days of receiving the bond or a part of the bond, pay it to the authority and give the authority a notice, in the approved form, about the bond.
- (3) The bond is intended to be available to financially protect the lessor if the tenant breaches this agreement.

*Example* - The lessor may claim against the bond if the tenant does not leave the premises in the required condition at the end of the tenancy.

*Note* - For how to apply to the authority or a tribunal for the bond at the end of the tenancy, see the information statement and sections 125 to 141. Delay in applying may mean that payment is made on another application for payment.

### 14 Increase in bond - s 154

- (1) The tenant must increase the rental bond if -
  - (a) the rent increases and the lessor gives notice to the tenant to increase the bond; and
  - (b) the notice is given at least 11 months after -
    - (i) this agreement started; or
    - (ii) if the bond has been increased previously by a notice given under this clause - the day stated in the notice, or the last notice, for making the increase.

- (2) The notice must state the increased amount and the day by which the increase must be made.
- (3) For subclause (2), the day must be at least 1 month after the tenant is given the notice.

## Division 5 Outgoings

### 15 Outgoings - s 163

- (1) The lessor must pay all charges, levies, premiums, rates or taxes for the premises, other than a service charge.
 

*Examples* -

  - body corporate levies, council general rates, sewerage charges, environment levies, land tax
- (2) This clause does not apply if -
  - (a) the lessor is the State; and
  - (b) rent is not payable under the agreement; and
  - (c) the tenant is an entity receiving financial or other assistance from the State to supply rented accommodation to persons.

### 16 General service charges - ss 164 and 165

The tenant must pay a service charge, other than a water service charge, for a service supplied to the premises during the tenancy if -

- (a) the tenant enjoys or shares the benefit of the service; and
- (b) the service is stated in this agreement for item 12.1; and
- (c) either -
  - (i) the premises are individually metered for the service; or
  - (ii) this agreement states for item 13 how the tenant's apportionment of the cost of the service is to be worked out; and
- (d) this agreement states for item 14 how the tenant must pay for the service.

*Note* - Section 165(3) limits the amount the tenant must pay.

### 17 Water service charges - ss 164 and 166

- (1) The tenant must pay an amount for the water consumption charges for the premises if -
    - (a) the tenant is enjoying or sharing the benefit of a water service to the premises; and
    - (b) the premises are individually metered for the supply of water or water is supplied to the premises by delivery by means of a vehicle; and
    - (c) this agreement states for item 12.2 that the tenant must pay for water supplied to the premises.
- Note* - A water consumption charge does not include the amount of a water service charge that is a fixed charge for the water service.
- (2) However, the tenant does not have to pay an amount -
    - (a) that is more than the amount of the water consumption charges payable to the relevant water supplier; or
    - (b) that is a fixed charge for the water service to the premises.
  - (3) Also, the tenant does not have to pay an amount for a reasonable quantity of water supplied to the premises for a period if, during the period, the premises are not water efficient for section 166.

*Note* - For details about water efficiency, see the information statement.

- (4) In deciding what is a reasonable quantity of water for subclause (3), regard must be had to the matters mentioned in section 169(4)(a) to (e).
- (5) The tenant must pay the amount of the charge to the lessor within 1 month of the lessor giving the tenant copies of relevant documents about the incurring of the amount.
- (6) In this clause -

**water consumption charge** for premises, means the variable part of a water service charge assessed on the volume of water supplied to the premises.

*Note* - If there is a dispute about how much water (or any other service charge) the tenant should pay, the lessor or the tenant may attempt to resolve the dispute by conciliation. See the information statement for details.

## Division 6 Rights and obligations concerning the premises during tenancy

### Subdivision 1 Occupation and use of premises

#### 18 No legal impediments to occupation - s 181

The lessor must ensure there is no legal impediment to occupation of the premises by the tenant as a residence for the term of the tenancy if, when entering into this agreement, the lessor knew about the impediment or ought reasonably to have known about it.

*Examples of possible legal impediments -*

- if there is a mortgage over the premises, the lessor might need to obtain approval from the mortgagee before the tenancy can start
- a certificate might be required under the *Building Act 1975* before the premises can lawfully be occupied
- the zoning of the land might prevent use of a building on the land as a residence

#### 19 Vacant possession and quiet enjoyment - ss 182 and 183

- (1) The lessor must ensure the tenant has vacant possession of the premises (other than a part of the premises that the tenant does not have a right to occupy exclusively) on the day the tenant is entitled to occupy the premises under this agreement.

*Editor's note -* Parts of the premises where the tenant does not have a right to occupy exclusively may be identified in a special term.

- (2) The lessor must take reasonable steps to ensure the tenant has quiet enjoyment of the premises.
- (3) The lessor or the lessor's agent must not interfere with the reasonable peace, comfort or privacy of the tenant in using the premises.

#### 20 Lessor's right to enter the premises - ss 192-199

The lessor or the lessor's agent may enter the premises during the tenancy only if the obligations under sections 192 to 199 have been complied with.

*Note -* See the information statement for details.

#### 21 Tenant's use of premises - ss 10 and 184

- (1) The tenant may use the premises only as a place of residence or mainly as a place of residence or for another use allowed under a special term.
- (2) The tenant must not -
- (a) use the premises for an illegal purpose; or
  - (b) cause a nuisance by the use of the premises; or
- Examples of things that may constitute a nuisance -*
- using paints or chemicals on the premises that go onto or cause odours on adjoining land
  - causing loud noises
  - allowing large amounts of water to escape onto adjoining land
- (c) interfere with the reasonable peace, comfort or privacy of a neighbour of the tenant; or
- (d) allow another person on the premises to interfere with the reasonable peace, comfort or privacy of a neighbour of the tenant.

#### 22 Units and townhouses - s 69

- (1) The lessor must give the tenant a copy of any body corporate by-laws under the *Body Corporate and Community Management Act 1997* or *Building Units and Group Titles Act 1980* applicable to -
- (a) the occupation of the premises; or
  - (b) any common area available for use by the tenant with the premises.
- (2) The tenant must comply with the by-laws.

#### 23 Number of occupants allowed

No more than the number of persons stated in this agreement for item 15 may reside at the premises.

#### 24 Pets

- (1) The tenant may keep pets on the premises only if this agreement states for item 17.1 that pets are approved.
- (2) If this agreement states for item 17.1 that pets are approved and this agreement states for item 17.2 that only -
- (a) a particular type of pet may be kept, only that type may be kept; or
  - (b) a particular number of pets may be kept, only that number may be kept; or
  - (c) a particular number of a particular type of pet may be kept, only that number of that type may be kept.

#### Subdivision 2 Standard of premises

#### 25 Lessor's obligations - s 185

- (1) At the start of the tenancy, the lessor must ensure -
- (a) the premises are clean; and
  - (b) the premises are fit for the tenant to live in; and
  - (c) the premises are in good repair; and
  - (d) the lessor is not in breach of a law dealing with issues about the health or safety of persons using or entering the premises.
- (2) While the tenancy continues, the lessor must -
- (a) maintain the premises in a way that the premises remain fit for the tenant to live in; and
  - (b) maintain the premises in good repair; and
  - (c) ensure the lessor is not in breach of a law dealing with issues about the health or safety of persons using or entering the premises; and
  - (d) keep any common area included in the premises clean.
- Note -* For details about the maintenance, see the information statement.
- (3) However, the lessor is not required to comply with subclause (1)(c) or (2)(a) for any non-standard items and the lessor is not responsible for their maintenance if -
- (a) the lessor is the State; and
  - (b) the non-standard items are stated in this agreement and this agreement states the lessor is not responsible for their maintenance; and
  - (c) the non-standard items are not necessary and reasonable to make the premises a fit place in which to live; and
  - (d) the non-standard items are not a risk to health or safety; and
  - (e) for fixtures - the fixtures were not attached to the premises by the lessor.
- (4) In this clause -
- non-standard items** means the fixtures attached to the premises and inclusions supplied with the premises stated in this agreement for item 5.2.
- premises** include any common area available for use by the tenant with the premises.

#### 26 Tenant's obligations - s 188(2) and (3)

- (1) The tenant must keep the premises clean, having regard to their condition at the start of the tenancy.
- (2) The tenant must not maliciously damage, or allow someone else to maliciously damage, the premises.

#### Subdivision 3 The dwelling

#### 27 Fixtures or structural changes - ss 207-209

- (1) The tenant may attach a fixture, or make a structural change, to the premises only if the lessor agrees to the fixture's attachment or the structural change.
- Note -* Fixtures are generally items permanently attached to land or to a building that are intended to become part of the land or building. An attachment may include, for example, something glued, nailed or screwed to a wall.
- (2) The lessor's agreement must be written, describe the nature of the fixture or change and include any terms of the agreement.

*Examples of terms -*

- that the tenant may remove the fixture
  - that the tenant must repair damage caused when removing the fixture
  - that the lessor must pay for the fixture if the tenant can not remove it
- (3) If the lessor does agree, the tenant must comply with the terms of the lessor's agreement.
- (4) The lessor must not act unreasonably in failing to agree.
- (5) If the tenant attaches a fixture, or makes a structural change, to the premises without the lessor's agreement, the lessor may -
- (a) take action for a breach of a term of this agreement; or
  - (b) waive the breach (that is, not take action for the breach) and treat the fixture or change as an improvement to the premises for the lessor's benefit (that is, treat it as belonging to the lessor, without having to pay the tenant for it).

**28 Supply of locks and keys - s 210**

- (1) The lessor must supply and maintain all locks necessary to ensure the premises are reasonably secure.
- (2) The lessor must give the tenant, or if there is more than 1 tenant, 1 of the tenants, a key for each lock that -
- (a) secures an entry to the premises; or
  - (b) secures a road or other place normally used to gain access to, or leave, the area or building in which the premises are situated; or
  - (c) is part of the premises.
- (3) If there is more than 1 tenant, the lessor must give the other tenants a key for the locks mentioned in subclause (2)(a) and (b).

**29 Changing locks - ss 211 and 212**

- (1) The lessor or the tenant may change locks if -
- (a) both agree to the change; or
  - (b) there is a tribunal order permitting the change; or
  - (c) there is a reasonable excuse for making the change.

*Example of a reasonable excuse -*

an emergency requiring the lock to be changed quickly

- (2) The lessor or tenant must not act unreasonably in failing to agree to the change of a lock.
- (3) If a lock is changed, the party changing it must give the other party a key for the changed lock unless -
- (a) a tribunal orders that a key not be given; or
  - (b) the other party agrees to not being given a key.

**Subdivision 4 Damage and repairs****30 Meaning of emergency and routine repairs - ss 214 and 215**

- (1) **Emergency repairs** are works needed to repair any of the following -
- (a) a burst water service or serious water service leak;
  - (b) a blocked or broken lavatory system;
  - (c) a serious roof leak;
  - (d) a gas leak;
  - (e) a dangerous electrical fault;
  - (f) flooding or serious flood damage;
  - (g) serious storm, fire or impact damage;
  - (h) a failure or breakdown of the gas, electricity or water supply to the premises;
  - (i) a failure or breakdown of an essential service or appliance on the premises for hot water, cooking or heating;
  - (j) a fault or damage that makes the premises unsafe or insecure;
  - (k) a fault or damage likely to injure a person, damage property or unduly inconvenience a resident of the premises;
  - (l) a serious fault in a staircase, lift or other common area of the premises that unduly inconveniences a resident in gaining access to, or using, the premises.
- (2) **Routine repairs** are repairs other than emergency repairs.

**31 Nominated repairer for emergency repairs - s 216**

- (1) The lessor's nominated repairer for emergency repairs of a particular type may be stated either -
- (a) in this agreement for item 18; or
  - (b) in a notice given by the lessor to the tenant.
- (2) The nominated repairer is the tenant's first point of contact for notifying the need for emergency repairs.

**32 Notice of damage - s 217**

- (1) If the tenant knows the premises have been damaged, the tenant must give notice as soon as practicable of the damage.
- (2) If the premises need routine repairs, the notice must be given to the lessor.
- (3) If the premises need emergency repairs, the notice must be given to -
- (a) the nominated repairer for the repairs; or
  - (b) if there is no nominated repairer for the repairs or the repairer can not be contacted - the lessor.

**33 Emergency repairs arranged by tenant - ss 218 and 219**

- (1) The tenant may arrange for a suitably qualified person to make emergency repairs or apply to the tribunal under section 221 for orders about the repairs if -
- (a) the tenant has been unable to notify the lessor or nominated repairer of the need for emergency repairs of the premises; or
  - (b) the repairs are not made within a reasonable time after notice is given.
- (2) The maximum amount that may be incurred for emergency repairs arranged to be made by the tenant is an amount equal to the amount payable under this agreement for 2 weeks rent.
- Note - For how the tenant may require reimbursement for the repairs, see sections 219(2) and (3) and 220 and the information statement.*

**Division 7 Restrictions on transfer or subletting by tenant****34 General - ss 238 and 240**

- (1) Subject to clause 35, the tenant may transfer all or a part of the tenant's interest under this agreement, or sublet the premises, only if the lessor agrees in writing or if the transfer or subletting is made under a tribunal order.
- (2) The lessor must act reasonably in failing to agree to the transfer or subletting.
- (3) The lessor is taken to act unreasonably in failing to agree to the transfer or subletting if the lessor acts in a capricious or retaliatory way.
- (4) The lessor or the lessor's agent must not require the tenant to pay, or accept from the tenant, an amount for the lessor's agreement to a transfer or subletting by the tenant, other than an amount for the reasonable expenses incurred by the lessor in agreeing to the transfer or subletting.

**35 State assisted lessors or employees of lessor - s 237**

- (1) This clause applies if -
- (a) the lessor is the State; or
  - (b) the lessor is an entity receiving assistance from the State to supply rented accommodation; or
  - (c) the tenant's right to occupy the premises comes from the tenant's terms of employment.
- (2) The tenant may transfer the whole or part of the tenant's interest under this agreement, or sublet the premises, only if the lessor agrees in writing to the transfer or subletting.

**Division 8 When agreement ends****36 Ending of agreement - s 277**

- (1) This agreement ends only if -
- (a) the tenant and the lessor agree in writing; or

- (b) the lessor gives a notice to leave the premises to the tenant and the tenant hands over vacant possession of the premises to the lessor on or after the handover day; or
- (c) the tenant gives a notice of intention to leave the premises to the lessor and hands over vacant possession of the premises to the lessor on or after the handover day; or
- (d) a tribunal makes an order terminating this agreement; or
- (e) the tenant abandons the premises; or
- (f) after receiving a notice from a mortgagee under section 317, the tenant vacates, or is removed from, the premises.

*Note* - For when a notice to leave or a notice of intention to leave may be given and its effect and when an application for a termination order may be made to a tribunal, see the information statement.

- (2) Also, if a sole tenant dies, this agreement terminates in accordance with section 277(7) or (8).

*Note* - See the information statement for details.

### 37 Condition premises must be left in - s 188(4)

At the end of the tenancy, the tenant must leave the premises, as far as possible, in the same condition they were in at the start of the tenancy, fair wear and tear excepted.

*Examples of what may be fair wear and tear -*

- wear that happens during normal use
- changes that happen with ageing

### 38 Keys

At the end of the tenancy, the tenant must return to the lessor all keys for the premises.

### 39 Tenant's forwarding address - s 205(2)

- (1) When handing over possession of the premises, the tenant must, if the lessor or the lessor's agent asks the tenant in writing to state the tenant's new residential address, tell the lessor or the agent the tenant's new residential address.
- (2) However, subclause (1) does not apply if the tenant has a reasonable excuse for not telling the lessor or agent the new address.

### 40 Exit condition report - s 66

- (1) As soon as practicable after this agreement ends, the tenant must prepare, in the approved form, and sign a condition report for the premises and give 1 copy of the report to the lessor or the lessor's agent.
 

*Example of what might be as soon as practicable* - when the tenant returns the keys to the premises to the lessor or the lessor's agent

*Note* - For the approved form for the condition report, see the information statement. The report may be very important in deciding who is entitled to a refund of the rental bond if there is a dispute about the condition of the premises.
- (2) The lessor or the lessor's agent must, within 3 business days after receiving the copy of the report -
  - (a) sign the copy; and
  - (b) if the lessor or agent does not agree with the report - show the parts of the report the lessor or agent disagrees with by marking the copy in an appropriate way; and
  - (c) if the tenant has given a forwarding address to the lessor or agent - make a copy of the report and return it to the tenant at the address.
- (3) The lessor or agent must keep a copy of the condition report signed by both parties for at least 1 year after this agreement ends.

### 41 Goods or documents left behind on premises - ss 363 and 364

- (1) The tenant must take all of the tenant's belongings from the premises at the end of the tenancy.
- (2) The lessor may not treat belongings left behind as the lessor's own property, but must deal with them under sections 363 and 364.
 

*Note* - For details of the lessor's obligations under sections 363 and 364, see the information statement. They may include an obligation to store goods and may allow the lessor to sell goods and pay the net sale proceeds (after storage and selling costs) to the public trustee.

## Division 9 Miscellaneous

### 42 Supply of goods and services - s 171

- (1) The lessor or the lessor's agent must not require the tenant to buy goods or services from the lessor or a person nominated by the lessor or agent.
- (2) Subclause (1) does not apply to a requirement about a service charge.
 

*Note* - See section 164 for what is a service charge.

### 43 Lessor's agent

- (1) The name and address for service of the lessor's agent is stated in this agreement for item 3.
- (2) Unless a special term provides otherwise, the agent may -
  - (a) stand in the lessor's place in any application to a tribunal by the lessor or the tenant; or
  - (b) do any thing else the lessor may do, or is required to do, under this agreement.

### 44 Notices

- (1) A notice under this agreement must be written and, if there is an approved form for the notice, in the approved form.
 

*Note* - Download approved forms via the RTA website [rta.qld.gov.au](http://rta.qld.gov.au).
- (2) A notice from the tenant to the lessor may be given to the lessor's agent.
- (3) A notice may be given to a party to this agreement or the lessor's agent -
  - (a) by giving it to the party or agent personally; or
  - (b) if an address for service for the party or agent is stated in this agreement for item 1, 2 or 3 - by leaving it at the address, sending it by prepaid post as a letter to the address; or
  - (c) if a facsimile number for the party or agent is stated in this agreement for item 1, 2 or 3 and item 4 indicates that a notice may be given by facsimile - by sending it by facsimile to the facsimile number in accordance with the *Electronic Transactions (Queensland) Act 2001*; or
  - (d) if an email address for the party or agent is stated in this agreement for item 1, 2 or 3 and item 4 indicates that a notice may be given by email - by sending it electronically to the email address in accordance with the *Electronic Transactions (Queensland) Act 2001*.
- (4) A party or the lessor's agent may withdraw his or her consent to notices being given to them by facsimile or email only by giving notice to each other party that notices are no longer to be given to the party or agent by facsimile or email.
- (5) If no address for service is stated in this agreement for item 2 for the tenant, the tenant's address for service is taken to be the address of the premises.
- (6) A party or the lessor's agent may change his or her address for service, facsimile number or email address only by giving notice to each other party of a new address for service, facsimile number or email address.
- (7) On the giving of a notice of a new address for service, facsimile number or email address for a party or the lessor's agent, the address for service, facsimile number or email address stated in the notice is taken to be the party's or agent's address for service, facsimile number or email address stated in this agreement for item 1, 2 or 3.
- (8) Unless the contrary is proved -
  - (a) a notice left at an address for service is taken to have been received by the party to whom the address relates when the notice was left at the address; and
  - (b) a notice sent by post is taken to have been received by the person to whom it was addressed when it would have been delivered in the ordinary course of post; and
  - (c) a notice sent by facsimile is taken to have been received at the place where the facsimile was sent when the sender's facsimile machine produces a transmission report indicating all pages of the notice have been successfully sent; and
  - (d) a notice sent by email is taken to have been received by the recipient when the email enters the recipient's email server.

**Part 3 Special terms** Insert any special terms here and/or attach a separate list if required. See clause 2(3) to 2(5)

Refer to attached special terms approved by the Real Estate Institute of Queensland.

Names of Approved Occupants: **Poolwerx**

The tenant/s must receive a copy of the information statement (Form 17a) and a copy of any applicable by-laws if copies have not previously been given to the tenant/s. **Do not send to the RTA - give this form to the tenant/s. keep a copy for your records.**

**Signature of lessor/agent**

Name/trading name

Four Walls Realty

Signature

DocuSigned by:  
*Shania Heffer*  
80E4B053908B433...

Date / /

9/3/2022

**Signature of tenant 1**

Print name

Poolwerx

Signature

DocuSigned by:  
*R. Henson*  
781BE308D6F04FF...

Date / /

12/1/2022

**Signature of tenant 2**

Print name

Signature

Date / /

**Signature of tenant 3**

Print name

Signature

Date / /



## Special Terms

*These Special Terms have been adopted and approved by The Real Estate Institute of Queensland Ltd.*

### 45 Occupation and use of premises

The tenant must not permit persons other than the persons nominated in the special terms to reside at the premises without the written consent of the lessor. The lessor must act reasonably in exercising the lessor's discretion when determining whether or not to consent to a request by the tenant for any change to the approved tenants or occupants.

### 46 Subletting via online home sharing platforms

The use of online home sharing platforms, such as AirBnB, which grant exclusive possession of the property, or any part thereof, to guests, shall be deemed to be subletting of the property and require compliance with clause 34.

### 47 Care of the premises by the tenant

- (1) During the tenancy, the tenant must-
  - (a) not do anything that might block any plumbing or drains on the premises;
  - (b) keep all rubbish in the bin provided by the local authority in an area designated by the lessor or as the local authority may require;
  - (c) put the bin out for collection on the appropriate day for collection and return the bin to its designated place after the rubbish has been collected;
  - (d) maintain the lawns and gardens at the premises having regard to their condition at the commencement of the tenancy, including mowing the lawns, weeding the gardens and watering the lawns and gardens (subject to council water restrictions);
  - (e) keep the premises free from pests and vermin;
  - (f) keep the walls, floors, doors and ceilings of the premises free of nails, screws or adhesive substances, unless otherwise agreed to by the lessor in accordance with clause 27;
  - (g) not intentionally or negligently damage the premises and inclusions;
  - (h) only hang clothing and other articles outside the premises in areas designated by the lessor or the lessor's agent;
  - (i) keep the swimming pool, filter and spa equipment (if any) clean and at the correct chemical levels having regard to their condition at the start of the tenancy;
  - (j) not interfere with nor make non-operational any facility that may be provided with the premises (eg. smoke alarms, fire extinguishers, garden sprinkler systems, hoses etc).
  - (k) where the lessor has consented to animals being kept at the premises, the tenant must ensure all animals are kept in accordance with relevant local laws, state laws and federal laws including but not limited to, the *Animal Management (Cats & Dogs) Act 2008* and the *Animal Care and Protection Act 2001* where applicable.
- (2) The obligations of the tenant at the end of the occupancy regarding the conditions of the premises include-
  - (a) if the carpets were cleaned to a certain standard at the start of the tenancy, the tenant must ensure the carpets are cleaned to the same standard, fair wear and tear excepted, at the end of the tenancy;
  - (b) if the property was free of pests at the start of the tenancy, the tenant must ensure the property meets the same standard at the end of the tenancy;
  - (c) repairing the tenant's intentional or negligent damage to the premises or inclusions;
  - (d) returning the swimming pool, filter and spa equipment (if any) to a clean condition with correct chemical levels having regard to their condition at the start of the tenancy;
  - (e) removing rubbish;
  - (f) replacing inclusions damaged during the tenancy having regard to their condition at the start of the tenancy, fair wear and tear excepted;
  - (g) mowing lawns, weeding gardens having regard to their condition at the start of the tenancy;
  - (h) remove all property other than that belonging to the lessor or on the premises at the start of the tenancy.
- (3) If the tenant does not meet the tenant's obligations at the end of the tenancy the lessor or the lessor's agent may pay for this to be done and claim the cost of doing so from the rental bond.

### 48 Photographs of the property during an inspection

- (1) The tenant consents to photographs being taken of the property during an inspection arranged by the lessor or the lessor's agent in accordance with section 192(1)(a), for the purposes of documenting the condition of the property at the time of the inspection.
- (2) For the sake of clarity, if any photographs taken during an inspection of the property show something belonging to the tenant, the lessor or lessor's agent must obtain the tenant's written consent in order to use the photographs in an advertisement for the property in accordance with section 203.

### 49 Locks and keys and remote controls

- (1) The lessor may claim from the tenant costs incurred by the lessor as a result of the tenant losing any key, access keycard or remote control relating to the premises which has been provided to the tenant (by the lessor, a body corporate or other person), including costs in connection with:
  - (a) replacing the key, access keycard or remote control; and
  - (b) gaining access to the premises.
- (2) The tenant acknowledges that the lessor's agent may retain a duplicate set of keys.
- (3) The tenant must return all keys, access keycards and/or any remote controls to the lessor or the lessor's agent at the end of the tenancy.

### 50 Early termination by tenant

If the tenancy is breached before the end of the tenancy specified in item 6 despite other provisions of this agreement the lessor may claim from the tenant-

- (a) the rent and service charges until the lessor re-lets the premises or the end of the tenancy as specified in item 6 whichever is the earlier; and

## Special Terms *continued...*

*These Special Terms have been adopted and approved by The Real Estate Institute of Queensland Ltd.*

- (b) the reasonable costs (including advertising costs) of re-letting and attempting to re-let the premises. (Sections 173(2) and 420).

### 51 Liability excluded

The tenant shall be liable for and shall indemnify and defend the lessor or the lessor's agent, its directors, officers, employees, and agents, from, and against, any and all losses, claims, demands, actions, suits (including costs and legal fees on an indemnity basis), and damages, including, but not limited to:

- (a) injury, bodily or otherwise, or death of any person, including the tenant or an approved occupant; or
- (b) loss, damage to, or destruction of, property whether real or personal, belonging to any person, including the tenant or an approved occupant;

as a direct or indirect result of the tenant's negligent acts or omissions or breach of this agreement or obligations under the Act.

### 52 Lessor's insurance

- (1) If the lessor does have insurance cover the tenant must not do, or allow anything to be done, that would invalidate the lessor's insurance policy for the premises or increase the lessor's premium in relation to that policy.
- (2) The lessor may claim from the tenant -
  - (a) any increase in the premium of the lessor's insurance; and
  - (b) any excess on claim by the lessor on the lessor's insurance; and
  - (c) any other cost and expenses incurred by the lessor;
 as a direct or indirect result of the tenant's negligent acts or omissions or breach of this agreement or obligations under the Act.

### 53 Tenant's insurance

It is the tenant's and approved occupant's responsibility to adequately insure their own property and possessions.

### 54 Smoke alarm obligations

The tenant must-

- (1) Test each smoke alarm in the premises-
  - (a) at least once every 12 months; or
  - (b) if a fixed term tenancy is of less than 12 months duration, but is held over under a periodic tenancy of 12 months or more, at least once in the 12 month period;
    - (i) For an alarm that can be tested by pressing a button or other device to indicate whether the alarm is capable of detecting smoke - by pressing the button or other device;
    - (ii) Otherwise, by testing the alarm in the way stated in the Information Statement (RTA Form 17a) provided to the tenant/s at the commencement of the tenancy.
- (2) Replace each battery that is spent, or that the tenant/s is aware of is almost spent, in accordance with the Information Statement provided to the tenant/s at the commencement of the tenancy;
- (3) Advise the lessor as soon as practicable if the tenant/s become/s aware that a smoke alarm in the premises has failed or is about to fail (other than because the battery is spent or almost spent); and  
*Note:* In interpreting the word "spent" when referring to a battery, the term is used to include reference to a battery which is flat, non-functioning or lacking in charge that it does not properly operate the smoke alarm.
- (4) Clean each smoke alarm in the premises in the way stated in the Information Statement provided to the tenant/s at the commencement of the tenancy:
  - (a) at least once every 12 months; or
  - (b) if a fixed term tenancy is of less than 12 months duration, but is held over under a periodic tenancy of 12 months or more, at least once in the 12 month period;
 In the event that the tenant/s engages a contractor/tradesperson (as listed in Item 18) to meet the tenant/s obligations listed under this clause, such engagement shall be at the tenant/s' own cost and expense.
- (5) Not tamper with or otherwise render a smoke alarm inoperative. Such an act will constitute malicious damage in accordance with section 188 of the Act.

### 55 Portable pool obligations

- (1) The tenant must-
  - (a) Obtain the lessor's consent for a portable pool at the premises of a depth of 300mm or greater;
  - (b) Where consent is to be provided by the lessor to the tenant for the use of a portable pool at the premises of a depth of 300mm or greater, provide the lessor and/or the agent with details of the type and description of the proposed portable pool.
- (2) Where consent is provided by the lessor to the tenant for the use of a portable pool at the premises of a depth of 300mm or greater, the tenant agrees to:
  - (a) Maintain and repair the portable pool at the tenant's own expense;
  - (b) In accordance with the *Building Act 1975* obtain, maintain and renew a Pool Safety Certificate for a regulated pool, which includes a requirement for a compliant pool fence and, provide a copy of the Pool Safety Certificate to the lessor and/or agent;
  - (c) Where a compliant pool fence is required for a regulated pool, obtain the lessor's consent regarding a proposed fence in accordance with clause 27 of the standard terms;
  - (d) In circumstances where consent is provided to the tenant by the lessor in accordance with clause 27 of the standard terms, construct and maintain the fence as required by the *Building Act 1975*, at the tenant's own expense.
- (3) In accordance with clause 55(1) and 55(2), where consent is provided by the lessor to the tenant for a portable pool of a depth of 300mm or greater and/or as prescribed by the *Building Act 1975*, the tenant hereby agrees to indemnify and hold harmless the lessor and agent for any loss, claim, suit or demand, brought, caused or contributed to, directly or indirectly, by the portable pool.

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## Special Terms *continued...*

*These Special Terms have been adopted and approved by The Real Estate Institute of Queensland Ltd.*

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### **56 Electronic Signing**

- (1) Electronic Signature means an electronic method of signing that identifies the person and indicates their intention to sign this agreement;
- (2) If this agreement is signed by any party or the lessor's agent using an Electronic Signature, the tenant and the lessor:
  - (a) agree to enter into this agreement in electronic form; and
  - (b) consent to either, or both parties, or the lessor's agent signing this agreement using an Electronic Signature.

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## Special Condition

### General Tenancy - Smoking Not Allowed on Premises

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#### SMOKING NOT ALLOWED ON PREMISES

- (a) The Tenant must not, or allow any other person to, use or smoke tobacco or other smoke producing substance within any dwelling on the premises.
- (b) For the purposes of this Special Term a dwelling contained on the Premises shall include any enclosed area, room or structure attached to the dwelling, including but not limited to any garage, sunroom or enclosed veranda. A dwelling shall include any structure on the Premises designed to be used as a residence for human habitation.

INITIALS *(Note: initials not required if signed with Electronic Signature)*

000021528581

# Annexure A

## FORM 18A GENERAL TENANCY AGREEMENT + REIQ SPECIAL CONDITIONS

### Photos - Condition Reports

Photos accompanying Condition Reports form part of the Condition Reports.  
=====

### Tradesperson Callout Where Tenant is Responsible

If the Tenant/s requests the services of a tradesperson to carry out repairs on the Premises and there is no fault found or the fault is found to have been caused by the Tenant/s or their guests or the Tenant's own property, the Tenant/s acknowledge and agree it will be responsible for payment of the fees charged by such tradesperson.  
=====

### Vehicles

The parties agree the Tenant and/or the Tenant's invitees are not to park or store vehicles including trailers on areas other than those designated for parking.  
=====

### Vehicles (Unregistered)

The Tenant must not store any unregistered vehicle at the Premises without first obtaining the written consent of the Lessor/ Lessor's Agent.  
=====

### Water Usage Charge - Excess Usage

1. Where Item 12.2 and Clause 17(3) of the Standard Terms apply and the Tenant's water usage is more than a reasonable quantity of water determined in accordance with Section 169 (4)(a-e), the Tenant will be liable to pay for such excess.
  2. The parties agree in terms of Section 169(4)(a-e) a reasonable quantity of water usage shall be 183KL per half year and all water used in excess of that amount will be paid for by the Tenant at the applicable rate charged by the relevant local authority from time to time. The current applicable rate being \$1.80 per kilolitre.
- =====

INITIALS (Note: initials not required if signed with Electronic Signature)

000021528581

Lease 224

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# Commercial Tenancy Agreement

Third Edition

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This Tenancy Agreement is made between the Lessor and the Tenant. The Lessor leases to, and the Tenant accepts a Lease of, the Premises for the rent payable by the Tenant, subject to the terms of this Agreement. This Agreement comprises the Reference Schedule and Commercial Tenancy Agreement conditions.

**THIS AGREEMENT COMPRISES THE REFERENCE SCHEDULE AND COMMERCIAL TENANCY AGREEMENT CONDITIONS.**

**DO NOT USE THIS DOCUMENT:**

- **FOR RESIDENTIAL TENANCIES.**
- **FOR PREMISES COVERED BY THE *RETAIL SHOP LEASES ACT 1994* (Qld).**
- **WHERE THE TERM OF THE LEASE (INCLUDING OPTIONS) EXCEEDS THREE (3) YEARS.**
- **WHERE REGISTRATION UNDER THE *LAND TITLE ACT 1994* (Qld) IS REQUESTED BY THE TENANT.**

**INSTRUCTIONS TO COMPLETE**

1. The parties should be advised to seek legal advice about the Tenancy Agreement. Reference should be made to Sections 24 (3A) to (7) of the *Legal Profession Act 2007* (Qld) when preparing and completing this Agreement.
2. Unless amended, this Agreement provides for rent to be reviewed based on increases in the Consumer Price Index. It is not suitable for use where rent is to be reviewed to market or otherwise.
3. The only outgoings recoverable in this Agreement are local government rates, fire service levies, insurance, body corporate fees and levies (including but not limited to administrative fund levies and sinking fund levies), cleaning and garden maintenance. Unless amended, this Agreement is not suitable for use where additional outgoings are to be paid by the Tenant.

4. Ensure that all items are completed in the Reference Schedule

**Item 1:** Full name/s of the owner/s of the property and their address. If the Lessor is a company, include ABN. DO NOT use a business name.

**Item 2:** Full name/s of the Tenant. If the Tenant is a company, include its ABN. DO NOT use a business name.

**Item 3:** The Premises must be clearly identified e.g. "Suite 3, 45 John Street, Spring Hill" etc. If not able to be identified by name, a sketch plan must be attached to the Agreement and the address must be included at Item 3.

**Item 5:** Insert the period of the further tenancy, e.g. "6 months" or "1 year" or "not applicable". The total term of the lease including any options is not to exceed three years.

**Item 7:** Insert the date on which the rent is to be adjusted by the CPI or "not applicable".

**Item 8:** The Permitted Use should be stated clearly and concisely.

**Item 9:** Insert the percentage of outgoings the Tenant is to pay, e.g. "25%" or "100%" or "Not applicable".

INITIALS

*JW*

**REFERENCE SCHEDULE**

1 LESSOR:  
NAME: PETER & DENISE MELVILLE ABN/ACN: 38 247 337 367  
ADDRESS: c/- PO BOX 513  
SUBURB: BUNDABERG STATE: QLD POSTCODE: 4670  
PHONE: 07 41536444 MOBILE: FAX: 07 41536833 EMAIL: info@thefourwalls.com.au

2 TENANT:  
NAME: CARING HEARTS SUPPORT SERVICES (JAYDENE WHITE) ABN/ACN: 15 818 486 171  
ADDRESS: 3 NEVILLE DRIVE  
SUBURB: BRANYAN STATE: QLD POSTCODE: 4670  
PHONE: MOBILE: 0437 415 524 FAX: EMAIL: caringheartsbundaberg@gmail.com

3 PREMISES: ← Annex a plan if available  
ADDRESS: 224a WALKER STREET  
SUBURB: SVENSSON HEIGHTS STATE: QLD POSTCODE: 4670  
Description: Lot: 11; RP58058

4 TERM:  
The Term of the Agreement is: THREE (3)  months  years  
DATE: commencing on: 1 Nov 2017 and ending on: 31 Oct 2020

5 OPTION FOR FURTHER TERM: NOT APPLICABLE  
Note: The term of the Lease (including options) should not exceed three (3) years.

6 RENT: \$ 2682.28 inc GST per:  month  year ← Select applicable box

7 ANNUAL RENT REVIEW DATES:  
1st NOVEMBER, 2018 FIXED 3%  
1st NOVEMBER, 2019 FIXED 3%

8 PERMITTED USE:  
DISABILITY SERVICES

9 PERCENTAGE OF OUTGOINGS:  
NOT APPLICABLE

INITIALS JW

10 DEPOSIT:

\$ NOT APPLICABLE

11 LESSOR'S AGENT:

NAME:

FOUR WALLS RENTALS t/as FOUR WALLS REALTY

ADDRESS: 1/53 WOONGARRA STREET

SUBURB: BUNDABERG CENTRAL

STATE: QLD POSTCODE: 4670

PHONE:

07 41536444

MOBILE:

0499980909

FAX:

07 41536833

EMAIL:

info@thefourwalls.com.au

ABN/ACN:

3860445594

LICENCE NUMBER:

3914128

**SPECIAL CONDITIONS**

**1. RENOVATIONS**

1.1 The tenant has requested for a shower to be installed in the handwash room and for the back door to be sealed and the door entering into the kitchen to be closed off and to be moved to the right wall of the original door and the floor to be tiled.

1.2 A new back door to be made entering into the rear back office adjoined to the washroom, the carpet to be removed in this room and replaced with vinyl.

1.3. The wall between the kitchen and the adjoining office, for the wall to be removed and carpet to be removed and vinyl flooring to be placed in this room.

1.4. The garden out the back of the property to be removed and paved.

1.5. The works to take place in condition 1, 2, 3 and 4 are to be at the owners expense.

2. Tenants start date is the 1st November if they are requiring early entry and all the special conditions above have been completed they may do so as long as they pay rent for that period of early entry and there insurance is in place.

INITIALS

JW



**AGREEMENT MADE**

Date: 29.6.2017 EXECUTED as an Agreement.

**EXECUTION BY LESSOR**

Executed by: \_\_\_\_\_  
in accordance with Section 127 of the Corporations Act 2001 (Cth).

Director/Secretary \_\_\_\_\_ Director \_\_\_\_\_  
Name of Director/Secretary (BLOCK LETTERS) Name of Director (BLOCK LETTERS)

OR

SIGNED by [Signature] AS LESSOR in the presence of:

[Signature] Signature of Witness MJ SCHWERIN Name of Witness (BLOCK LETTERS)

Address of Witness: 53 Woongarra St

SUBURB: Bundaberg STATE: Q POSTCODE: 4670

**EXECUTION BY TENANT**

Executed by: \_\_\_\_\_  
in accordance with Section 127 of the Corporations Act 2001 (Cth).

Director/Secretary \_\_\_\_\_ Director \_\_\_\_\_  
Name of Director/Secretary (BLOCK LETTERS) Name of Director (BLOCK LETTERS)

OR

SIGNED by [Signature] AS TENANT in the presence of:

[Signature] Signature of Witness MJ SCHWERIN Name of Witness (BLOCK LETTERS)

Address of Witness: 53 Woongarra St

SUBURB: Bundaberg STATE: Q POSTCODE: 4670

INITIALS JW

# COMMERCIAL TENANCY AGREEMENT CONDITIONS

## IT IS AGREED

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1 Terms in Reference Schedule

Where a Term used in this Agreement appears in bold type in the Reference Schedule, that Term has the meaning shown opposite it in the Reference Schedule.

#### 1.2 Definitions

Unless the context otherwise requires:

- (1) **"Agreement"** means this document, including any Schedule or Annexure to it;
- (2) **"Business Day"** means a day that is not a Saturday, Sunday or any other day which is a Public Holiday or a Bank Holiday in the place where an act is to be performed or a payment is to be made;
- (3) **"Claim"** includes any claim or legal action and all costs and expenses incurred in connection with it;
- (4) **"GST"** means a goods and services tax or similar value added tax.
- (5) **"Land"** means the Land on which the Premises are situated;
- (6) **"Lessor's Property"** means any property owned by the Lessor in the Premises or on the Land and includes the property identified in any inventory annexed to this Agreement;
- (7) **"Premises"** means the premises described in Item 3 of the Reference Schedule and includes the Lessor's Property in the premises;
- (8) **"REIQ"** means The Real Estate Institute of Queensland Ltd;
- (9) **"Services"** means all utilities and services in the Premises;
- (10) **"Tenancy"** means the tenancy between the Lessor and the Tenant created by this Agreement;
- (11) **"Tenant's Employees"** means each of the Tenant's employees, contractors, agents, customers, subtenants, licensees or others (with or without invitation) who may be on the Premises, the Building or the Land;
- (12) **"Tenant's Property"** includes all fixtures and other articles in the Premises which are not the Lessor's; and
- (13) **"Term"** means either a periodic monthly tenancy or the period of months or years described in Item 4 of the Reference Schedule, as applicable, commencing on the date in Item 4 in the Reference Schedule.

#### 1.3 Interpretation

- (1) Reference to:
  - (a) one gender includes each other gender;
  - (b) the singular includes the plural and the plural includes the singular;
  - (c) a person includes a body corporate;
  - (d) a party includes the party's executors, administrators, successors and permitted assigns; and
  - (e) a statute, regulation or provision of a statute or regulation ("**Statutory Provision**") includes:
    - (i) that Statutory Provision as amended or re-enacted from time to time; and
    - (ii) a statute, regulation or provision enacted in replacement of that Statutory Provision.

- (2) All monetary amounts are in Australian dollars, unless otherwise stated.
- (3) If a party consists of more than one person, this Agreement binds them jointly and each of them severally.
- (4) Headings are for convenience only and do not form part of this Agreement or affect its interpretation.
- (5) A party which is a trustee is bound both personally and in its capacity as a trustee.
- (6) "Including" and similar expressions are not words of limitation.
- (7) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (8) If an act must be done on a specified day which is not a Business Day, the act must be done instead on the next Business Day.
- (9) Where this Tenancy permits or requires the Lessor to do something, it may be done by a person authorised by the Lessor.
- (10) Sections 105 and 107 of the **Property Law Act 1974 (Qld)** do not apply to this Tenancy.

### 2. TERM AND HOLDING OVER

#### 2.1 Term

The Lessor lets the Premises to the Tenant for the Term.

#### 2.2 Monthly Tenancy

If the Tenant continues to occupy the Premises after the Term with the Lessor's consent then:

- (1) the Tenant does so as a monthly Tenant on the same basis as at the last day of the Term; and
- (2) either party may terminate the monthly tenancy by giving to the other one (1) month's notice expiring on any day.

### 3. RENT AND RENT REVIEWS

#### 3.1 Rent

The Tenant must:

- (1) pay the Rent by equal monthly instalments in advance on the first day of each month;
- (2) pay the first instalment on the signing of this Agreement;
- (3) if necessary, pay the first and last instalments apportioned on a daily basis; and
- (4) pay all instalments as the Lessor directs.

#### 3.2 Definitions

In Clause 3.3:

- (1) **"Index Number"** means the Consumer Price Index (All Groups) for Brisbane published by the Australian Bureau of Statistics. If that index no longer exists, "Index Number" means an index that the Chief Executive Officer of the REIQ decides best reflects changes in the cost of living in Brisbane; and
- (2) **"Review Date"** means a date stated in the Reference Schedule on which the rent is to be reviewed.

### 3.3 Rent Review

#### (1) Application

This Clause 3.3 applies if Review Dates are inserted in Item 7 of the Reference Schedule.

#### (2) Review

The Rent must be reviewed on each Review Date to an amount represented by A where:

$$A = \frac{B}{C} \times D$$

Where B = the Index Number for the quarter ending immediately before the relevant Review Date.

Where C = the Index Number for the quarter one (1) year before the quarter in B; and

Where D = the Rent payable immediately before the Review Date.

## 4. OUTGOINGS

### 4.1 Tenant to Pay Outgoings

- (1) The Tenant must pay the Lessor the whole, or where a percentage is stated in Item 9 of the Reference Schedule that percentage of the Outgoings for the Premises, or the property of which the Premises is part as applicable.
- (2) Outgoings are payable to the Lessor within fourteen (14) days of production to the Tenant of a copy of the Lessor's assessment notice or account.

### 4.2 Outgoings

For the purposes of this Clause Outgoings means the following charges levied or expenses payable in respect of the Premises or property of which the Premises is part:

- (1) rates and other charges levied pursuant to a law;
- (2) insurance premiums payable by the Lessor;
- (3) Body Corporate fees and levies (including but not limited to administrative fund levies and sinking fund levies);
- (4) the cost of cleaning any areas adjacent to the Premises that are used by the Tenant; and
- (5) maintaining any gardens on the Land.

## 5. USE OF THE PREMISES

### 5.1 Permitted Use

The Tenant must only use the Premises for the Permitted Use.

### 5.2 Restrictions on Use

The Tenant must not:

- (1) disturb the occupants of adjacent premises;
- (2) display any signs without the Lessor's consent which must not be unreasonably withheld;
- (3) overload any Services;
- (4) damage the Lessor's Property;
- (5) alter the Premises, install any partitions or equipment or do any building work without the Lessor's prior consent;
- (6) do anything that may invalidate the Lessor's insurance or increase the Lessor's premiums; or
- (7) do anything illegal on the Premises.

## 6. MAINTENANCE AND REPAIR

### 6.1 Repair

The Tenant must:

- (1) keep the Premises in good repair and condition except for fair wear and tear, inevitable accident and inherent structural defects; and
- (2) fix any damage caused by the Tenant or the Tenant's Employees.

### 6.2 Cleaning and Maintenance

The Tenant must:

- (1) keep the Premises clean and tidy; and
- (2) keep the Tenant's Property clean and maintained in good order and condition.

### 6.3 Lessor's Right to Inspect and Repair

- (1) The Lessor may enter the Premises for inspection or to carry out maintenance, repairs or building work at any reasonable time after giving notice to the Tenant. In an emergency, the Lessor may enter at any time without giving the Tenant notice.
- (2) The Lessor may carry out any of the Tenant's obligations on the Tenant's behalf if the Tenant does not carry them out on time. If the Lessor does so, the Tenant must promptly pay the Lessor's costs.

## 7. ASSIGNMENT AND SUBLETTING

7.1 The Tenant must obtain the Lessor's consent before the Tenant assigns, sublets or deals with its interest in the Premises.

7.2 The Lessor must give its consent if:

- (1) the Tenant satisfies the Lessor that the new tenant is financially secure and has the ability to carry out the Tenant's obligations under this Tenancy;
- (2) the new tenant signs any agreement and gives any security which the Lessor reasonably requires;
- (3) the Tenant complies with any other reasonable requirements of the Lessor;
- (4) the Tenant is not in breach of the Tenancy; and
- (5) the Tenant pays the Lessor's reasonable costs of giving its consent.

## 8. TENANT'S RELEASE AND INDEMNITY

8.1 The Tenant occupies and uses the Premises at its own risk. The Tenant also carries out building work in the Premises at its risk.

8.2 The Tenant releases the Lessor from and indemnifies it against all Claims for damages, loss, injury or death:

- (1) if it:
  - (a) occurs in the Premises;
  - (b) arises from the use of the Services in the Premises; or
  - (c) arises from the overflow or leakage of water from the Premises;

except to the extent that it is caused by the Lessor's deliberate act or negligence; and

- (2) if it arises from the negligence or default of the Tenant or the Tenant's employees, except to the extent that it is caused by the Lessor's deliberate act or negligence.

8.3 The Lessor must do everything reasonable to ensure the Services operate efficiently during normal working hours but the Lessor is not liable if they do not.

8.4 The Tenant releases the Lessor from and indemnifies the Lessor against any Claim or costs arising from anything the Lessor is permitted to do under this Tenancy.

## 9. DEFAULT AND TERMINATION

### 9.1 Default

The Tenant defaults under this Tenancy if:

- (1) the Rent or any money payable by the Tenant is unpaid for fourteen (14) days;
- (2) the Tenant breaches any other term of this Tenancy;
- (3) the Tenant assigns its property for the benefit of creditors; or
- (4) the Tenant becomes an externally-administered body corporate within the meaning of the *Corporations Act 2001* (Cth).

### 9.2 Forfeiture of Tenancy

If the Tenant defaults and does not remedy the default when the Lessor requires it to do so, the Lessor may do any one or more of the following:

- (1) re-enter and take possession of the Premises;
- (2) by notice to the Tenant, terminate this Tenancy;
- (3) by notice to the Tenant, convert the unexpired portion of the Term into a tenancy from month to month;
- (4) exercise any of its other legal rights;
- (5) recover from the Tenant any loss suffered by the Lessor due to the Tenant's default.

## 10. TERMINATION OF TERM

### 10.1 Tenant's Obligations

At the end of the Term the Tenant must:

- (1) vacate the Premises and give them back to the Lessor in good repair and condition;
- (2) remove all the Tenant's Property from the Premises;
- (3) repair any damage caused by removal of the Tenant's Property and leave the Premises clean; and
- (4) return all keys, security passes and cards held by it or the Tenant's Employees.

### 10.2 Failure to Remove Tenant's Property

If the Tenant does not remove the Tenant's Property at the end of the Term, the Lessor may:

- (1) remove and store the Tenant's Property at the Tenant's risk and expense; or
- (2) treat the Tenant's Property as abandoned, in which case title in the Tenant's Property passes to the Lessor who may deal with it as it thinks fit without being liable to account to the Tenant.

## 11. DAMAGE AND DESTRUCTION

### 11.1 Rent Reduction

If the Premises are damaged or destroyed and as a result the Tenant cannot use or gain access to the Premises then from the date that the Tenant notifies the Lessor of the damage or destruction the Lessor:

- (1) must reduce the Rent and any other money owing to the Lessor by a reasonable amount depending on the type and extent of damage or destruction; and
- (2) cannot enforce Clause 6.1 against the Tenant; until the Premises are fit for use or accessible.

### 11.2 Tenant May Terminate

The Tenant may terminate this Lease by notice to the Lessor unless the Lessor:

- (1) within three (3) months of receiving the Tenant's notice of termination, notifies the Tenant that the Lessor will reinstate the Premises; and
- (2) carries out the reinstatement works within a reasonable time.

### 11.3 Exceptions

Clauses 11.1 and 11.2 do not apply where:

- (1) the damage or destruction was caused by or contributed to, or arises from any wilful act of the Tenant or the Tenant's Employees; or
- (2) an insurer under any policy effected by the Lessor refuses indemnity or reduces the sum payable under the policy because of any act or default of the Tenant or the Tenant's Employees.

### 11.4 Lessor May Terminate

If the Lessor considers the damage to the Premises renders it impractical or undesirable to reinstate the Premises or the Building, it may terminate this Lease by giving the Tenant at least one (1) month's notice ending on any day of the month. At the end of that month's notice, this Lease ends.

### 11.5 Dispute Resolution

- (1) Any dispute under this Clause 11 must be determined by an independent qualified Valuer appointed by the Chief Executive Officer of the REIQ at the request of either party.
- (2) In making the determination, the Valuer acts as an expert and the determination is final and binding on both parties.
- (3) The cost of the determination must be paid by the parties equally unless otherwise decided by the Valuer.

### 11.6 Lessor Not Obligated to Reinstate

- (1) Nothing in this Lease obliges the Lessor to reinstate the Building or the Premises or the means of access to them.
- (2) When reinstating the Building or the Premises, the Lessor is entitled to change their design, fabric, character or dimensions to comply with any law or lawful requirement.

### 11.7 Antecedent Rights

Termination under this Clause 11 does not effect either parties' accrued rights before termination.

## 12. DUTY

12.1 The Tenant must pay stamp duty on this Lease, if applicable, and other government imposts payable in connection with this Agreement and all other documents and matters referred to in this Agreement when due or earlier if requested in writing by the Lessor.

## 13. GOODS AND SERVICES TAX

13.1 If a GST is imposed on any supply made to the Tenant under or in accordance with this Tenancy, the amount the Tenant must pay for that supply is increased by the amount of that GST.

## 14. OPTION FOR FURTHER TENANCY

14.1 If a further Term has been inserted in Item 5 of the Reference Schedule and the Tenant:

- (1) wishes to lease the Premises for the further term;
  - (2) gives notice to that effect to the Lessor not less than three (3) months before and not more than six (6) months before the Term expires; and
  - (3) has not breached this Tenancy;
- the Lessor must grant a Further Tenancy ("Further Tenancy") to the Tenant on the same terms as this Tenancy except for the Rent.

- 14.2 (1) The Rent for the Further Tenancy will be an amount to be agreed between the Lessor and Tenant and failing agreement three (3) months before the Term expires the market rent for the Premises determined by an independent qualified Valuer (acting as an expert) nominated by the Chief Executive Officer of the REIQ at the request of either party.
- (2) The Valuer's determination is final and binding on the parties.
- (3) The Valuer's costs must be paid by the Lessor and Tenant equally. Either party may pay the Valuer's cost and recover one-half of the amount paid from the other party.
- 14.3 Before transferring any interest in the Land, the Lessor must obtain a signed deed from the transferee containing covenants in favour of the Tenant that the transferee will be bound by the Terms of this Lease and will not transfer its interest in the Land unless it obtains a similar deed from its transferee.
- 14.4 This Clause 14 will be omitted from the Further Tenancy.

## 15. DEPOSIT AND COMMISSION

- 15.1 The Tenant must pay the Deposit to the Lessor's Agent on signing this Agreement.
- 15.2 The Deposit must be applied against the Rent payable by the Tenant on the commencement of the Term.
- 15.3 The Lessor agrees to pay the Agent's commission to the Lessor's Agent and authorises the Agent to draw the commission on the commencement of the Term from money received from the Tenant in payment of Rent.

## 16. NOTICES

- 16.1 Any notice required to be given to any person under this Agreement must be:
- (1) in writing; and
  - (2) given in accordance with Section 347 of the *Property Law Act 1974* (Qld).



Our Ref: Mark Story:LH

2 December 2015

Mr. PL and Mrs. DK Melville,  
50 Smiths Road,  
BUNDABERG QLD. 4670

Dear Peter and Denise,

**RE: LEASE OF 224B WALKER STREET, BUNDABERG**

We refer to recent discussions in relation to the above matter and acknowledge receipt of your completed Lessor Disclosure Statement.

As advised in a recent telephone conversation with Denise, we have not been able to ascertain who the Tenant will be i.e. the franchisor or the franchisee. We have contacted John Fidden Real Estate to clarify but were advised to contact the franchisor direct which we have done (by email on 2 occasions) and not had any response.

We have now prepared a draft lease with the franchisee as the Tenant which is enclosed for your perusal. If the Lease is to proceed with the franchisee as the Tenant, we will need step-in clauses from the franchisor which we have requested.

Can you please confirm the terms of the enclosed draft lease are acceptable to you and we will then submit it to the Tenant for acceptance and provision of step-in clauses. If you wish to discuss the terms of the enclosed draft lease, please contact us to arrange a convenient appointment with Mark Story to discuss. The dates in the Lease have been inserted as a reference only and can be changed depending on when the Lease is expected to commence.

Yours Faithfully

**FINEMORE WALTERS & STORY**

Per:

**Mark Story, Partner**

Direct Phone: 07 41530046  
Direct Fax: 07 41530017  
Direct Email: lynhurley@fws.com.au

Encl.

**PARTNERS**

Mark Story BCom, LLB

ACCREDITED SPECIALIST  
SUCCESSION LAW

Geoff Ebert BCom, LLB

Hal Ing BCom, LLB

**ASSOCIATES**

Annette Wesche LLB, LLM

Haatsari Marunda BCom, LLB

Rebecca De Papi LLB (Hons)

**SOLICITORS**

Charlotte Carrodus LLB

Brianna Hockey BBus (Acc), LLB

**CONSULTANT**

Keith Rennick LLB

Dealing Number



OFFICE USE ONLY

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.

<b>1. Lessor</b> PETER LLOYD MELVILLE DENISE KAY MELVILLE TRUSTEE UNDER INSTRUMENT 716678074	<b>Lodger</b> (Name, address, E-mail & phone number) FINEMORE WALTERS & STORY Solicitors, 51 Woongarra Street [P O Box 704] Bundaberg. 4670 Tel [07 41530031], Fax [07 41530017] Email: dnr@fws.com.au Ref: Mark Story/Lyn	<b>Lodger Code</b> BG915
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<b>2. Lot on Plan Description</b> LOT 11 ON RP 58058	<b>County</b> COOK	<b>Parish</b> BUNDABERG	<b>Title Reference</b> 15292052
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<b>3. Lessee</b> Given names	Surname/Company name and number	(include tenancy if more than one)
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**4. Interest being leased**  
FEE SIMPLE

**5. Description of premises being leased**  
THAT PART OF THE GROUND FLOOR OF THE BUILDING ERECTED ON THE LOT DESCRIBED IN ITEM 2 ABOVE HATCHED ON THE ANNEXED PLAN

<b>6. Term of lease</b> Commencement date: 01/01/2016 Expiry date: 31/12/2020 #Options: 2 X 5 YEARS #Insert nil if no option or insert option period (eg 3 years or 2 x 3 years)	<b>7. Rental/Consideration</b> SEE SCHEDULE
--	--

**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

.....full name

.....qualification

/ /  
**Execution Date**

.....  
**Lessor's Signature**

**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.

.....signature

.....full name

.....qualification

/ /  
**Execution Date**

.....  
**Lessee's Signature**

**Witnessing Officer**

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

Title Reference [15292052]

**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

.....full name

.....qualification

/ /

**Execution Date**

.....  
**Lessor's Signature**

**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.

.....signature

.....full name

.....qualification

/ /

**Execution Date**

.....  
**Lessee's Signature**

**Witnessing Officer**

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



2843 ?

Title Reference [15292052]

LEASE PARTICULARS

<b>Item 1:</b> (Clause 4)	<b>Rent</b>	
		\$18,200.00 per annum (GST exclusive)
<b>Item 2:</b> (Clause 4)	<b>Review Dates</b>	
	(a) <b>CPI Review Dates</b>	Not Applicable
	(b) <b>Market Review Dates</b>	01/01/2021 and 01/01/2026
	(c) (i) <b>Fixed Percentage Increase Review Dates</b>	01/01/2017, 01/01/2018, 01/01/2019, 01/01/2020, 01/01/2022, 01/01/2023, 01/01/2024, 01/01/2025, 01/01/2027, 01/01/2028, 01/01/2029, 01/01/2030
	(ii) <b>Fixed Percentage Increase Percent</b>	4%
	(d) (i) <b>Fixed Amount Review Dates</b>	Not Applicable
	(ii) <b>Fixed Amount</b>	Not Applicable
<b>Item 3:</b> (Clause 3)	<b>Extended Term/s</b>	
	(a) First Extended Term -	Commencement Date 01/01/2021 Expiry Date 31/12/2025
	(b) Second Extended Term -	Commencement Date 01/01/2026 Expiry Date 31/12/2030
<b>Item 4:</b> (Clause 5.1)	<b>Permitted Use</b>	
		Retail of pool equipment and associated products (excluding sale of pools), providing pool services and storage of pool chemicals
<b>Item 5:</b> (Clause 4.5)	<b>Outgoings</b>	<b>Tenant's Proportion</b>
	Not Applicable	Not Applicable
<b>Item 6:</b> (Clause 4.10)	<b>Bank Guarantee</b>	
	Not Applicable	
<b>Item 7:</b> (Clause 4.4)	<b>Rent Free Period</b>	
	One (1) month from the Commencement Date	
<b>Item 8:</b> (Clause 5.7)	<b>Air Conditioning Replacement</b>	
	Landlord to replace	
<b>Item 9:</b> (Clause 12)	<b>Guarantor</b>	
	Thomas Patrick Henson and Rhonda Mary Henson of 22 Toppers Drive, Coral Cove 4670	

Title Reference [15292052]

**Item 10:** (a) **Landlord Works**  
(Clause 6.5)

Painting of exterior of Premises (Rich Sanstone W Brandy Raisin, Fudge Truffle)  
Painting of interior of shop and office of Premises with colours approved by Tenant (Bristol Fairstar P004-7, Low Sheen);  
Flooring in shop of Premises approved by Tenant (Decoria loose lay planks – lime wash)  
Carpet in office of Premises  
Existing side entry door closed in  
New front door and 2 sliding doors in office  
Rollerdoor fitted with remote control  
Large front sign exclusively for PoolWerx  
Power points (in consultation with Tenant)  
2 airconditioning units – 1 in the showroom and 1 in the office  
Construction of flatpack cupboards

(b) **Tenant Works**

Fixtures and Fittings as approved by Landlord

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Lease unless the contrary intention appears:

**"Air Conditioning"** means any system or units owned by the Landlord for heating, cooling or circulating air within any part of the Premises and the plant, machinery, duct work or equipment for that purpose;

**"Agents"** means in relation to either party, their respective directors, secretary and other officers, agents, employees, consultants and contractors, customers, subtenants, licensees or others (with or without invitation) who may be on the Premises or in the Building;

**"ASX"** means the Australian Securities Exchange;

**"Authority"** means any court, or any State, Federal or Local government, statutory or public authority, instrumentality or body or any other person having jurisdiction over the Premises, or the Land or any part of them or anything in relation to them;

**"Building"** means the building in which the Premises is located;

**"Building Insurance"** means the premium payable by the Landlord to insure the Premises and the Landlord's Property (except plate glass windows) for its full reinstatement value;

**"Business Day"** means any day (other than a Saturday or a Sunday) on which banks are open for general banking business in the Capital City in the State in which the Premises are situated;

**"Car Parking Facilities"** means that part of the Land the Landlord may from time to time set aside for parking of motor vehicles in common with others;

**"Commencement Date"** means:

- in respect of the Term, the date specified as such in **Item 6 of Form 7** of this Lease; and
- in respect of any Extended Term, the date specified as such in **Item 3 of the Lease Particulars**;

**"Common Areas"** means the areas of the Land the Landlord may from time to time set aside for common use including the Car Parking Facilities;

Title Reference [15292052]

"CPI Formula" means the following calculation:

$$A = \frac{B \times C}{D}$$

Where:

- A = the Rent for the Rental Year commencing on the relevant CPI Review Date;
- B = the Rent payable for the Rental Year immediately before the CPI Review Date;
- C = the CPI for the quarter ending immediately before the relevant CPI Review Date; and
- D = the CPI for the quarter one year before the quarter in C

"CPI" means the All Groups Consumer Price Index Number for Brisbane released from time to time by the Australia Bureau of Statistics or if that index ceases to exist, an index that the Australian Statistician or his nominee considers best reflects changes in the costs of living in Brisbane;

"CPI Review Date" means any date specified as such in the **Lease Particulars**;

"Environmental Laws" means any present or future Act of the Queensland or Commonwealth Parliament and the regulations, ordinances or by-laws made by or any consents, permits, licences or authorisations granted by any State or Federal Government, Local Authority, statutory or public authority, instrumentality or body or other person having jurisdiction over or in respect of the Premises which is designed to or has the purpose of protecting the Environment;

"Expiry Date" means:

- in respect of the Term, the date specified as such in **Item 6 of the Form 7** of this Lease; and
- in respect of any Extended Term, the date specified as such in **Item 3 of the Lease Particulars**;

"Extended Term" means any extension of the Term as specified in **Item 3 of the Lease Particulars**;

"First Extended Term" means the term specified in **Item 3(a) of the Lease Particulars**;

"Fixed Amount Review Date" means any date specified as such in the Lease Particulars;

"Fixed Percentage Increase Review Date" means any date specified as such in the Lease Particulars;

"GST" means a goods and services or any similar tax imposed at the point of sale or time of acquisition;

"GST Act" means the A New Tax System Goods and Services Tax Act 1999 (Cth);

"Guarantor" means the person named in **Item 9 of the Lease Particulars** (if applicable);

"Input Tax Credit" means any GST paid on the supply of goods, services or other things for which the recipient of the supply is entitled to a refund or a credit against other GST otherwise payable by that persons;

"Insolvent" means:

- for a natural person:
  - having committed an act of bankruptcy;
  - being made bankrupt; or
  - being subject to an arrangement under part IX of the Bankruptcy Act; and
- for a Corporation:
  - being wound up (other than for the purpose of restructure);
  - having a controller appointed;
  - coming under administration under the Corporations Law;
  - being subject to an order for winding up or reconstruction; or

**Title Reference [15292052]**

- having a receiver, a receiver and manager, an agent in possession, a trustee or guardian appointed to the property of the Corporation;

**"Land"** means the land described in **Item 2 of the Form 7** of this Lease;

**"Landlord"** means the Lessor described in **Item 1 of the Form 7** of this Lease;

**"Landlord's Fixtures"** means all fixtures or fittings including fixed plant and equipment installed in or about the Premises or Land by or on behalf of the Landlord;

**"Landlord's Works"** means any improvement, alterations (whether structural or otherwise), or addition to the Premises or Land or any demolition, landscaping or earthworks on the Premises to be performed by the Landlord as specified in **Item 10 of the Lease Particulars**;

**"Landlord's Property"** means anything in the Premises at any time during the Term which is the property of the Landlord including Landlord's Fixtures;

**"Lease"** means the **Form 7** to which this document is a schedule, this schedule, the plan annexed (if any) and, where this Lease is required to be registered to pass a legal estate or interest to the Tenant but is not registered for any reason (including the neglect or default of the Landlord or of any person acting on behalf of the Landlord) any tenancy or obligations arising in contract, by operation of law or in equity;

**"Local Authority Charges"** means the rates and other charges, including fire levies but excluding Water Charges payable to the local authority having jurisdiction over the Land;

**"Market Review Date"** means any date specified as such in the **Lease Particulars**;

**"Outgoings"** means, unless outgoings are specifically nominated in Item 5 of the Lease Particulars, the Landlord's reasonable expenses directly attributable to the operation maintenance or repair of the Land and charges, levies, premiums, rates or taxes payable by the Landlord because it is the owner of the Land;

"Outgoings" includes but is not limited to:

- Local Authority Charges;
- Water Charges;
- any other rates, taxes and/or charges payable to any government or other authority;
- costs of sewerage, water supply and removal of garbage from the Building or the Premises;
- Building Insurance;
- any other insurance effected by the Landlord relating to the Building, Premises or the Land, their use and occupancy;
- costs of repairs or maintenance of the air conditioning equipment/system servicing the Premises (but not capital repairs nor the cost of replacement except where capital repair or cost of replacement is caused or contributed to by the wilful act or negligence of the Tenant or the Tenant's Agents);
- costs incurred in providing Services to the Premises and the Land;
- costs for the control of pests, vermin or insects or other similar infestation; and

"Outgoings" excludes:

- expenditure of a capital nature including the amortisation of capital costs;
- contributions to a depreciation or sinking fund;

Title Reference [15292052]

- insurance premiums for loss of profits;
- payment of interest and charges on amounts borrowed by the Landlord; and
- any other items prescribed by regulation under the Retail Shop Leases Act 1994.

**"Permitted Use"** means use of the Premises specified in **Item 4 of the Lease Particulars**;

**"Plan"** means the plan described in **Item 2 of the Form 7** of this Lease;

**"Premises"** means the premises described in **Item 5 of the Form 7** of this Lease and includes the Landlord's Property in the Premises;

**"Rent"** means the amount in **Item 1 of the Lease Particulars** as varied in this Lease;

**"Rental Year"** means each separate year of the Term or any Extended Term, the first of such years commencing on the Commencement Date in **Item 6 of the Form 7** of this Lease and each subsequent year commencing on the same date of each successive year;

**"Requirement"** means any requirement, notice, order, authorisation, direction or similar notification received from or given by any Authority;

**"Retail Shop Leases Act"** means the Retail Shop Leases Act 1994 as amended;

**"Review Date"** means any CPI Review Date, Market Review Date, Fixed Percentage Increase Review Date or Fixed Amount Review Date;

**"Second Extended Term"** means the term specified in **Item 3(b) of the Lease Particulars**;

**"Services"** means all gas, electricity, telephone, water, sewerage, fire prevention, ventilation, air conditioning, elevator and security services and all other services or systems provided in the Premises or Building or available for the use of the Landlord's tenants or occupiers;

**"Statute"** means any present or future Act of the Queensland or Commonwealth Parliament and any regulations ordinances or by-laws made by any Authority;

**"Tax Invoice"** means an invoice for the supply required by the GST Act to support a claim by the recipient for any tax credit or the GST on the payment;

**"Tenant"** means the Lessee described in **Item 3 of the Form 7** of this Lease;

**"Tenant's Fixtures"** means all fixtures and fittings installed in or about the Premises by or on behalf of the Tenant but excluding Landlord's Fixtures;

**"Tenant's Property"** means anything in the Premises at any time during the Term which is the property of the Tenant including Tenant's Fixtures;

**"Tenant's Proportion"** means the percentage stated in **Item 5 of the Lease Particulars**;

**"Tenant's Works"** means any improvement, alteration (whether structural or otherwise), or addition to the Premises or any demolition, landscaping or earthworks on the Premises, to be performed by the Tenant and referred to in **Item 10 of the Lease Particulars**;

**"Term"** means the period of time specified in **Item 6 of the Form 7** of this Lease from the Commencement Date to the Expiry Date (both inclusive);

**"Valuer"** means a person who:

- 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

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- is the holder of a current licence or registration to practice as a valuer;

**"Water Charges"** means the cost payable by the Landlord for the supply of reticulated water to the Land including any annual access fee;

**"WHS Act"** means the Work Health and Safety Act 2011;

**"Works"** means Landlord's Works or Tenant's Works as the case may be.

## 1.2 Interpretation

- terms and headings are for convenience of reference only and do not affect interpretation;
- a reference to a document or instrument, including this Lease, includes a reference to that document or instrument as novated, altered or replaced from time to time;
- a recital, schedule, annexure or a description of the parties forms part of this Lease;
- a reference to a statute, code or other law includes regulations other instruments made under it and includes consolidations, amendments, re-enactments or replacements of any of them;
- a reference to an individual or person includes a partnership, body corporate, government authority corporation, joint venture, association, authority or trust and vice versa;
- a reference to a party (including any guarantor) includes that party's executors, administrators, substitutes, successors and permitted assigns;
- a party that is a trustee is bound both personally and in its capacity as trustee;
- a reference to an authority, institution, association or body ("original entity") that has ceased to exist, been reconstituted, renamed or replaced or whose powers or functions have been transferred to another entity, is a reference to the entity that most closely serves the purposes or objects of the original entity;
- a covenant, undertaking, representation, warranty, indemnity or agreement made or given by:
  - (i) two or more parties; or
  - (ii) a party comprised of two or more persons

binds those parties or persons jointly and severally;

- words importing one gender include other genders;
- the singular includes the plural and vice versa;
- other grammatical forms of defined words or expressions have corresponding meanings;
- if an act must be done on a specified day that is not a Business Day, the act must be done instead on the next Business Day;
- if an act required to be done under this Lease on a specified day is done after 5.00pm on that day in the time zone in which the act is performed, it is taken to be done on the following day;
- all monetary amounts are in Australian Dollars.

## 2. LEASE

### 2.1 This Lease is subject to:

- (1) the terms contained in this Lease;

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- (2) all encumbrances affecting the Land; and
- (3) the right of the Landlord to:
  - (a) install, maintain, use, repair, alter and replace the pipes, wires, ducts and cables leading through or around the Premises or included in the Land;
  - (b) run water, air, electricity, sewerage, gas and other substances through the Premises or the Land; and
  - (c) the rights of the public and any other occupiers of the Land in relation to the Common Areas.

**3. TERM, EXTENDED TERM AND HOLDING OVER**

**3.1 Term**

The Landlord leases the Premises to the Tenant for the Term to be used only in accordance with this Lease.

**3.2 Extended Terms**

**3.2.1 First Extended Term**

If the Tenant:

- (1) serves notice in writing upon the Landlord not more than 6 months nor less than 3 months prior to the Expiry Date of the Term that it wishes to lease the Premises for the First Extended Term; and
- (2) is not in breach of this Lease when the Tenant gives notice under clause 3.2.1(1) or at any subsequent time during the Term (unless the breach is waived in writing by the Landlord or is remedied to the Landlord's satisfaction after service on the Tenant of notice specifying the breach);

the Landlord must grant to the Tenant a new lease for the First Extended Term on the terms and conditions of this Lease except that:

- (a) this clause must be excluded from the new lease;
- (b) the Commencement Date and Expiry Date will be the dates specified in **Item 3(a) of the Lease Particulars**; and
- (c) Rent will be calculated as specified in **Item 2 of the Lease Particulars**.

**3.2.2 Second Extended Term**

If the Tenant:

- (1) has validly exercised its right to extend the Lease for the First Extended Term;
- (2) serves notice in writing upon the Landlord not more than 6 months nor less than 3 months prior to the Expiry Date of the First Extended Term that it wishes to lease the Premises for the Second Extended Term; and
- (3) is not in breach of this Lease when the Tenant gives notice under clause 3.2.2(2) or at any subsequent time during the First Extended Term (unless the breach is waived in writing by the Landlord or is remedied to the Landlord's satisfaction after service on the Tenant of notice specifying the breach);

the Landlord must grant to the Tenant a new lease for the Second Extended Term on the terms and conditions of this Lease except that:

- (a) this clause must be excluded from the new lease;

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- (b) the Commencement Date and Expiry Date will be the dates specified in **Item 3(b) of the Lease Particulars**; and
- (c) Rent will be calculated as specified in **Item 2 of the Lease Particulars**.

3.3 **Documentation**

- (1) If the Tenant validly exercises its right to extend the Lease of the Premises for any Extended Term, the Landlord and Tenant must execute and register a new Lease or amendment to the Lease (prepared by the Landlord at the Tenant's expense) to record the Extended Term.
- (2) Instead of executing a new Lease or an amendment to the Lease, the Landlord may agree to record any Extended Term by deed.

3.4 **Monthly Tenancy**

If the Tenant continues to occupy the Premises after the Expiry Date with the Landlord's consent:

- (1) the Tenant does so as a monthly tenant on the same terms and conditions as at the last day of the Term insofar as they are applicable to a monthly tenancy; and
- (2) either party may terminate the monthly tenancy by giving to the other one month's notice in writing expiring on any date.

4. **PAYMENTS BY TENANT**

4.1 **Rent**

Until the first Review Date, the Tenant must pay to the Landlord the Rent specified in **Item 1 of the Lease Particulars**.

4.2 **Rent Review**

(1) **CPI Formula**

If CPI Review Dates are specified in **Item 2(a) of the Lease Particulars** the Rent, in the absence of agreement of the Rent by the parties, must be reviewed on each CPI Review Date to an amount determined in accordance with the CPI Formula.

(2) **Market Review**

If Market Review Dates are specified in **Item 2(b) of the Lease Particulars** the Rent, in the absence of agreement of the Rent by the parties, must be reviewed on each Market Review Date in accordance with the Retail Shop Leases Act.

(3) **Fixed Percentage Increase**

If Fixed Percentage Increase Review Dates are specified in **Item 2 (c) of the Lease Particulars** the Rent must be reviewed on each Fixed Percentage Increase Review Date to an amount determined by increasing the Rent for the immediately preceding Rental Year by the percentage specified for the relevant Review Date in **Item 2(c) of the Lease Particulars**.

(4) **Fixed Amount**

If Fixed Amount Review Dates are specified in **Item 2 (d) of the Lease Particulars** the Rent must be reviewed on each Fixed Amount Review Date to the Rent for the relevant Rental Year specified in **Item 2 (d) of the Lease Particulars**.



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4.3 **Payment of Rent**

The Tenant must:

- (1) pay the Rent by equal monthly instalments in advance without deduction or set off;
- (2) pay the first instalment on the Commencement Date of the Lease and if necessary, pay the last instalment apportioned on a daily basis;
- (3) upon Rent being determined at any Review Date, to pay the Rent then determined;
- (4) until Rent is determined at any Review Date, pay the then Rent, and
- (5) pay all instalments as the Landlord directs.

4.4 **Rent Free Period**

If **Item 7 of the Lease Particulars** is completed, the Landlord must allow the Tenant a rent free period specified, commencing from the Commencement Date provided the Tenant:

- (1) complies with the other terms of this Lease; and
- (2) pays the first month's Rent on the Commencement Date specified in **Item 6 of the Form 7** of this Lease.

4.5 **Outgoings**

The Tenant must pay to the Landlord by the respective due dates nominated by the Landlord the Outgoings and in the Tenant's Proportion specified in **Item 5 of the Lease Particulars**.

4.6 **Goods and Services Tax**

- (1) In addition to the Rent the Tenant must pay to the Landlord an amount equal to the GST payable by the Landlord on the Rent.
- (2) If GST is payable on any amount payable by the Tenant to the Landlord under this Lease other than the Rent then, in addition to the relevant amount, the Tenant must pay to the Landlord an additional amount equal to the GST payable by the Landlord on that payment less any Input Tax Credit to which the Landlord is entitled in respect to the original supply to which the payment relates.
- (3) Additional amounts payable under this clause must be paid on the due date for payment of the Rent or other amount.
- (4) If the item or the GST applies to an expense, referable to an area greater than the Premises, then the Tenant will pay the proportion attributable to the Premises determined in accordance with the proportion that the area of the Premises bears to the area the expense is incurred in respect of.
- (5) The Landlord must provide the Tenant with a Tax Invoice in respect of any payment made under this clause.

4.7 **Costs**

The Tenant must pay the Landlord:

- (1) the Landlord's reasonable professional fees and expenses:
  - (a) for obtaining the consent of any mortgagee of the Land and production of the title deed;
  - (b) for any consent required under this Lease;
  - (c) relating to any assignment or subletting;

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- (d) relating to any surrender or termination of this Lease other than at the Expiry Date;
  - (e) for obtaining local government consent to this Lease (if necessary); and
  - (f) relating to any default by the Tenant in observing or performing the provisions of this Lease;
- unless prohibited by law;

- (2) stamp duty and registration fees on this Lease including any fines and penalties except those due to the Landlord's default;
- (3) surveyor's fees for the preparation of any plan required for the registration of this Lease;
- (4) the costs associated with complying with any conditions of consent to this Lease.

4.8 **Payments**

- (1) If the Lease does not specify a due date or period for payment of an amount, the Tenant must pay that amount within fourteen (14) days after the Landlord requests it.
- (2) The Tenant must make payments under this Lease to the Landlord by the method the Landlord reasonably requires (including any direct debit or electronic funds transfer) without set-off, counter claim, withholding or deduction.
- (3) If the Tenant pays an amount found later to be incorrect, then even if the Landlord has given the Tenant a receipt, the Tenant must pay the Landlord (or the Landlord must refund to the Tenant) the difference between what the Tenant has paid and what the Tenant should have paid within fourteen (14) days after either party gives the other a notice about the mistake and the party receiving the notice agrees that a mistake has been made.

4.9 **Interest**

- (1) Unless prohibited by law the Tenant must pay interest on any overdue amount payable to the Landlord.
- (2) Interest must be calculated on the first business day of each month on each daily balance due but not paid by the Tenant to the Landlord on any account from the due date of the payment until payment in full is received.
- (3) The rate of interest will be the rate of interest equivalent to the National Australia Bank Indicator Lending Rate plus 2%.
- (4) Unpaid interest must be capitalised on the last day of each month.

4.10 **Bank Guarantee**

- (1) The Tenant must pay to the Landlord the amount specified in **Item 6 of the Lease Particulars** prior to the Commencement Date to be held by the Landlord as security for performance by the Tenant of the Tenant's obligations under this Lease.
- (2) Instead of the payment in the preceding sub clause, the Tenant may provide the Landlord with a bank guarantee for the amount specified in the preceding sub clause provided it is in a form acceptable to the Landlord.

4.11 **Charges for Electricity**

- (1) The Tenant shall pay all charges that may from time to time be imposed or charged by the relevant utility provider in respect of electricity consumed by the Premises during the Term.

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- (2) If assessed directly against the Tenant such charges shall be paid to the assessing authority by the due date for payment.

**5. USE OF PREMISES**

**5.1 Permitted Use**

The Tenant must use the Premises only for the use specified in **Item 4 of the Lease Particulars**.

**5.2 Tenant to Maintain Capacity of Business**

The Tenant must operate and conduct the Tenant's business in a proper, orderly and businesslike manner and keep the Premises properly staffed, stocked and open during hours usual for the Permitted Use.

**5.3 Tenants Obligations**

The Tenant must:

- (1) obtain and maintain all permits or consents required by any Authority or pursuant to any Statute to conduct the Permitted Use;
- (2) punctually comply with all Statutes and Requirements relating to the Premises or the Tenant's use or occupation of the Premises;
- (3) immediately provide the Landlord with a copy of all notices which it is required to serve on or receive pursuant to any Statutes relating to the Premises or the Land;
- (4) immediately notify the Landlord of any damage to, defect or disrepair in the Services or the Land;
- (5) immediately notify the Landlord of any infectious diseases notifiable to any relevant health authority occurring on the Premises;
- (6) comply with all insurance, sprinkler and fire alarm regulations and properly service any alarms, fire extinguishers or other fire safety equipment in the Premises or the Land;
- (7) promptly pay the cost of all Services relating to the Premises or to the Tenant's use or occupation of the Premises;
- (8) lock all exterior doors and windows in the Premises when the Premises are not being used;
- (9) at its own cost regularly remove all rubbish, cartons, packing materials, containers and any other waste material not forming part of normal refuse removed by the local authority; and
- (10) keep the Premises free from vermin.

**5.4 Restrictions on Use**

The Tenant must not:

- (1) display any signs on the exterior of the Premises without the consent of the Landlord;
- (2) overload the floors of the Building or any Services;
- (3) damage the Premises or Land;
- (4) alter the Premises or Land, install any partitions or equipment or do any building work without the Landlord's consent;
- (5) store or use chemicals, inflammable liquids, acetylene gas, alcohol or volatile or explosive substances on the Premises unless in the normal course of business;

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- (6) allow the Premises to be used for annoying, offensive or illegal acts;
- (7) cause annoyance, nuisance, damage or disturbance to other occupiers of the Building;
- (8) hold or permit to be held any auction or similar sale in the Premises;
- (9) interfere with any Services;
- (10) use any equipment which radiates heat other than in the ordinary course of the business for the Permitted Use;
- (11) make holes, deface or damage floors, walls or ceilings or other parts of the Premises;
- (12) install any vending or amusement machines;
- (13) install any electrical equipment on the Premises that overloads the cables, switchboards or sub-boards of the Building; or
- (14) conduct its business or solicit business in the Common Areas.

5.5 **No Warranty as to Use**

The Landlord does not warrant the Premises:

- (1) are suitable for any purpose; or
- (2) may be used for the Permitted Use.

5.6 **Water Damage**

The Landlord is not liable in any circumstances for any damage to the Premises or the Tenant's Property caused by water flowing, oozing or leaking into the Premises or any part of the Premises regardless of how the damage may occur.

5.7 **Air Conditioning**

- (1) If Air Conditioning is installed in the Premises by the Landlord, the Tenant must:
  - (a) comply with the Landlord's reasonable requirements in relation to the Air Conditioning and not do anything which might interfere or impair its efficient operation;
  - (b) allow the Landlord to enter the Premises at any time to install, remove, examine or repair the Air Conditioning in a manner not to unduly interfere with the conduct of the Tenant's business;
  - (c) enter into a service agreement with a reputable service provider to:
    - (i) clean the Air Conditioning filters quarterly; and
    - (ii) otherwise service and maintain the Air Conditioning regularly but on not less than two (2) occasions annually;
  - (d) pay for regular servicing, maintenance and use of consumables for the Air Conditioning.
- (2) If the Air Conditioning cannot be economically repaired, the Landlord is not obliged to replace the Air Conditioning unless specified in **Item 8 of the Lease Particulars**.

5.8 **Sale/Lease Signs**

- (1) The Landlord may:

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- (a) place signs in or on the Premises if the Premises are for sale or lease; and
  - (b) show the Premises to prospective tenants or buyers after giving the Tenant three (3) days' notice.
- (2) If the Premises are for lease, the signs may only be displayed on the Premises within the last two (2) months of the Term.

**5.9 Quiet Enjoyment**

If the Tenant performs and observes all its obligations under this Lease, it may use the Premises without interruption or disturbance from the Landlord or any person claiming on behalf of the Landlord.

**5.10 Use of Common Areas**

- (1) In common with other persons authorised by the Landlord, the Tenant may use the Common Areas for the purposes for which they were designed or intended.
- (2) The Tenant must comply with all reasonable directions and rules given to it by the Landlord relating to conduct in the Common Areas.
- (3) The Tenant must not interfere with or impede other persons using the Common Areas nor will it permit any of the Tenant's Agents to do so.

**5.11 Carparking**

The Landlord must permit the Tenant the use of the Car Parking Facilities.

**6 CONDITION OF PREMISES**

**6.1 Repair**

The Tenant must:

- (1) keep the Premises in good repair and condition except for fair wear and tear, inevitable accident and inherent structural defects;
- (2) fix any damage caused by the Tenant or its Agents or invitees;
- (3) repaint all painted surfaces of the interior of the Premises at least one month before the last Expiry Date or within 14 days from termination of this Lease whichever is the earlier in a professional and workmanlike manner using such materials colours and designs as the Landlord reasonably directs;
- (4) promptly replace broken or defective light bulbs and tubes and repair leaking taps and cisterns, and clear blocked pipes within the Premises;
- (5) keep the electrical wiring and plumbing in the Premises maintained in good order and condition; and
- (6) promptly repair any damaged or inoperative door or window locks.

**6.2 Cleaning and Maintenance**

The Tenant must:

- (1) keep the Premises clean and tidy; and
- (2) regularly remove all rubbish from the Premises.

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6.3 **Notice of Damage or Defect in Services**

The Tenant must promptly give the Landlord notice of any circumstances likely to cause any risk to the Premises or any person.

6.4 **Landlord's Right to Inspect and Repair**

- (1) The Landlord may enter the Premises for inspection or to carry out maintenance, repairs or building work at any reasonable time after giving notice to the Tenant. In an emergency, the Landlord may enter at any time without giving the Tenant notice.
- (2) The Landlord may carry out any of the Tenant's obligations on the Tenant's behalf if the Tenant does not carry them out on time. If the Landlord does so, the Tenant must promptly pay the Landlord's costs.

6.5 **Works**

- (1) If Item **10 of the Lease Particulars** specifies any Landlord's Works or any Tenant's Works, the party responsible for the Works must carry out those Works by the Commencement Date unless otherwise stated in **Item 10 of the Lease Particulars**.
- (2) The party responsible for any Works must:
  - (a) obtain all necessary approvals and permits for the Works;
  - (b) ensure that the Works or are completed promptly, or if a time period is for the Works, within the time period so specified;
  - (c) carry out the Works at its own cost, and in a proper and workmanlike manner in accordance with the plans and specifications attached in Schedule 3 (in the case of the Landlord's Works) or Schedule 4 (in the case of the Tenant's Works), and in accordance with the approvals and permits referred to in clause 6.5(2)(a); and
  - (d) provide the other party with copies of all applicable certificates of compliance or occupancy permits in respect of the Works.
- (3) If the Tenant is required or permitted to carry out any Tenant's Works before the Commencement Date and the Premises are not otherwise occupied, then the Landlord grants to the Tenant and its contractors a licence to access the Premises at all reasonable times prior to the Commencement Date for the purpose of carrying out the Tenant's Works.
- (4) If the Premises become a workplace within the meaning of the WHS Act, the Tenant must:
  - (a) comply with the WHS Act and all standards in force under it;
  - (b) use all reasonable endeavours to ensure that the principal contractor and any other person involved in carrying out the Tenant's Works complies with the WHS Act and all standards in force under the WHS Act; and
  - (c) indemnify the Landlord against any liability or loss the Landlord may incur under the WHS Act regardless of whether the Work is to be carried out under the supervision of the Landlord or any person nominated by the Landlord.

7. **DAMAGE OR DESTRUCTION**

7.1 **Rent Reduction**

If the Premises or the Building are damaged or destroyed and the Tenant or its Agents have not caused or contributed to such damage or destruction and as a result the Premises are wholly or partially unfit for use or the Tenant cannot gain access to the Premises then from the date that the Tenant notifies the Landlord of the

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damage or destruction until the date that the Premises are again fit for use and accessible to the Tenant, the Landlord:

- (1) must reduce the Rent and Outgoings and any other monies payable to the Landlord by a reasonable amount depending on the type and extent of damage or destruction; and
- (2) cannot require the Tenant to clean, repair or maintain until the Premises are fit for use and accessible.

**7.2 Tenant May Terminate**

The Tenant may terminate this Lease by thirty (30) days notice to the Landlord unless:

- (1) within 3 months of the event causing damage or destruction, the Landlord notifies the Tenant that the Premises will be reinstated; and
- (2) carries out reinstatement works within a reasonable time having regard to the extent of the damage.

**7.3 Clauses 7.1 and 7.2 do not apply if:**

- (1) the damage or destruction was caused by or contributed to, or arises from any wilful act of the Tenant or Agents; or
- (2) an insurer under any policy covering such damage or destruction refuses indemnity or reduces the sum payable under the policy because of any act or default of the Tenant or the Tenant's Agents.

**7.4 Landlord May Terminate**

If the Landlord considers the damage to the Premises renders it impractical or undesirable to reinstate the Premises, the Landlord may terminate this Lease by giving to the Tenant not less than one month's written notice ending on any day of the month. At the end of that month's notice, this Lease ends.

**7.5 No Obligation to Rebuild**

The Landlord is not obliged to restore the Building or Premises according to the former specifications so long as the layout and dimensions of the Premises and Services are not substantially different.

**7.6 Dispute Resolution**

- (1) The Tenant is entitled to dispute the reasonableness of any increase or reduction of Rent and other moneys.
- (2) Any dispute as to the extent and reasonableness of any increase or reduction in Rent and other moneys must be determined by a Valuer appointed by the President of the Queensland Law Society at the request of either party.
- (3) In making the determination, the appointed Valuer acts as an expert and the determination is final and binding on both parties.
- (4) The cost of the determination must be paid by the parties equally unless otherwise decided by the appointed Valuer.

**7.7 Antecedent Rights**

Termination under this clause or any other provision of this Lease does not affect either party's accrued rights before termination.

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**8. RISK**

**8.1 Own Risk**

The Tenant occupies and uses the Premises at its own risk. The Tenant also carries out building work in the Premises at its own risk.

**8.1.2 Release**

The Tenant releases to the fullest extent permitted by Law, the Landlord and its Agents, from all claims and demands resulting from any accident, damage, loss, injury or death occurring in the Premises or in any part of the Building or outside the Building except to the extent that it is caused by a deliberate act, negligence or default by the Landlord or its Agents or from structural defects.

**8.2 Indemnity**

Without limiting this clause, the Tenant indemnifies and holds indemnified the Landlord and its Agents from and against all actions, claims, losses, damages and costs for or in respect of which the Landlord may sustain or incur or for which the Landlord or its Agents may become liable whether during or after the Term in respect of or arising from:

- (1) Breach of Covenant - loss, damage or injury to property or person from or contributed to by the neglect or default of the Tenant to observe or perform any of the covenants, conditions and restrictions on the part of the Tenant whether positive or negative expressed or implied;
- (2) Misuse - negligent use or misuse, waste or abuse by the Tenant or any Agent or sub-tenant of any Services to the Premises or to the Building;
- (3) Escape of Harmful Agent - overflow or escape of water, fire, gas, electricity or any other harmful agent whatsoever in or from the Premises caused or contributed to by any act or omission on the part of the Tenant, its Agents or sub-tenants;
- (4) Failure to Notify - failure of the Tenant to notify the Landlord of any defect of which it is aware in the Premises whatsoever;
- (5) Use of Premises - loss damage or injury from any cause whatsoever to property or person caused or contributed to by the use of the Premises by the Tenant or any Agent or sub-tenant;
- (6) Personal Injury - any personal injury sustained by any person in or about the Premises or the Building caused as a result of the Tenant's use of the Premises other than the wilful or negligent act or omission of the Landlord or its Agents.

**8.3 Insurance**

The Tenant must effect and keep current:

- (1) in respect of the Premises and any part of the Land permitted to be used by the Tenant a public liability insurance policy having endorsement to include the risks and indemnities contained in this clause noting the Landlord as an interested party in the Premises in the sum of Twenty Million dollars (\$20,000,000.00) or any higher amount that the Landlord may from time to time reasonably require the Tenant by notice to effect for any single claim, accident or event, with an insurance office or company approved by the Landlord (such approval not to be unreasonably withheld);
- (2) a policy of insurance noting the Landlord as an interested party to cover:
  - (a) the full reinstatement replacement costs of plate glass in the Premises; and
  - (b) special industrial risks (if any) due to the specific Permitted Use of the Premises by the Tenant (if any);



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with an insurance office or company approved by the Landlord; and

- (3) worker's compensation including employer's liability insurance (unlimited cover).

8.3.1 If requested by the Landlord, the Tenant must give the Landlord:

- (1) a duplicate copy of each such policy immediately it is effected;
- (2) a copy of the receipt issued for payment of each premium within five (5) Business Days of it being paid; and
- (3) a copy of the certificate of currency.

**8.4 Conduct Voiding Insurance**

The Tenant must not knowingly do or permit to be done or omit to do any act in the Premises or on any Common Areas which may render void or voidable any insurances on the Building or that may cause the rate of premium on any such insurance policies to be increased or be liable to be increased and the Tenant must do or permit to be done immediately upon request by the Landlord, everything necessary to ensure the continuance of any insurances effected by the Landlord.

**8.5 Deemed Compliance**

If the Tenant is a corporation and registered with the ASX, or is a subsidiary of a corporation registered with the ASX, the Tenant will be deemed to comply with its obligations under clause 8.3 if it produces evidence to the Landlord the Premises are included in a master policy of insurance maintained by the Tenant. The Tenant may also act as a self-insurer in relation to any insurance required under clause 8.3.

**8.6 Additional Insurance Premium**

If:

- (1) the Tenant brings on to the Premises any machinery or electrical plant; or
- (2) the Tenant's use or Permitted Use of the Premises increases the rate of premium of Building Insurance;

the Tenant must pay to the Landlord the increased premium within fourteen (14) days of written request for payment.

**9. ASSIGNMENT AND SUBLETTING**

9.1 The Tenant must obtain the Landlord's consent before the Tenant assigns, sublets or deals with its interest in the Premises.

9.2 The Landlord must give its consent if:

- (1) the Tenant satisfies the Landlord that the new tenant is financially secure and has the ability to carry out the Tenant's obligations in this Lease;
- (2) the new tenant signs any agreement and gives any security which the Landlord reasonably requires;
- (3) the Tenant complies with any other requirements of the Landlord;
- (4) the Tenant is not in breach of the Lease; and
- (5) the Tenant pays the Landlord's reasonable costs of giving its consent.

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9.3 If:

- (1) the Tenant is a company that is not a listed public company, nor a subsidiary of a listed public company; and
- (2) it is proposed to change the shareholding of the Tenant or its holding company so that a different person or persons will control the board of directors or more than 50% of the voting shares;

the Tenant must not make the change unless it obtains the Landlord's prior approval and complies with the preceding sub clause as if the person or persons obtaining control was a proposed assignee.

9.4 This clause will not apply to any proposed assignment or sub-lease to a related body corporate of the Tenant within the meaning of the Corporations Act 2001.

## 10. TENANT'S DEFAULT

### 10.1 Default

The Tenant defaults under this Lease if the Tenant:

- (1) breaches any term of this Lease;
- (2) assigns its property for the benefit of creditors; or
- (3) becomes Insolvent.

### 10.2 Forfeiture of Lease

If the Tenant defaults and does not remedy the default when the Landlord requires it to do so, the Landlord may do any one or more of the following:

- (1) re-enter and take possession of the Premises;
- (2) by notice to the Tenant, terminate this Lease;
- (3) by notice to the Tenant, convert the unexpired portion of the Term into a tenancy from month to month;
- (4) exercise any of its other legal rights;
- (5) recover from the Tenant or the Guarantor (if any) any loss suffered by the Landlord due to the Tenant's default.

### 10.3 Consequences of Default

#### (1) Repudiation

If the Tenant repudiates this Lease or breaches any term of this Lease and the Landlord terminates this Lease, the Landlord may recover all monies payable by the Tenant under this Lease. The Landlord must minimise its loss.

#### (2) Landlord's Entitlement to Damages

The Landlord's entitlement to damages is not limited or affected if:

- (a) the Tenant abandons the Premises;
- (b) the Landlord elects to re-enter the Premises or terminate this Lease;
- (c) the Landlord accepts the Tenant's repudiation; or

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(d) the parties' conduct constitutes or may constitute a surrender by operation of law.

(3) **Liquidated Debt**

The Landlord may remedy any default by the Tenant and recover the Landlord's costs of doing so from the Tenant as a liquidated debt.

**10.4 Waiver**

- (1) No waiver by the Landlord is effective unless it is in writing.
- (2) Despite the Landlord's knowledge at the time, a demand for Rent or other money owing by the Tenant or the subsequent acceptance of Rent or other money does not constitute a waiver of any earlier default by the Tenant.

**10.5 Tender After Termination**

Any money tendered by the Tenant after termination and accepted by the Landlord will be applied towards monies owing under this Lease at the Landlord's discretion.

**11. EXPIRY OF LEASE**

**11.1 Tenant's Obligations**

On expiry of this Lease the Tenant must:

- (1) vacate the Premises;
- (2) remove the Tenant's Property from the Premises;
- (3) repair any damage caused by removal of the Tenant's Property and leave the Premises clean;
- (4) unless otherwise advised by the Landlord, remove all signs on the exterior of the Premises;
- (5) put the Premises in good repair and condition; and
- (6) return all keys, security passes and cards held by it or the Tenant's employees.

**11.2 Failure to Remove Tenant's Property**

If the Tenant does not remove the Tenant's Property on expiry of this Lease, the Landlord may:

- (1) remove and store the Tenant's Property at the Tenant's risk and expense; or
- (2) treat the Tenant's Property as abandoned and title in the Tenant's Property passes to the Landlord who may deal with it as the Landlord thinks fit without being liable to account to the Tenant.

**11.3 Power of Attorney**

- (1) The Tenant irrevocably appoints the Landlord and each of its officers as the Tenant's attorney.
- (2) After a right to re-enter has arisen the Landlord, as the Tenant's attorney, may sign:
  - (a) a surrender of this Lease;
  - (b) a withdrawal of any caveat lodged by the Tenant; or
  - (c) any other document concerning this Lease.

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- (3) In doing so, the attorney may use the Tenant's name and do anything relating to the Premises which the Tenant could do.

**12. GUARANTEE**

**12.1 Guarantee**

If **Item 9 of the Lease Particulars** is completed, the Guarantor guarantees to the Landlord prompt performance of all of the Tenant's obligations contained or implied in this Lease. If the obligation is to pay money, the Landlord may recover the money from the Guarantor as a liquidated debt.

**12.2 Indemnity**

If the Tenant is not bound by some or all of its obligations under this Lease, the Guarantor agrees by way of indemnity and principal obligation, to pay to the Landlord the amount which would have been payable by the Guarantor to the Landlord under the guarantee in the preceding sub clause had the Tenant been bound.

**12.3 Liability of Guarantor**

The Guarantor's liability under the preceding sub clauses is not affected by:

- (1) the granting of any time, forbearance or other concession by the Landlord to the Tenant or any Guarantor;
- (2) any absolute or partial release of the Tenant or any Guarantor or any compromise with the Tenant or any Guarantor;
- (3) any variation or extension of this Lease, holding over or continued occupation of the Premises by the Tenant;
- (4) any assignment of this Lease or sublease of any part of the Premises;
- (5) the termination of this Lease;
- (6) the fact that this Lease is wholly or partially void, voidable or unenforceable;
- (7) non-execution of this Lease by one or more of the persons named as Guarantor or the unenforceability of the guarantee or indemnity against one or more of the Guarantors; or
- (8) the exercise or purported exercise by the Landlord of its rights under the Lease.

**12.4 Guarantor Liable Regardless of Any Law**

The Guarantor's liability is not discharged by any payment to the Landlord which is later avoided by law. If that happens, the Landlord, the Tenant and the Guarantor will be restored to their respective rights as if the payment had not been made.

**12.5 Indemnity on Disclaimer**

If a liquidator disclaims this Lease, the Guarantor indemnifies the Landlord against any resulting loss for the balance of the Term.

**12.6 Guarantor Not Prove in Liquidation**

- (1) The Guarantor must not prove or claim in any liquidation, composition, arrangement or assignment for the benefit of creditors until the Landlord has received all money payable to it by the Tenant.
- (2) The Guarantor must hold any proof, claim or dividend received by it on trust for the Landlord.

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12.7 **Guarantee to Continue**

- (1) The guarantee and indemnity covers the period while the Tenant occupies or is entitled to occupy the Premises as tenant under a tenancy at will or periodic tenancy or holds an equitable interest in the Premises under an agreement for lease.
- (2) Without limiting the preceding sub clause, if registration of this Lease is required to create a legal leasehold estate, then until this Lease is registered it operates from the beginning of the Term as an agreement for lease.

In consideration of the Landlord granting the Lease at the request of each Guarantor, each Guarantor covenants with the Landlord in accordance with the provision of this clause of the Lease.

13. **TRUSTS**

13.1 If the Tenant at any time upon or subsequent to entering into this Lease or entering into or incurring the obligations contained in this Lease is acting in the capacity of trustee of any trust ("Trust") then whether or not the Landlord may have notice of the Trust the Tenant covenants with the Landlord as follows:

- (1) This Lease extends to all rights of indemnity which the Tenant now or subsequently may have against the Trust and the Trust fund.
- (2) The Tenant has full and complete power and authority under the Trust to enter into this Lease and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Tenant against the Trust or the Trust fund, and the Tenant will not release that right or indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity.
- (3) Despite anything in any deed of trust or settlement or other document contained, the Tenant will be and at all times remain personally liable to the Landlord for the due performance fulfilment and observance of the obligations in this Lease.
- (4) During the term of this Lease, the Tenant will not without the consent in writing of the Landlord cause permit or suffer to happen any of the following events:
  - (a) the removal replacement or retirement of the Tenant as sole trustee of the Trust;
  - (b) any alteration to or variation of the terms of the Trust;
  - (c) any advancement or distribution of capital of the Trust; and
  - (d) any re-settlement of the Trust property.

The Tenant further covenants with the Landlord that it will be an event of default under this Lease if the Tenant is guilty of any breach of trust in respect of the Trust or ceases to be the sole trustee of the Trust or otherwise suffers removal replacement or retirement as trustee of the Trust.

14. **GENERAL**

14.1 **Execution of Lease**

- (1) This Lease may be executed in any number of counterparts and all the counterparts together constitute one and the same instrument.
- (2) If this Lease is executed under power of attorney, each attorney executing this Lease warrants that, at the time of executing this Lease, the attorney had no notice of revocation of the power of attorney under the authority of which this Lease is executed (no rule of contract interpretation must be applied in the interpretation of this Lease to the disadvantage of one party on the basis that it prepared or put forward this Lease or any document comprising part of this Lease).

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14.2 **Governing Law and Jurisdiction**

- (1) The law of Queensland governs this Lease.
- (2) The parties submit to the non-exclusive jurisdiction of the courts of Queensland and the Federal Court of Australia.

14.3 **Property Law Act**

The following sections of the Property Law Act 1974 do not apply to this Lease:

- (1) section 105 (pay rent and repair);
- (2) section 107 (landlord's right to enter, repair and take possession); and
- (3) section 109 (short form covenants).

14.4 **Entire Understanding**

- (1) This Lease:
  - (a) is the entire agreement and understanding between the parties on everything connected with the subject matter of this Lease; and
  - (b) supersedes any prior agreement or understanding on anything connected with that subject matter.
- (2) Each party has entered into this Lease without relying on any representation by any other party or any person purporting to represent that party.

14.5 **Waiver and Variation**

- (1) A provision of or a right created under this Lease may not be waived or varied except in writing signed by the parties to be bound. If the Landlord waives a provision of or a right created under or implied in this Lease, that waiver does not extend to:
  - (a) breach by the Tenant of the same or any provisions; or
  - (b) the future exercise by the Landlord of that right.
- (2) The acceptance of a payment under this Lease will not be taken to constitute a waiver of any provision of or a right created under or implied in this Lease, except the right to demand the payment of that amount of money.

14.6 **Landlord Consent or Approval**

If, under the Lease, the Landlord is required to:

- (1) consent or approve the doing of any act, matter or thing; or
- (2) exercise any discretion vested by the Lease;

then unless the contrary is expressed in the Lease:

- (a) that consent or approval must not be unreasonably withheld or delayed; and
- (b) the discretion must be exercised reasonably.

**Title Reference [15292052]**

**14.7 Rights and Remedies**

- (1) The ending of this Lease, however occurring, does not affect:
  - (a) the Landlord's right in respect of a breach of this Lease by the Tenant before the end of this Lease; or
  - (b) the Tenant's obligation to make any payment under this Lease before the expiry or termination.
- (2) The rights, powers and remedies provided in this Lease are in addition to the rights, powers or remedies provided by law independently of this Lease.
- (3) If anything in this Lease is unenforceable, illegal or void then it is severed and the rest of this Lease remains in force.

**14.8 Notices**

- (1) In Writing  
Any notice given under this Lease must be in writing. A notice by the Landlord is valid if signed by an officer or solicitor of the Landlord or any other person nominated by the Landlord.
- (2) Notice of Address  
The Tenant must promptly notify the Landlord of its address and facsimile number and the address and facsimile number of any Guarantor and update the notice if any changes occur.
- (3) Service of Notice on Tenant  
The Landlord may serve a notice on the Tenant by:
  - (a) giving it to the Tenant personally;
  - (b) leaving it at the Premises;
  - (c) sending it to the Tenant's facsimile number; or
  - (d) posting it to the Tenant's last known registered office, place of business or residence.
- (4) Service of Notice on Landlord  
The Tenant may serve notice on the Landlord by leaving it at, or posting or faxing it to the Landlord's principal office, residence or address or as advised by the Landlord.

**14.9 Dealing with the Land**

- (1) The Landlord may subdivide the Land or grant easements or other rights over the Land.
- (2) If this lease is not registered, the Landlord must not dispose of the Landlord's interest in the Land without first obtaining from the proposed transferee ("Transferee") a Deed where the Transferee:
  - (a) agrees to comply with all of the terms of the Lease as if the Transferee was the original Landlord; and
  - (b) will not dispose of the Transferee's interest in the Land until a subsequent transferee agrees to also comply with the terms of this Lease.
- (3) The Tenant may, at the Tenant's expense, request the Landlord to register the Lease with the Department of Environment and Resource Management.

**Title Reference [15292052]**

**14.10 Mortgagee's Consent**

- (1) This Lease is conditional on the written consent of any mortgagee of the Land.
- (2) If the mortgagee's consent is not obtained for any reason, other than the Landlord's default, within a reasonable time after the commencement of the Term, the Landlord may terminate this Lease without compensation to the Tenant.
- (3) The Landlord and the Tenant must, if requested by the mortgagee of the Landlord, sign a deed containing the reasonable terms and conditions of the mortgagee's consent.

**14.11 Retail Shop Leases Act**

The following sections of the Retail Shop Leases Act 1994 do not apply to this Lease:

- (1) section 45 (tenant's right to deal with lease and business assets).

**EXECUTED AS A DEED BY THE GUARANTOR**

<b>Witnessing Officer</b>	<b>Execution Date</b>	<b>Guarantor's Signature</b>
.....signature	/ /	
.....full name		
.....qualification		.....

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

<b>Witnessing Officer</b>	<b>Execution Date</b>	<b>Guarantor's Signature</b>
.....signature	/ /	
.....full name		
.....qualification		.....

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



**SCHEDULE**

Title Reference [15292052]

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