

**MEMORANDUM OF LEASE****CERTIFICATE(S) OF TITLE BEING LEASED**

Portion of the land comprised in Certificate of Title Register Book

**Volume 5123 Folio 413 and Volume 5226 Folio 232**

**As defined in the plan attached to this Lease**

**ESTATE AND INTEREST**

Estate in Fee Simple

**ENCUMBRANCES**

NIL

**LESSOR** (Full Name and Address)

**BERNARD ROSS DAVIES AND DIANNE MARGARET DAVIES AND SCOTT BERNARD DAVIES**  
of 192 Esplanade South Brighton SA 5048

**LESSEE** (Full Name, Address and Mode of Holding)

**ELTON LANDSCAPES PTY LTD A C N 609 544 550**  
of Unit 4 58 Wheatland Street Seacliff SA 5049

**TERM OF LEASE**

**COMMENCING ON THE 1ST DAY OF JULY 2018**

**EXPIRING ON THE 30TH DAY OF SEPTEMBER 2020**

together with a right of renewal as contained in clause 4.9 of this Lease

**RENT AND MANNER OF PAYMENT (OR OTHER CONSIDERATION)**

The Lessee shall pay the Lessor an annual rent of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) plus GST by equal monthly payments in advance of \$2,083.33 each plus GST (and proportionately for any period of less than one month), subject to review at the times and in the manner set out in clause 4.10. The first payment shall be made on the 1st day of September 2018 followed by a payment on the 1st day of each calendar month.

**OPERATIVE CLAUSE**

The Lessor LEASES TO THE LESSEE the land (a) ABOVE described and the LESSEE ACCEPTS THIS LEASE of the land for the term and at the rent stipulated, subject to the covenants and conditions expressed herein and to the powers and covenants implied by the Real Property Act 1886 (except to the extent that the same are modified or negated below).

**DEFINE THE LAND BEING LEASED INCORPORATING THE REQUIRED EASEMENT(S) ETC.**

IT IS COVENANTED BY AND BETWEEN THE LESSOR AND THE LESSEE as follows:  
(Covenants, where not deposited, to be set forth on insert sheet(s) and securely attached)

## 1. INTERPRETATION AND DEFINITIONS

in this Lease unless the contrary intention appears:

1.1 "Accounting Period" means each period of one (1) year commencing on 1 July and expiring at midnight on the next 30 June where the whole or any portion of that year falls within the Term;

1.2 "Actuary" means an actuary (or an individual with the professional designation corresponding to an actuary as designated by The Institute of Actuaries of Australia ABN 69 000 423 656 as at the Commencement Date) who shall be appointed to make a determination pursuant to this Lease and:

1.2.1 who shall be appointed by the Lessor and the Lessee or (if they fail to agree on the appointee within seven (7) days of either notifying the other of the requirement for such appointment) at the request of either by the President or (if the President shall be unwilling or unable to act) other executive officer of that Institute or if that Institute has ceased to exist then the chief executive officer or other executive officer of a professional body formed by or for actuaries in the Commonwealth of Australia fulfilling substantially the same functions as that Institute;

1.2.2 who shall have been an accredited member of that Institute or body for at least five (5) years immediately prior to the date of such appointment

1.2.3 who shall be deemed to act as an expert and not as an arbitrator,

1.2.4 whose determination shall be final and binding as between the Lessor and the Lessee; and

1.2.5 all costs and expenses of and incidental to such determination shall be borne by the Lessor and the Lessee in equal shares;

1.3 "Building" means the interior and exterior of the buildings erected on the Land and all present and future improvements erected on or made to the Land and includes without limitation:

1.3.1 all of the Lessor's fixtures fittings airconditioning fire protection and other plant machinery and equipment; and all conveniences services amenities and appurtenances of in or to the Building and includes any part of the Building;

1.4 "Commencement Date" means the date of commencement of the Original Term set out in Item 6(a) of the Schedule;

1.5 "CPI" means the Consumer Price Index (All Groups) for Adelaide published from time to time by the Australian Bureau of Statistics or by the Commonwealth of Australia or by any other body authorised by the Commonwealth of Australia to do so;

1.6 "Current Market Rent means the annual rent that can reasonably be obtained for the Premises in the open market by a willing but not anxious lessor but adjusted to reflect the following conditions:

1.6.1 on the basis of a lease of the Premises on the same terms as this Lease (for the whole of the Term and not the residue of the Term);

1.6.2 on the basis that the Premises is unoccupied;

1.6.3 on the basis that the Lessee and the Lessor have complied with all of the terms of this Lease (but without prejudice to any right or remedy of the Lessor or the Lessee in that regard) and not taking into account any breach of this Lease by the Lessee or the Lessor,

1.6.4 not taking into account any damage to or destruction of the Premises or the Building and not taking into account any resulting cessation or suspension of rent

1.6.5 not taking into account any disturbance or nuisance to the Lessee's use of the Premises caused or contributed to by any act or neglect of the Lessor or any adjoining owner or other party;

1.6.6 not taking into account any fine premium cash payment allowance rent free period suspension or abatement of rent or other incentive or assistance effected or given in respect of this Lease or in respect of comparable premises to induce tenants to take a lease of or remain in such comparable premises;

1.6.7 not taking into account any goodwill attaching to the Premises by reason of the Lessee's occupation of the Premises;

1.6.8 taking into account all costs and expenses of any nature payable by the Lessor in respect of the Premises or the Building or the Land which are not payable by or recoverable from the Lessee under this Lease;

1.6.9 taking into account the fact that the annual rent set out in Item 7 of the Schedule is GST exclusive and that under this Lease an additional amount on account of GST is payable;

1.6.10 taking into account any increase in value of the Premises including without limitation any increase in value arising from any permanent improvements erected or installed at the expense of the Lessee or the Lessor or both of them and which the Lessee may not remove from the Premises;

1.6.11 not taking into account any decrease in value of the Premises caused or contributed to by work carried out by or on behalf of the Lessee; and

1.6.12 not taking into account any value attaching to any fixtures fittings improvements or Lessee's property erected or installed by or on behalf of the Lessee which the Lessee may remove from the Premises;

1.7 "Default Rate" means:

1.7.1 the rate of interest two percentage points above the Loan Index Rate for commercial loans charged by the Commonwealth Bank of Australia Limited ABN 48 123 123 124 on the date default occurs; or

1.7.2 if there be more than one rate then the highest of such rates; or

1.7.3 if there is no such rate then the rate of interest two percentage points above the National Australia Bank Limited ABN 12 004 044 937 Indicator Base Rate on the date on which default occurs;

1.8 "GST" has the same meaning it does in Section 195-1 of the GST Act,

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

1.10 "Land" means the Land described in Item 9 of the Schedule and includes any part of the Land and where the context allows the Building;

1.11 "Lessee" means the person or Corporation described in Item 5 of the Schedule (and if more than one then jointly and severally) and where the context allows the heirs executors administrators successors and permitted assigns of such person or Corporation (and if more than one then jointly and severally);

1.12 "Lessee's Agents" means each of the Lessee's agents contractors officers employees subtenants invitees and other persons claiming through or under the Lessee;

1.13 "Lessor" means the person described in Item 4 of the Schedule (and if more than one then jointly and severally) and where the context allows the heirs executors administrators successors and assigns of such person (and if more than one then jointly and severally);

1.14 "notice" means notice in writing or transmitted by facsimile;

1.15 "Original Term" means the original term of this Lease set out in Item 6(a) of the Schedule;

1.16 "Outgoings" means to the extent to which the same are not specifically payable from time to time by any occupant of the Building under the terms of their occupancy the total of all present and future Outgoings costs and expenses assessed charged or chargeable paid or payable or otherwise incurred in respect of the Land or the Lessor in relation to the Land or the use conduct management and maintenance of the Land and includes without limitation:

1.16.1 all present and future taxes or imposts;

1.16.2 all rates charges levies assessments duties impositions and fees of any public municipal or government body authority or department including water and sewerage rates and charges emergency services levies and council rates and Community Corporation Levy;

1.16.3 all receipts and other duties and taxes paid or payable pursuant to this Lease or in consequence of the Lessor having any estate or interest in the Land (excluding income tax and capital gains tax and Land tax);

1.16.4 Cost of and extent of insurance coverage will be separately agreed between the Lessee and Lessor. If no agreement is reached the following will apply;

all insurance premiums and related expenditure paid or payable by the Lessor in respect of:

- (a) the Building and all plant machinery fittings and fixtures in the Building in insuring the same for their full insurable reinstatement value against fire flood lightning storm tempest and earthquake including consequential costs and removal of debris;
- (b) damage or loss from burglary or theft,
- (c) damage to glass in all internal and external doors and windows in the Building;
- (d) breakdowns or fusion or both of plant and machinery in the Building;
- (e) public risk insurance workers' compensation common law insurance and statutory liability insurance in respect of employees employed in or about the Land;
- (f) consequential loss and loss of rent and statutory rates taxes and charges insurance;
- (g) all excess amounts paid or payable by the Lessor under such policy or policies being the amounts of the risk which the insured must bear, and
- (h) such other risks (referable to the Land or the Lessor in relation to the Lessor's interest in the Land) as the Lessor acting reasonably deems necessary or desirable;

1.16.5 all charges and licence and inspection fees for water gas oil electricity light power fuel telephone facsimile sewerage and other services supplied to the Land (including without limitation any costs fees or charges payable for or under any maintenance and service contracts for plant and machinery) for the general benefit of the occupiers of the Building; and

1.17 Permitted Use" means the use described in Item 10 of the Schedule;

1.18 Premises means that portion of the Building described in Item 1 of the Schedule and includes:

1.18.1 all the Lessor's buildings improvements fixtures fittings plant equipment and chattels installed in or on the Premises;

1.18.2 all the conveniences services amenities and appurtenances of in or to the Premises; and

1.18.3 any alterations additions improvements or modifications made to the Premises from time to time and includes any part of the Premises;

1.19 "Recipient" and "Supplier" have the respective meanings ascribed to those terms in the GST Act

1.20 "rent" means the rent reserved by this Lease;

1.21 "Review Date" means the respective date set out in Item 11 of the Schedule;

1.22 "Services" means all electrical plumbing airconditioning gas telephone facsimile and other like installations including without limitation all pipes drains cables wires and other conduits situated in under or on or serving the Land;

1.23 "Supply" has the same meaning it does in Section 9-10 of the GST Act and excludes any "GST-free supplies and "input taxed supplies" as those terms are defined in Section 195-1 of the GST. Act,

1.24 "Term" means the Original Term and any extension or renewal of that term and any period during which the Lessee holds over or remains in occupation of the Premises;

1.25 "Terms of this Lease" means the terms covenants agreements duties obligations rights powers privileges provisions acknowledgements and conditions set out in this Lease;

1.26 Valuer means a qualified valuer (being an individual with the professional designation corresponding to valuer as designated by the Australian Property Institute as at the Commencement Date) who shall be appointed to make a valuation or determination pursuant to this Lease and:

1.26.1 who shall be appointed by the Lessor and the Lessee or (if they fail to agree on the appointee within seven (7) days of either the Lessor or the Lessee notifying the other of the requirement of such appointment) at the request of the Lessee or the Lessor by the person for the time being holding or acting in the office of President of the Australian Property Institute (South Australian Division) or if that Institute has ceased to exist then the chief executive officer or other executive officer for the time being of a professional body formed by or for valuers in South Australia and fulfilling substantially the same functions as that Institute;

1.26.2 who has for at least five (5) consecutive years immediately prior to the date of such appointment been an accredited member of that Institute or body;

1.26.3 who has practised as a land valuer as defined in the Land Valuers Act 1994 in the valuation for rental purposes of property similar to the Premises for a period of not less than five (5) consecutive years immediately prior to such appointment;

1.26.4 who shall be deemed to act as an expert and not as an arbitrator,

1.26.5 whose determination shall be final and binding as between the Lessor and the Lessee; and

1.26.6 all costs and expenses of and incidental to such valuation or determination shall be borne by the Lessee and the Lessor in equal shares unless otherwise provided in this Lease;

1.27 a reference to any Act includes all statutes regulations codes by-laws or ordinances and any notice demand order direction requirement or obligation under that Act (and vice versa) and unless otherwise provided in that Act includes all consolidations amendments re-enactments or replacements from time to time of that Act and a reference to "law" includes a reference to any Act and the common law;

1.28 words importing the singular embrace the plural and words importing one gender embrace the other genders and vice versa respectively;

1.29 any reference to a person shall be deemed to include a body corporate and vice versa;

1.30 anything which the Lessee is required to do shall be done at the cost of the Lessee and to the reasonable satisfaction of the Lessor,

1.31 headings are for convenience of reference only and shall not affect the interpretation of this Lease;

1.32 any reference to an Item of "the Schedule" means the relevant Item of the Reference Schedule contained in this Lease and any reference to a clause means the relevant clause of this Lease;

1.33 where the words "Not Applicable" appear opposite any part of any Item of the Schedule then each and every clause in this Lease in which specific reference is made to such part of the relevant Item of the Schedule shall be of no effect and

1.34 all money (including without limitation rent) payable by the Lessee to the Lessor and costs recoverable from the Lessee by the Lessor shall be paid to the Lessor (or such other person as the Lessor shall notify the Lessee) and at the place or in the manner specified pursuant to clause 2.1 and shall be recoverable as a debt and if no date or time for payment is specified shall be payable immediately on demand.

## **2. LESSEE'S COVENANTS**

The Lessee hereby covenants and agrees with the Lessor throughout the Term:

### **2.1 Rent**

to pay the rent free from exchange deduction set off or counterclaim and abatement to the Lessor as the Lessor requires:

2.1.1 at the Lessor's address set out in Item 4 of the Schedule; or



2.1.2 by direct bank transfer to the credit of a bank account nominated by the Lessor, or

2.1.3 to such other person or at such other place as the Lessor shall notify the Lessee at least seven (7) days prior to the next rental period date,

and at the times and in the manner set out in Item 7 of the Schedule;

## 2.2 Rates Taxes and Utilities

2.2.1 to pay all present and future rates charges levies assessments duties impositions and fees of any public municipal or government body authority or department including emergency services levies council rates and water and sewerage rates and charges in respect of the Premises being outgoings solely referable to the Premises ("Rates and Taxes") as and when such Rates and Taxes are due and payable to the relevant taxing rating or charging authority or body or if required by the Lessor then to pay such Rates and Taxes to the Lessor within seven (7) days of demand being made by the Lessor;

2.2.2 to pay as and when due for payment or if required by the Lessor then within seven (7) days of demand being made therefor all costs fees and charges for the provision of.

(a) electricity gas oil and other energy or fuels supplied to or separately metered and consumed in the Premises; and

(b) telephone facsimile and other communication services waste disposal garbage collection in respect of the Premises and all other utility services supplied to or consumed in or on or in respect of the Premises

whether supplied by the Lessor or any public municipal or government body authority or department or any other person;

2.2.3 that all such Rates and Taxes costs and charges shall be adjusted as between the Lessor and the Lessee as at the Commencement Date and the date of expiry of the Term (as the case may be) and the Lessor's proportion shall be deemed to be so much of such Rates and Taxes costs or charges as are referable to any time not included in the Term;

## 2.3 Deleted

## 2.4 Costs

2.4.1 to pay one half of the Lessor's reasonable costs of and incidental to the negotiation preparation and engrossment of this Lease and any extension or renewal of this Lease;

2.4.2 to pay all of the Lessor's reasonable costs of any guarantee assignment transfer or surrender by the Lessee of this Lease and any other incidental documents;

2.4.3 to pay all of:

- (a) all fees charged by all mortgagees of the Land for consenting to this Lease and any extension or renewal of this Lease; and
- (b) all fees for producing the Certificate or Certificates of Title to the Land for the purpose of registering this Lease and any extension or renewal of this Lease if registration is required and permitted; and

2.4.4 to pay all registration fees in connection with this Lease and any assignment transfer guarantee surrender extension or renewal of this Lease and all the mortgagee consent and production fees in respect of any assignment transfer or surrender by the Lessee of this Lease;

## 2.5 Assignment and Subletting

2.5.1 not to transfer or assign this Lease without the consent of the Lessor which consent shall not be unreasonably withheld or refused;

2.5.2 where the Lessee is a company (other than a company the voting shares of which are listed on a recognised Stock Exchange in Australia) there shall be deemed a transfer or assignment of this Lease requiring the consent of the Lessor if.

- (a) the issue of any share or the transfer (except by inheritance) of the legal or beneficial ownership of any issued share of the Lessee or the ultimate holding company of the Lessee alters the effective control of the Lessee; or
- (b) any change to the constitution of the Lessee varies the rights attaching to any of the issued shares of the Lessee;

2.5.3 not to sublease licence grant a concession or part with possession mortgage charge or encumber this Lease or the Premises without the prior consent of the Lessor,

2.5.4 in respect of all cases of transfer assignment subletting the Lessee:

- (a) shall not be released from its liabilities and obligations under this Lease as more particularly described in clause 9; and
- (b) acknowledges that such transfer assignment subletting or parting with possession will not operate in any way to restrict mitigate or release the responsibility and obligations of any guarantor from its guarantee of the Lessee's obligations;

2.5.5 if the Lessee requests that the Lessor consent to any transfer assignment sublease licence concession mortgage charge encumbrance or parting with possession the Lessee shall immediately on receipt of a request to do so from the Lessor

- (a) pay all arrears of rent and other money outstanding under this Lease and remedy all outstanding breaches and defaults;
- (b) pay such money as is reasonably estimated by the Lessor's consultants to be required for the Lessee to comply with the terms of this Lease including without limitation those relating to the state of repair and cleanliness and painting of the Premises including the costs of such consultants in inspecting the Premises;
- (c) submit a true copy of all agreements to be entered into in respect of any proposed dealing with this Lease or the Premises and evidence satisfactory to the Lessor that the proposed transferee or assignee ("assignee") or subtenant is respectable responsible solvent and suitable and information reasonably required by the Lessor about the financial standing and business experience of the proposed assignee or subtenant;
- (d) if the proposed assignee or subtenant is a trustee of a Trust submit a copy of the instrument under which such Trust was constituted and the full names addresses and occupations of the beneficiaries of such Trust; and
- (e) pay to the Lessor or its solicitors the reasonable costs of and incidental to enquiries concerning the proposed dealing or the persons concerned in such dealing and of the perusal preparation and stamping of the documents reasonably deemed necessary by the Lessor and if such consent is given the Lessee will ensure that prior to the date of any transfer or assignment the proposed assignee:
- (f) enters into a direct covenant with the Lessor to observe the terms of this Lease; and
- (g) furnishes such guarantees of the performance of such person's obligations under this Lease as the Lessor may require; and

2.5.6 if the Lessee grants a mortgage of this Lease the rights of the Lessor under this Lease shall be in priority to the rights of the mortgagee of this Lease and the provisions of Section 139 of the Real Property Act 1886 shall not apply to such mortgagee in respect of its estate or interest in this Lease;

## 2.6 Permitted Use

2.6.1 not to use or permit the use of the Premises other than for the Permitted Use and not to:

- (a) or permit to be done anything which may be or become unlawful immoral or an annoyance nuisance or damage to the Lessor or any other person in or in the vicinity of the Land; or

(b) sleep or allow anyone to sleep on the premises; or

(c) hold or allow anyone to hold an auction sale on the land

2.6.2 to promptly obtain keep current and comply with all consents approvals and licences from all relevant authorities or other persons necessary or incidental to the use of the Premises for the Permitted Use and the provisions of this Lease; and

2.6.3 to provide the Lessor with copies of all approvals consents and licences immediately after being obtained by the Lessee;

## 2.7 Maintenance and Repair

2.7.1 to maintain repair replace clean and keep the Premises including without limitation the interior and exterior of all its buildings and improvements and all the Lessor's partitions fixtures fittings plant and equipment in good and substantial repair order and condition and where appropriate in good working order (having regard to their condition at the commencement of this Lease) (including without limitation entering into and keeping current any servicing or maintenance contracts reasonably required by the Lessor) provided that the Lessee shall be under no obligation to make good damage by:

(a) fair wear and tear (subject to clause 2.7.2 and except to light globes and fluorescent tubes); or

(b) fire flood lightning storm tempest inevitable accident act of God or war damage (except where insurance moneys are irrecoverable in consequence of any act omission or default of the Lessee or any of the Lessee's Agents in which event the Lessee shall rectify the damage promptly at its expense);

2.7.2 notwithstanding clause 2.7.1 to maintain the floor coverings in the Premises (whether installed by the Lessor or the Lessee) in good condition (having regard to their condition at the commencement of this Lease) at all times and where the Lessee or any of the Lessee's Agents cause damage or excessive wear to the floor coverings to replace the floor coverings to the reasonable satisfaction of the Lessor with new floor coverings of a quality and standard equivalent to or better than that of the floor coverings in the Premises at the Commencement Date or date of installation of the damaged or worn floor coverings (whichever is the later);

2.7.3 to keep and maintain at all times all lawns shrubs plants and gardens adjacent to or comprised in the Premises neat tidy well trimmed and pruned

and to water and nurture them on such occasions as they require to subsist and flourish;

2.7.4 to immediately repair or replace (or pay to the Lessor its cost of doing so) all damaged or broken glass in or about the Premises including external windows with glass of the same or similar quality and all damaged or broken light globes and fluorescent tubes;

2.7.5 not without the Lessor's consent to, nor permit the Lessee's Agents to:

- (a) cut injure damage deface or obstruct any convenience appliance plant or equipment in the Premises; or
- (b) mark drill or deface the walls ceilings columns floor or other parts of the Premises; or
- (c) use the lavatories toilets sinks drains and other plumbing facilities in the Premises for any purpose other than that for which they were constructed or provided and not to deposit or permit to be deposited any rubbish or other material in such facilities;

2.7.6 to make good any breakage defect or damage to the Building caused or contributed to by the Lessee or any of the Lessee's Agents; and

2.7.7 if the Lessee requires the Lessor to carry out any works which are the responsibility of the Lessee under this clause 2.7 then:

- (a) the Lessor may (without any obligation to do so and without any liability to the Lessee in respect of such works) execute such works as if it were the Lessee; and
- (b) the Lessee shall pay to the Lessor all the Lessor's reasonable costs and expenses in executing such works;

## 2.8 Cleaning and Waste Disposal

2.8.1 to cause the Premises to be cleaned regularly in a proper and workmanlike manner and kept clean and free from dirt and rubbish by persons approved by the Lessor which approval shall not be unreasonably withheld;

2.8.2 to keep and maintain clean and in good order repair and condition all of the fixtures fittings plant equipment and chattels of the Lessee to the extent necessary to prevent any hazard or deterioration in the condition of the Premises; and

2.8.3 to store and keep all waste materials and garbage in proper receptacles for it and to arrange for the regular removal of it from the Premises and to ensure that all organic waste is placed in plastic bags and sealed prior to placement in such receptacles;

## 2.9 Painting

2.9.1 whenever reasonably necessary and not more often than every five (5) years during the Term or on receipt of a written reasonable request of the Lessor to do so at any other time and immediately prior to the expiration of the Term or the surrender of this Lease or within seven (7) days of any sooner determination of this Lease in a proper and workmanlike manner and in colours and in accordance with specifications approved by the Lessor to paint or cause to be painted all such parts of the interior of the Premises as are usually painted; and

2.9.2 that if the Lessee fails to comply with such obligation within fourteen (14) days of the Lessor giving notice to the Lessee of the Lessors intention, undertake such painting through the services of its contractors or nominees and any money incurred by the Lessor in the exercise of such election shall be paid to the Lessor by the Lessee;

## 2.10 Statutory Requirements

to promptly and efficiently satisfy comply with and observe all present and future laws and the requirements directions and orders of any governmental semi-governmental civic health safety environmental licensing or other authority with competent jurisdiction relating to or affecting the use or condition of the Premises or the occupancy by the Lessee of the Premises whether such compliance or obligations are imposed on the owner or occupier of the Premises;

## 2.11 Fire Precautions

### 2.11.1 to:

(a) take such precautions against fire on and in respect of the Premises as are or may from time to time be required under or pursuant to any present and future laws or by any authority (whether governmental municipal civic or otherwise) having jurisdiction in relation to the Premises; and

(b) do and execute or abstain from doing or executing all such other acts matters and things in relation to fire safety or fire prevention as are or may be directed or required (whether of the owner or occupier of the Premises) by anybody having jurisdiction in relation to the Premises;

2.11.2 to comply with sprinkler and fire alarm laws in respect of the sprinkler and fire alarm systems installed in or about the Premises to pay to the Lessor the cost of any alterations or additions to the sprinkler or fire alarm systems

which the Lessor may be required to make by reason of the non compliance by the Lessee with such laws; and

2.11.3 to perform and observe and to ensure that the Lessee's Agents perform and observe all necessary and proper fire drills and emergency evacuation procedures;

## 2.12 Structural Works

nothing in clauses 2.7, 2. 10 and 2.11 and 2.29 (air-conditioning) shall be deemed to impose any obligation on the Lessee in respect of work of a capital or structural nature or in relation to inherent defects except where rendered necessary:

2.12.1 as a consequence of any act omission or default of the Lessee or the Lessee's Agents;

2.12.2 by the number or sex of persons in or about the Premises; or

2.12.3 by the use of the Premises notwithstanding that such use may be within, the scope of the Permitted Use;

## 2.13 Notice of Defects

to give to the Lessor prompt notice of any circumstance including without limitation any accident to or defect or want of repair in any service to or fittings in the Premises which the Lessee should reasonably be aware might cause any danger risk or hazard to the Premises or any person in the Premises;

## 2.14 Signs and Other Devices

2.14.1 not without the consent of the Lessor (which consent shall not be unreasonably withheld) and all appropriate regulatory authorities to erect paint place display affix or exhibit outside the Premises or on glass windows or doors of the Premises or inside the Premises but visible from outside of the Premises any sign advertisement name or notice;

2.14.2 not without the consent of the Lessor to erect or place inside or outside the Premises any radio or television or any loudspeakers film screens media equipment or similar devices or equipment which may be heard or seen from outside the Premises; and

2.14.3 to maintain such signage and equipment in good and substantial repair and on vacating the Premises or otherwise at the request of the Lessor to immediately remove any signs advertisements names notices or other equipment erected displayed painted placed affixed or exhibited on in to or outside the Premises by or on behalf of the Lessee and to make good any damage or disfigurement caused by reason of such erection painting displaying affixing placing exhibiting or removal;

## 2.15 Alterations and Additions

not without the consent of the Lessor to make any alteration or addition in or to the Premises nor without the consent of the Lessor which consent shall not be unreasonably withheld to install or alter any partitioning fixed equipment or other fixed installation in or about the Premises provided that where such consent is given:

2.15.1 the materials and design shall first be approved by the Lessor or its consultants;

2.15.2 such work equipment or installation shall be installed or altered in accordance with the approval so given (if any);

2.15.3 all fees payable to the Lessor's consultants in connection with such approval and inspection shall be paid by the Lessee to the Lessor,

2.15.4 the Lessee shall obtain and keep current and ensure that its contractors obtain and keep current such insurance of the Premises and the works and of the Lessee and its contractors and workers as the Lessor reasonably requires;

2.15.5 such partitioning equipment and installations (except where they are Lessor's fixtures or fittings) shall remain the property of the Lessee and the Lessee shall maintain and repair such partitioning equipment and installations in good order and where appropriate in working condition and pay all associated running costs; and

2.15.6 in carrying out such alterations additions and installations the Lessee shall use its best endeavours to minimise disturbance and inconvenience to any other occupants of the Building;

## 2.16 Electrical and Plumbing Installations

subject to the Electricity (General) Regulations 1997 and any other applicable electricity laws not without the consent of the Lessor to install any water gas or electrical fixtures plant equipment or appliances or any apparatus for illuminating airconditioning heating cooling or ventilating the Premises other than kitchen appliances for the preparation of food or beverages and appliances and equipment reasonably necessary for the execution of normal practices of the Permitted Use;

## 2.17 Heavy and Noisy Equipment

2.17.1 Subject to the Permitted Use not without the consent of the Lessor to bring on to or install in the Premises any machinery plant or equipment of such nature weight or size as to cause or potentially cause any structural or other damage to the Building or which may in the opinion of the Lessor cause unreasonable noise or vibrations; and

2.17.2 before bringing any such machinery plant and equipment on to the Premises the Lessee shall inform the Lessor of the Lessee's intention to do so and the Lessor may direct the routing installations and location of all such



machinery plant and equipment and the Lessee shall observe and comply with all such directions;

## 2.18 Dangerous Substances

not without the consent of the Lessor to bring or allow to be brought onto the Premises any dangerous noxious odorous toxic volatile explosive or inflammable substance compound or pollutant whether in solid liquid gaseous or other form other than such substances normally used in the conduct of the Permitted Use provided that such substances or compounds are handled and stored in compliance with all applicable laws;

## 2.19 Lessor's Access and Alterations

2.19.1 to permit the Lessor and any person authorised by the Lessor at all reasonable times on giving to the Lessee reasonable prior notice to enter the Premises and view the state of its repair and if the Lessor considers that repairs are required:

- (a) the Lessor may then serve on the Lessee a notice of any defect the repair of which is within the Lessee's obligations under this Lease requiring the Lessee within a reasonable time to repair the defect
- (b) in default of the Lessee repairing such defect the Lessor may execute the required repairs as if it were the Lessee and for that purpose the Lessor and any person authorised by the Lessor may enter onto the Premises and remain there for the time necessary to complete such repairs
- (c) all costs and expenses of and incidental to carrying out such repairs shall be Payable by the Lessee to the Lessor,

2.19.2 to permit the Lessor and any person authorised by the Lessor

- (a) to carry out inspections of or alterations or additions to or other works on or about the Land (including without limitation where the Lessor has given reasonable prior notice to the Lessee the Premises); and
- (b) where the Lessor has given reasonable prior notice to the Lessee to enter the Premises for the purpose of carrying out such works causing as little disturbance as is reasonably practicable to the Lessee in undertaking such works;

2.19.3 subject to clause 2.19.2 in an emergency the Lessor may without notice enter the Premises to carry out any works deemed necessary by the Lessor, and

2.19.4 to the extent permitted by law the Lessee shall not make any claim or commence or maintain any suit or action against the Lessor for breach of the

covenant contained in clause 3.1 or otherwise in consequence of such entry or in execution of any of the works

#### 2.20 Security contemplated by this clause;

2.20.1 to use the Lessee's best endeavours to protect and keep safe the Premises and any property contained in it from theft or vandalism and to keep all doors windows and other openings closed and locked when the Premises are not in use;

2.20.2 not without the consent of the Lessor (which consent shall not be unreasonably withheld) to install any security equipment or system in or to the Premises nor to alter or modify any existing security equipment or system; and

2.20.3 all such equipment systems and installations (except the Lessor's fixtures and fittings) shall remain the property of the Lessee who shall be responsible for all costs associated with the purchase installation alteration or modification of any new (and if applicable existing) equipment system or installations and all maintenance and monitoring of it,

#### 2.21 Glass Insurance

2.21.1 to immediately insure and keep insured against breakage and damage all the plate and other glass in the Premises for its replacement value and to note the interest of the Lessor on such insurance policy with an insurance office approved by the Lessor (which approval shall not be unreasonably withheld);

2.21.2 immediately on execution of this Lease by the Lessee and on demand at any other time to deliver a copy of the policy and certificate of currency of such insurance to the Lessor, and

2.21.3 to expend all money received under such insurance in reinstating the broken or damaged glass and where such insurance money received is insufficient to make good the deficiency out of the Lessee's own money;

#### 2.22 Public Liability Insurance

2.22.1 to immediately effect and keep current in respect of the Premises a public liability insurance policy for an amount of not less than Twenty Million Dollars (\$20,000,000.00) per claim (or such other amount as the Lessor may reasonably require and notify the lessee in writing) and to note the Lessor's interest on such insurance policy with an insurance office approved by the Lessor which approval shall not be unreasonably withheld;

2.22.2 immediately on execution of this Lease by the Lessee and on demand at any other time to deliver a copy of the policy and certificate of currency of such insurance to the Lessor,

## 2.23 To Insure Lessee's Fixtures Fittings and Stock

2.23.1 to immediately effect and keep current a policy insuring the Lessee's fixtures stock fittings plant and equipment to their full insurable value against loss or damage by fire burglary theft lightning explosion tempest earthquake riot impact of vehicles earthquake damage by aircraft or articles dropped therefrom water damage flood consequential loss and such other insurable risks as the Lessor may reasonably require from time to time; and

2.23.2 immediately on execution of this Lease by the Lessee and on demand at any other time to deliver a copy of the certificate of currency of such insurance to the Lessor,

## 2.24 Additional Premium and Excess

2.24.1 to pay any additional premium levied on account of the Lessee's use or occupation of the Premises in respect of any policy of insurance effected in respect of the Building or its contents or any policy of public liability insurance effected by the Lessor, and

2.24.2 to pay all excess amounts paid or payable by the Lessor under any of such policies of insurance relating to any accident incident or claim caused or contributed to by the Lessee or any of the Lessee's Agents;

## 2.25 Not to Vitate Insurance

not at any time to cause or permit anything in or on the Building whereby any insurance in respect of the Building may be vitiated or rendered void or voidable or whereby the rate of premium on any insurance shall be liable to be increased;

## 2.26 Cross Liability

where pursuant to the terms of this Lease a policy of insurance is effected in joint names then to ensure that the policy provides that:

2.26.1 to the extent that the policy may cover more than one insured all insuring agreements and endorsements with the exception of limits of liability shall operate in the same manner as if there were a separate policy covering each party which is an insured; and

2.26.2 the failure by any insured to observe and fulfil the terms of the policy shall not prejudice the insurance in regard to any other insured;

## 2.27 Indemnities

to indemnify the Lessor and its officers employees agents contractors and lessees (other than the Lessee) against and in respect of all and any actions claims demands losses damages costs and expenses which the Lessor or any of its officers employees agents contractors and lessees (other than the Lessee) may incur in respect of or arising from:

2.27.1 overflow or leakage of water (including rain water) in or from the Premises but originating within the Premises or caused or contributed to by any act or omission of the Lessee or any of the Lessee's Agents;

2.27.2 the death of or injury to any person or loss of or damage to the property of any person arising from or out of any occurrence in on or about any part of the Land or the use of the Premises or the Building or the Land by the Lessee or any of the Lessee's Agents (notwithstanding that such use may be within the scope of the Permitted Use); and

2.27.3 the exercise or attempted exercise of any of the rights authorities powers or remedies which are exercisable by the Lessor under this Lease

except to the extent that the action claim demand loss damage cost and expense arises or results from the wilful or negligent act or omission of the person seeking such indemnity;

## 2.28 Release of Lessor

to occupy use and keep the Premises at the risk of the Lessee and the Lessee agrees that the Lessor and its officers employees agents and contractors will have no responsibility or liability and are fully released from all responsibility or liability and the Lessee shall not make any claim or commence or maintain any suit or action against the Lessor or any of its officers employees agents or contractors for breach of the covenant set out in clause 3.1 in respect of ;

2.28.1 loss of or damage to the Lessee's stock fixtures or fittings or other property;

2.28.2 claims demands and damages resulting from or contributed to by any accident damage or injury occurring in on or about the Land unless deriving from any structural defect in the Land (not caused or contributed to by the Lessee or any of the Lessee's Agents); and

2.28.3 loss or damage including without limitation direct indirect consequential and economic loss suffered as a result of or contributed to by:

(a) flooding of the Premises; or

(b) blockage of any sewers waste drains gutters or down pipers; or

(c) any malfunction failure to function or interruption of or to the water gas electricity telephone facsimile airconditioning fire prevention fire safety lifts escalators and other systems and other services situated in or serving the Premises

except to the extent caused or contributed to by the negligence of the Lessor or any of its officers employees agents or contractors;

## 2.29 Airconditioning

2.29.1 where any plant machinery or equipment for heating cooling or circulating air or any related services or controls of appliances are provided or installed in the Premises or in the Building for the benefit of the Premises ("airconditioning plan") to pay all costs and expenses of and incidental to the operation regular cleaning of all filters maintenance and repair ( The Lessor at its absolute discretion will at its expense replace the airconditioning plant if it is unserviceable) of the airconditioning plant including without limitation all costs and expenses of any service or maintenance agreement effected by or on behalf of the Lessor,

2.29.2 to the extent of the Lessee's control over the airconditioning plant at all times to use and regulate the airconditioning plant to ensure that it is used at its optimum level provided that the Lessee:

- (a) will at all times comply with and observe the reasonable requirements of the Lessor with regard to the airconditioning plant; and
- (b) will not at any time or in any way interfere with or permit the Lessee's Agents to interfere with the airconditioning plant or do or permit to be done anything in relation to its use or the ventilation of the Premises so as to impair the efficient operation of the airconditioning plant,

2.29.3 that to the extent permitted by law the Lessor shall be under no liability to the Lessee arising from the Lessor's inability or failure to operate service maintain repair the airconditioning plant at any time for any reason;

2.29.4 without limiting 2.12.3 if :

- (a) in the Lessor's reasonable opinion based on the advice of a reputable airconditioning contractor the air conditioning plant is not functioning correctly the Lessor
- (b) may without incurring any liability to the Lessee shut off supplies of conditioned air to the Premises until the airconditioning plant has been inspected by a specialist contractor and the fault (if any) rectified; and
  - (1) shall be under no liability to the Lessee for any inconvenience damage or loss which the Lessee may suffer by shutting off the airconditioning plant or by its faulty operation or temporary breakdown; and
- (c) at any time the supply of conditioned air is reduced by any temporary fault or breakdown in the airconditioning plant or by reason of any power failure the Lessor may without incurring any liability to the Lessee divert the supply of conditioned air which is available

during such period of reduced supply to such parts or parts of the Building as the Lessor may in its absolute discretion think fit,

2.29.5 to permit the Lessor and its contractors and nominees at all reasonable times on giving the Lessee reasonable prior notice (except in the case of an emergency when no notice shall be required) to enter on to the Premises to view the state of repair of the airconditioning plant and there remain for the purpose of carrying out any necessary or desirable maintenance servicing or repair to or replacement of the airconditioning plant and

2.29.6 the Lessee acknowledges that the Lessor does not warrant that the airconditioning provided by the Lessor (if any) is suitable for the business to be conducted in the Premises by the Lessee;

### 2.30 Reservation of Use of Conduits

to allow the Lessor and other occupiers of the Land the free and uninterrupted passage of gas water and electricity through and along the services situated under in or on the Premises;

### 2.31 Reletting

to permit the Lessor

2.31.1 not more than Three (3) months prior to the expiration of the Term to place 'To Let' notices; and

2.31.2 at any time to place "For Sale" notices

in conspicuous places outside or inside the Premises and to enter the Premises at all reasonable times for the purpose of placing such notices or showing prospective tenants or purchasers over the Premises;

### 2.32 Lessee's Consent

that where pursuant to any statutory requirement the consent of the Lessee is required to any process step or dealing by the Lessor with its interest in the Land then the Lessee shall give its written consent to such proposed process step or dealing within seven (7) days of receipt of a written request from the Lessor to do so provided that such proposed process step or dealing does not materially detrimentally affect the Lessee's use of or access to the Premises;

### 2.33 Agreement to Lease

that if this Lease is entered into pursuant to an agreement to lease the Lessee shall observe and perform all the terms and conditions to be observed or performed by the Lessee under such agreement which remain outstanding as at the Commencement Date;

## 2.34 Superior or Concurrent Interest

2.34.1 to permit any person having any interest in the Land superior or concurrent with the Lessor to exercise the Lessor's powers under this Lease and their lawful rights in relation to the Premises; and

2.34.2 if any person other than the Lessor becomes entitled to receive money payable under this Lease either by operation of law or otherwise to enter into an agreement with that person at the Lessors expense in the form and containing provisions reasonably required by the Lessor;

## 2.35 No Caveat

not to lodge or cause or permit to be lodged any absolute caveat on the Certificate of Title for the Land and to indemnify the Lessor against and in respect of all and any actions claims demands losses damages costs and expenses which the Lessor may incur in respect of the lodgement removal or withdrawal of any such caveat;

## 3. LESSOR'S COVENANTS

The Lessor hereby covenants and agrees with the lessee throughout the Term that:

### 3.1 Quiet Possession

the Lessee paying the rent and duly and punctually observing and performing the terms of this Lease shall and may peaceably possess and enjoy the Premises for the Term without any interruption or disturbance from the Lessor, and

### 3.2 Rates Taxes and Outgoings

the Lessor shall pay all rates taxes and other outgoings imposed on or payable in respect of the Land (excluding amounts to be paid by the Lessee under clause 2).

## 4. MUTUAL COVENANTS

The Lessor and the Lessee hereby covenant and agree throughout the Term that:

### 4.1 Default

#### 4.1.1 Essential Terms

(a) clauses 2.1, 2.2, 2.5, 2.6, 2.7, 2.10, 2.11 and 2.15 are essential terms of this Lease and that the Lessor may at its option treat any breach or default by the Lessee in the observance or performance by the Lessee of its duties and obligations under such clauses as a repudiation by the Lessee of this Lease; and

(b) the Lessor's acceptance of arrears or of any late payment of rent will not constitute a waiver of the essential and fundamental nature of the Lessee's obligation to pay rent in respect of those arrears the late payments or the Lessee's continuing obligation to pay rent during the Term;

#### 4.1.2 Termination and Re-entry

If,

- (a) the rent or any part of it is unpaid for a period of twenty one (21) days after any of the days on which it ought to have been paid (although no formal or legal demand shall have been made for payment); or
- (b) the Lessee commits or permits to occur any breach or default in the due punctual observance and performance of any of the terms of this Lease; or
- (c) where the Lessee is a body corporate, company or an incorporated association:
  - (1) an order is made or resolution is effectively passed for the winding up of the lessee (except for the purpose of reconstruction or amalgamation with the consent of the Lessor); or
  - (2) a Receiver or Receiver and Manager or Administrator or Controller or any of them is appointed to the Lessee or any property of the Lessee is affected by or action is taken towards such appointment; or
  - (3) the Lessee goes into liquidation or provisional liquidation or makes an assignment for the benefit of or enters into an arrangement or composition with its creditors or stops payment or is unable to pay its debts within the meaning of the Corporations Law; or
- (d) execution is levied against the Lessee and not discharged within fourteen (14) days; or
- (e) the Premises is left unoccupied for one (1) month or more without the Lessor's consent; or
- (f) any Lessee's property in or on the Premises is seized or taken in execution under any judgment or other proceedings; or
- (g) any event described in paragraphs (c) to (d) of this clause (all inclusive) occurs in respect of any guarantor of the Lessee's obligations under this Lease

then the Lessor shall have the right to terminate this Lease and re-enter and repossess the Premises without prejudice to any other right or remedy of the Lessor for arrears of rent or breach of any term of this Lease and if such right is exercised:

- (h) the Lessor shall be released and discharged from any action proceedings claim or demand by or obligation to the Lessee under or in respect of this Lease (subject to antecedent breaches); and



- (1) the Lessee shall not be entitled to claim or receive from the Lessor any compensation or damages in respect of such termination re-entry and repossession;

#### 4.1.3 Damages

if this Lease is terminated by the Lessor the Lessor shall be entitled to recover all costs expenses losses and damages in respect of the loss of benefits which observance or performance of this Lease would have conferred on the Lessor had this Lease and the Lessee's obligations under it endured for the unexpired balance of the Term following such termination;

#### 4.1.4 Repudiation

if the Lessee's conduct (whether by act or omission) constitutes a repudiation of this Lease (or of the Lessee's obligations under this Lease) or constitutes a breach of any of the terms of this Lease the Lessee shall compensate the Lessor for the loss or damage suffered as a result of such repudiation or breach and the Lessor's entitlement to recover damages will not be prejudiced or limited by:

- (a) the Lessee abandoning or vacating the Premises; or
- (b) the Lessor electing to re-enter the Premises or to terminate this Lease; or
- (c) the Lessor accepting the Lessee's repudiation; or
- (d) the conduct of the Lessor and the Lessee constituting a surrender by operation of law;

And

#### 4.1.5 Mitigation

if the Lessor terminates this Lease the Lessor must take reasonable steps to mitigate its loss but the Lessor's conduct taken in pursuance of the duty to mitigate loss will not by itself constitute acceptance of the Lessee's breach or repudiation or a surrender by operation of law;

#### 4.2 Retail and Commercial Leases Act

in the case of a breach or default of any term of this Lease the Retail and Commercial Leases Act 1995 (as amended) shall govern the conduct between the Lessor and Lessee;

#### 4.3 Abandoned Goods

any goods or other property left on the Premises by the Lessee at the expiration of the Term or the surrender of this Lease or on any sooner determination of this Lease may be dealt with by the Lessor;

4.3.1 If at least two days have passed since the Lessor took possession of the Premises then;

(a) If they are perishable foodstuffs the Lessor may destroy remove or dispose of the goods

(b) If the goods are not liable to destruction or disposal as in (a) then the Lessor must store the goods in a safe and place and manner for at least 60 days.

(c) The goods may then be dealt with as per Section 76 of the Retail and Commercial Leases Act

#### 4.4 Default Interest

without prejudice to any other right or remedy of the Lessor the Lessee shall pay to the Lessor interest at the Default Rate on any money payable but unpaid seven (7) days after the money becomes payable by the Lessee to the Lessor under this Lease such interest to be computed from the date on which the money becomes payable until payment is made in full;

#### 4.5 Power of Attorney

if the Lessor becomes entitled to terminate this Lease and re-enter and repossess the Premises (of which a statutory declaration of an officer of the Lessor shall be conclusive evidence for the purpose of the Registrar-General) then the Lessee by this Lease irrevocably appoints the Lessor as the attorney of the Lessee:

4.5.1 to give full effect to such termination re-entry and repossession;

4.5.2 to execute a surrender of this Lease;

4.5.3 to procure the registration of such surrender and to record this Power of Attorney (and the Lessee shall immediately on demand from the attorney produce to the attorney the Lessee's registered copy of this Lease to enable the registration of such surrender); and

4.5.4 to procure anything to be done which may be requisite or proper for giving full effect to such surrender and the Power of Attorney according to the Real Property Act 1886 or any law (including without limitation if necessary to execute and lodge an application to the Registrar-General to dispense with the production of the Lessee's registered copy of this Lease);

#### 4.6 Costs and Remedies on Default

4.6.1 if the Lessee breaches or fails to perform any term of this Lease and such breach or failure to Perform continues for seven (7) days after the Lessor has given the Lessee notice requiring the Lessee to remedy the breach or perform the term (except in an emergency when no notice is required) then:

(a) the Lessor may remedy the breach or perform the term without prejudice to any other right or remedy; and

(b) the Lessee shall pay to the Lessor all resulting costs incurred by the Lessor, and

4.6.2 all reasonable costs incurred by the Lessor in respect of;

(a) the recovery of rent and other money payable by the Lessee to the Lessor under this Lease; and

(b) the Lessor remedying or attempting to remedy any Lessee's breach of or failure to perform any term of this Lease

shall be deemed to be additional rent falling due and payable on the date on which the Lessor incurs such costs;

#### 4.7 Damage to Premises

##### 4.7.1 Abatement of Rent

If the premises are damaged or destroyed by fire or any other event then unless the damage occurred as the result of a negligent or willful act by the Lessee:-

4.7.1.1 If the premises are so extensively damaged as to preclude the Lessee from conducting business therein, either the Lessor or the Lessee may terminate this Lease by written notice within twenty-one (21) days of the damage occurring. Such termination will not affect the rights of either the Lessee or the Lessor in respect of any breach of the Lease which occurred before the damage.

4.7.1.2 If the premises can still be used by the Lessee the rent will abate from the date of the damage to the date on which the premises are reinstated to the extent which reasonably represents the loss of use by the Lessee.

##### 4.7.2 Insured Risk

If the premises are damaged or destroyed the Lessor must expend the moneys received from insurance in the repair or reinstatement of the premises. If the premises are substantially destroyed and the insurance moneys are insufficient for complete reinstatement, the Lessor may terminate this Lease. The Lessee may elect to terminate this Lease if the Lessor does not reinstate the premises within four (4) months from the date of damage. The Lessor shall not be bound to reinstate the premises to their exact former condition.

#### 4.8 Holding Over

4.8.1 if the Lessee holds over after the expiration or sooner determination of the Original Term or any extension or renewal of this Lease as the case may be ("Holding Over Commencement Date") with the consent (express or implied) of the Lessor the Lessee then becomes a monthly tenant of the Lessor which tenancy may be terminated by either party giving to the other one (1) month's prior notice expiring at any time at a monthly rent equivalent to one twelfth of the annual rent being the amount "A" calculated in accordance with the following formula:

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

where:

"B" is the annual rent payable by the Lessee in respect of the Premises immediately prior to the Holding Over Commencement Date;

"C" is the quarterly CPI applicable before the Holding Over Commencement Date and

"D" is the quarterly CPI applicable twelve (12) months before the Holding Over Commencement Date

and the rent so adjusted as at the Holding Over Commencement Date shall be further adjusted in the same manner as is set out in this clause 4.8.1 (with the necessary changes) on each anniversary of the Holding Over Commencement Date and otherwise on the same terms and conditions (with the necessary changes) as those contained in this Lease so far as applicable; and

4.8.2 if the Lessee vacates the Premises on the expiration of the Term or sooner determination of this Lease notwithstanding that the Lessee is not in physical occupation of the Premises the Lessee shall be deemed to be holding over on a daily basis at a rent to be determined in the manner specified in clause 4.8.1 (with the necessary changes) and otherwise on the same terms and conditions (with the necessary changes) as those contained in this Lease until the Lessee has complied with the provisions of this Lease relating to rectification of the Premises painting of the Premises and removal of the Lessee's signs notices fixtures fittings plant and equipment to the reasonable satisfaction of the Lessor,

#### 4.9 Renewal

4.9.1 on the written request of the Lessee made not less than three (3) nor more than six (6) months before the expiration of the Original Term and provided that there shall not at the time of such request be any existing breach or non-observance by the Lessee of any of the terms of this Lease the Lessor will grant to the Lessee a renewal of this Lease for the further term as set out in Item 6(b) of the Schedule ("Renewed Term") subject to and on the same terms and conditions as are contained in this Lease except for the exclusion of this clause giving the Lessee a right of renewal;

4.9.2 if the due observance or performance by the Lessee of its duties and obligations under this Lease shall have been guaranteed by any person then

the execution by such guarantor of such documents (if any) as the Lessor may require for the purpose of affirming or renewing such guarantee for the Renewed Term shall be a condition precedent to the exercise of the Lessee's right to request such a renewal;

4.9.3 if this Lease is renewed pursuant to clause 4.9.1 and on the date of commencement of the Renewed Term the rent has not been reviewed pursuant to clause 4. 10 then the renewal shall be effective notwithstanding that the rent shall be reviewed at a subsequent date; and

4.9.4 time shall be of the essence in respect to this clause 4.9;

#### 4.10 Rent Review

4.10.1 the rent shall be reviewed as at and from each Review Date specified in Item 11 (a) of the Schedule to an amount equivalent to "A" calculated in accordance with the following formula:

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

Where :

"B" is the amount of the annual rent payable in respect of the Premises during the twelve (12) months immediately before the relevant Review Date except in the case of the first review in respect of the Original Term where "B" shall be the initial annual rent specified in Item 7 of the Schedule but disregarding any rent incentives or rebates;

"C" is the C P I for the quarter ending immediately before the relevant Review Date; and

"D" is the CPI for the quarter ending immediately before the Review Date immediately preceding the relevant Review Date except in the case of the first review in respect of the Original Term where "D" shall be the CPI for the quarter ending immediately before the Commencement Date

provided that if

- (a) the CPI ("Original Index") ceases to be published; or
- (b) the basis on which the Original Index is calculated is substantially changed then:
- (c) an Actuary shall determine what cost of living or other index (if any) and what conversions factors or other adjustments (if any) to such cost of living or other index or what other formula shall be applied in lieu of the Original Index to achieve the intention of the parties to adjust the rent under this clause 4. 10.1 on the basis of movements in the CPI as calculated at the Commencement Date ("New Index"); and

- (d) on such determination the rent shall be adjusted under this clause 4.10.1 with effect from the relevant Review Date in accordance with the New Index;

4.10.2 the failure of the Lessor to require a determination of the new rent as at any Review Date shall not impede or prevent the Lessor at any subsequent time from requiring the new rent to be determined pursuant to this clause 4.10 as at and from the Review Date;

4.10.3 if the new rent applicable as at and from any Review Date is not reviewed by that date then:

- (a) pending such review the Lessee shall pay the instalments of the rent at the rate applicable immediately prior to the Review Date; and
- (b) the new rent shall be varied retrospectively as at and from the Review Date and any necessary adjustment in respect of.
  - (1) any underpayment of any instalment paid after the Review Date shall be paid by the Lessee to the Lessor within fourteen (14) days after the new rent is determined; and
  - (2) any overpayment shall be credited to the next rent instalments due by the Lessee after the new rent is determined;

#### 4.11 Removal of Fixtures and Fittings and Yielding Up Premises

4.11.1 at or immediately before the expiration of the Term or surrender of this lease or within seven (7) days of any sooner determination of this Lease the Lessee shall:

- (a) peaceably surrender and yield up the Premises including without limitation the Lessor's partitions fixtures fittings plant and equipment in clean good and substantial repair order and condition and where appropriate in good working order (fair wear and tear excepted);
- (b) surrender all keys for the Premises to the Lessor and inform the Lessor of all combinations on locks and safes (if any) in the Premises; and
- (c) if required to do so by the Lessor remove the alterations and additions in and to the Premises or the Land effected by or on behalf of or at the request of the Lessee and reinstate the Premises and the Land and the services to their condition prior to the fit out of the Premises by or for the Lessee and in carrying out such removal and reinstatement the Lessee shall minimise the damage to the Premises and the Land and immediately make good any resulting damage;

4.11.2 the Lessee may at any time during the Term and shall at or immediately before the expiration of the Term or surrender of this Lease or within seven (7) days of any sooner determination of this Lease remove from the Land all fixtures fittings plant equipment signage trade or tenant fixtures or articles brought onto the Premises or the Land by the Lessee but in such removal the Lessee shall minimise the damage to the Premises and the Land and shall immediately make good any resulting damage; and

4.11.3 the Lessee shall comply with the Lessor's reasonable requirements in respect of such removal and reinstatement provided that the Lessor may at its option carry out such removal and reinstatement works at the cost of the Lessee and any alterations additions fixtures and fittings not removed by the Lessee either as of right or by requirement of the Lessor shall be deemed abandoned by the Lessee and shall be and become the property of the Lessor

#### 4.12 Waiver of the Lessor absolutely;

no waiver by the Lessor of one breach of any term of this Lease shall operate as a waiver of another breach of that or any other term of this Lease;

#### 4.13 Notice

4.13.1 without prejudice to any other means of serving notice any notice required to be served under this Lease shall be sufficiently served:

(a) if to the Lessee by personal service on the Lessee (or if it is a body corporation a director secretary or other officer of the Lessee) or by personal service at the Premises or by post or facsimile transmission to the Premises or the Lessee's registered office (if a body corporate) or by personal service at or post or facsimile transmission to the Lessee's last place of business or residence known to the Lessor;

and

(b) if to the Lessor by personal service on the Lessor (or if it is a body corporate on a director secretary or other officer of the Lessor) or by post or facsimile transmission to the Lessor's registered office (if a body corporate) or to the Lessors last known place of business or residence;

4.13.2 any notice may be signed on the party's behalf by its attorney director secretary or other officer or solicitor,

4.13.3 a notice by post is deemed served at the time when it ought to be delivered in the due course of post

4.13.4 a notice by facsimile is deemed served on production of a transmission report by the machine from which it is sent which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient and

4.13.5 where there is more than one person comprising the Lessee a notice served on or by a of one or more of the persons comprising the Lessee is deemed served on or by all of persons comprising the Lessee;

#### 4.14 Severance

any term of this Lease which is not applicable to the Premises or which is repugnant to the general interpretation of this Lease or which is invalid unlawful void or unenforceable shall be capable of severance without affecting any of the other terms of this Lease;

#### 4.15 Entire Agreement

4.15.1 the terms of this Lease comprise the whole of the agreement between the parties.

4.15.2 no other agreements or terms shall be implied in this Lease or arise between the parties by way of collateral agreement; and

4.15.3 no promise representation or warranty (including without limitation as to the suitability of the Premises to conduct the Lessee's business or to the fittings fixtures and facilities of the Premises) has been given or made by or on behalf of the Lessor to the Lessee;

#### 4.16 No Partnership

nothing contained in this Lease shall create the relationship of partnership or of principal and agent or of joint venture between the Lessor and the Lessee and no term of this Lease shall create any relationship between the Lessor and the Lessee other than the relationship of lessor and lessee;

#### 4.17 Managing Agent

the Lessor may appoint a managing agent to manage the Land and any managing agent so appointed shall represent the Lessor in all matters relating to this Lease except where the Lessor otherwise notifies the Lessee provided that any communication from the Lessor to the Lessee shall to the extent of any inconsistency supersede any communication from the managing agent;

#### 4.18 Real Property Act

the covenants and powers implied in leases by virtue of Sections 124 and 125 of the Real Property Act 1886 shall apply and be implied in this Lease unless they are expressly or by necessary implication excluded or modified; and

#### 4.19 Electricity Laws

4.19.1 the Lessor and the Lessee will comply with their respective obligations under the Electricity (General) Regulations 1997 and any other applicable electricity laws in all respects including but without limitation in respect of.



- (a) pricing;
- (b) access;
- (c) information; and
- (d) dispute resolution

provided that to the extent permitted by law the Lessor shall not be liable to the Lessee for any failure (either total or partial) to supply electricity; and

4.19.2 without limiting clause 2.27 and to the extent permitted by law the Lessee agrees to indemnify the Lessor and its officers, employees, agents, contractors and lessees (other than the Lessee) against and in respect of all and any actions, claims, demands, losses, damages, costs and expenses which the Lessor or any of its officers, employees, agents contractors and lessees (other than the Lessee) may incur in respect of or arising from any rights of access and use of the electrical transmission or distribution network servicing the Premises and associated works installed by the Lessee for the purpose of consuming electricity except to the extent caused or contributed to by the negligence of the Lessor or any of its officers, employees, agents, contractors and lessees (other than the Lessee).

## **5. NO WARRANTY OF FITNESS**

The Lessee acknowledges that the Lessor does not warrant that the Premises will for the duration of this Lease be structurally or otherwise suitable for the business to be conducted in the Premises by the Lessee.

## **6. CONSENT**

Unless otherwise provided in this Lease where the consent or approval of the Lessor is required such consent or approval:

6.1 means prior written consent and prior written approval;

6.2 may not be unreasonably withheld; and

6.3 if given may be made conditional or unconditional

and the Lessee shall pay and reimburse the Lessor any reasonable costs or fees paid or payable by the Lessor to any agents architects consultants contractors solicitors or any other person to examine or advise on any application for such consent or approval and all incidental documents and any other money reasonably expended in respect of such consent or approval.

## **7. GST**

### **7.1 Liability for GST**

7.1.1 The amount payable by the Recipient to the Supplier for, or in connection with, a Supply under this Lease does not include any GST.

7.1.2 The Recipient must pay the Supplier an additional amount on account of GST equal to the amount payable by the Recipient for the relevant Supply multiplied by the prevailing GST rate.

## 7.2 Timing

7.2.1 The additional amount is payable at the same time as when the amount for the relevant Supply is required to be paid by the Recipient to the Supplier.

7.2.2 Immediately on receipt of payment of both the amount for the relevant Supply and the GST, the Supplier must provide the Recipient with a tax invoice which is in an approved form for GST purposes.

## 7.3 Reimbursement

To the extent that the amount for a Supply consists of the reimbursement of costs and expenses incurred by the Supplier, in this Lease those costs and expenses are deemed to be exclusive of the amount of any refund or input tax credit of GST to which the Supplier is entitled as a result of incurring the cost or expense.

## 8. Other Conditions

This Lease is subject in all respects to the consent or approval of any person having any mortgage or encumbrance over the land and any development or planning approval or consent being first obtained if required.

### 8.1 Bank Guarantee

- 8.1.1 On the signing of this Lease the Lessee will deposit, by way of Bank Guarantee, with the Lessor the sum specified in Item 7.2 as security for the due and punctual observance and performance of the Lessee's obligations under this Lease.
- 8.1.2 If the Lessee fails duly and punctually to observe and perform its obligations under this Lease, then the Lessor may in its discretion at any time appropriate and apply so much of the deposit as it thinks necessary to compensate it for loss or damage sustained or suffered because of such breach by the Lessee. Any appropriation by the Lessor will not waive the Lessee's breach and will not prejudice any other right of the Lessor arising from such breach.
- 8.1.3 If the deposit or any part of it is appropriated by the Lessor, then within five (5) days after the date of any demand by the Lessor, the Lessee will reinstate the deposit by extending or renewing the Bank Guarantee for the amount appropriated.
- 8.1.4 At the expiration of the term of this Lease or any extension or holding-over period or on the earlier termination of this Lease, if the Lessee is not indebted or otherwise liable to the Lessor for non-observance or non-performance of the Lessee's obligations under this Lease, the Lessor will return to the Lessee the Bank Guarantee then held by the Lessor.
- 8.1.5 If the Lessor assigns or transfers its interest in the Premises, it may transfer to the assignee or transferee any Bank Guarantee then held by it and after doing so will be discharged from all liability to the Lessee or any other person with respect to the Bank Guarantee.

## REFERENCE SCHEDULE

Item 1 Premises	1252 South Road Clovelly Park SA 5042 Portion of the land C's T Volume 5123 folio 4132 and Volume 5226 Folio 232
Estate	Estate in Fee Simple
Item 3 Encumbrances	Nil
Item 4 Lessor	Bernard Ross Davies and Dianne Margaret Davies and Scott Bernard Davies all of C/- 192 Esplanade Brighton SA 5048
Item 5 Lessee	Elton Landscapes Pty Ltd A C N 609 544 550 Unit 4 58 Wheatland Street Seacliff SA 5049
Item 6 Term and Renewals	(a) A term of two (2) years and three (3) months commencing on 1 <sup>st</sup> July 2018 and expiring 30 <sup>th</sup> September 2020  (B) One (1) right of renewal for three (3) years.
Item 7 Rent and Manner of Payment	The rental for the first year shall be Twenty Five Thousand Dollars (\$25,000.00) plus GST if applicable. The rental is to be paid monthly always in advance in instalments equal to 1/12 of the annual Rental plus GST if applicable. Rent will commence on 1 <sup>st</sup> September 2018 The rental is to be paid in the manner as directed by the Lessor from time to time.
Item 7.2 Bank Guarantee	An irrevocable Bank Guarantee with no expiry date equivalent to Three (3) Months Rental plus outgoings plus GST Namely \$8,432.89 in favour of the Lessor to be provided prior to the commencement date.
Item 8 Consents	Refer to the consents panel of this Lease
Item 9 Land	Portion of the Land in Certificates of Title Volume 5123 Folio 413 and Volume 5226 Folio 232
Item 10 Permitted Use	Office, Warehouse and Storage for Landscaping business

Item 11  
Rent Review Dates

(a) Date: 1<sup>st</sup> July 2019

Being an increase according to CPI

(b) If renewed pursuant to Clause 4.9

Then 1<sup>st</sup> October 2020 a review to market rent

and if renewed pursuant to clause 4.9

Then 1<sup>st</sup> October 2021 an increase according to CPI

1<sup>st</sup> October 2022 and increase according to CPI

THIS DEED OF GUARANTEE AND INDEMNITY (hereinafter called "this guarantee") is made by the party or parties whose name and description is set forth in Item 1 of the Schedule hereto (hereinafter referred to as "the Guarantor") WHEREAS moneys are now owing to or that it is anticipated that moneys will from time to time become owing to the Lessor whose name and description is set forth in Item 2 of the Schedule hereto (hereinafter referred to as "the Lessor") by the other party named and described in Item 3 of the Schedule hereto (hereinafter called "the Lessee") AND WHEREAS the Lessor and the Lessee have entered into the Lease dated the (hereinafter called "the Lease")

NOW THIS DEED WITNESSESS:-

1. The Guarantor hereby-

(a) guarantees firstly payment to the Lessor of any moneys now owing or which hereafter may become owing to the Lessor by the Lessee on any account whatsoever and secondly to guarantee the performance and observance of all the covenants terms and conditions and obligations of the Lessee contained in any Lease or any other agreements heretofore or hereafter entered into between the Lessor and the Lessee;

(c) indemnifies and hereby covenants and agrees to keep indemnified the Lessor against all loss or damage whatsoever which the Lessor may suffer by reason of any failure by the Lessee in relation to its obligations under the Lease or any agreements heretofore or hereafter entered into between the Lessor and the Lessee.

2. The obligations undertaken by the Guarantor by execution hereof shall be by way of guarantee to the Lessor and in addition thereto and without any way abrogating therefrom by way of an indemnity to the Lessor
3. The Lessor shall be at liberty to exercise their rights either by way of the Guarantee or by way of the indemnity at their discretion or concurrently provided that they shall not recover more than the whole amount owing hereunder. If the Lessor is unsuccessful in enforcing their rights under the Guarantee contained herein they shall not thereby be precluded from proceeding to enforce their rights under the indemnity contained herein.
4. Before the Lessor shall be entitled to obtain payment under the Guarantee hereby given by the Guarantor they shall cause a demand for payment to be given to the Guarantor in the manner hereinafter provided. All moneys payable under the Guarantee hereby given shall become payable forthwith upon demand being served on the Guarantor.

5. It shall not be necessary for the demand referred to in the preceding paragraph to specify anything other than that default has been made by the Lessee.
6. The Lessor shall be entitled to enforce their rights by way of indemnity hereunder without giving any notice to the Guarantor.
7. Where the Lessor shall consist of more than one person or other legal entity or where there shall be more than one Guarantor under this and any other Guarantee and/or indemnity,
  - (a) their obligations shall be joint and several,
  - (b) none of them shall have their obligation hereunder discharged by reason only of:-
    - (i) it being discovered that any Guarantee is invalid or unenforceable as far as any other guarantor or guarantors is concerned,
    - (ii) the liability of any of them hereunder ceasing for any cause whatever including release or discharge by the Lessor or otherwise,
    - (iii) the death of any of them,
    - (iv) in the case of a corporation or corporations the winding up of any of them or the amalgamation or absorption of any of them with or by any other corporation,
    - (v) the incompetence of any of them to perform their obligations hereunder,
  - (c) any notice or demand given to any one such Guarantor shall be deemed to be given to all of them,
  - (d) if they become entitled by law to be subrogated to the rights of the Lessor against the Lessee or to any security held by the Lessor from the Lessee, the Lessor shall be entitled to assign such rights or security to any one or more of the Guarantors, and such assignments shall be deemed to be to all such persons or entities in the proportions to which they are entitled to them.
  - (e) the Lessor may enforce their rights hereunder against any one or of such Guarantors in such manner order and at such time as the Lessor at their absolute discretion may think fit, and the Lessor shall not be obliged to take identical actions against such Guarantors.
8. The liability of the Guarantor hereunder shall not be abrogated prejudiced limited or affected by the granting of time credit or any indulgence or concession to or composition with or release of the Lessee or any other person

whatsoever by the Lessor or by their compounding comprising or releasing discharging abandoning waiving varying relinquishing or renewing any security or right or by anything done by the Lessor in exercise of any of the limits powers authorities or discretions in any way vested in the Lessor or by any omission or neglect or by any other dealing matter or thing which but for this provision could or might or would operate to abrogate prejudice or affect the full legal effect hereof.

9. In the event of the bankruptcy or liquidation of the Lessee or of any Guarantor then no Guarantor will prove in such bankruptcy or liquidation in competition with the Lessor and each Guarantor hereby authorises the Lessor to prove for all moneys which any Guarantor has paid hereunder and to retain and to carry to a suspense account and appropriate at the discretion of the Lessor any amounts received until the Lessor shall with the aid thereof have been paid one hundred (100) cents in the dollar in respect of the indebtedness of the Lessee to the Lessor Each guarantor hereby waives in favour of the Lessor all rights whatever against the Lessor and any other Guarantor and any other person estate and assets so far as necessary to give effect to anything contained herein.
10. The Guarantee given hereby shall be a continuing guarantee and shall remain in full force and effect until it is revoked in the manner hereinafter provided and all obligations of the Lessee to the Lessor then in existence have ceased. If at any time there shall be no money owing by the Lessee to the Lessor nor any obligation of the Lessee to the Lessor the Guarantor may revoke this Guarantee and upon the service upon the Lessor of such revocation this Guarantee shall cease to have effect with respect to any transaction thereafter entered into between the Lessor and the Guarantor.
11. The Guarantor shall not be entitled to be subrogated to any right or security which the Lessor has in relation to the Lessee until the whole of the obligations including contingent or future obligations of the Lessee to the Lessor shall have been satisfied.
12. This Guarantee shall be in addition to and not in substitution for any security which the Lessor holds for the due performance of the obligations of the Lessee and may be enforced without the Lessor first having recourse to such security and without taking any steps or proceedings against the Lessee and be fully effective notwithstanding that for any reason action cannot be

taken or enforced against the Lessee.

13. Notwithstanding any liability under the security taken by the Lessor in respect of the obligations of the Guarantor hereunder or of the Lessee or of any other Guarantor under the agreement the Guarantor undertakes the liability to pay all moneys payable hereunder to the intent that such liability shall be in addition to any liability under the said securities and such liability shall not be merged with any other right of the Lessor.
14. The Liability of the Guarantor hereunder shall not be discharged in whole or in part by any payments if any such payment or any part thereof shall be subsequently set aside or avoided for any reason whatsoever.
15. For the purposes of this Guarantee any agreement entered into between the Lessor and the Lessee shall be deemed to be fully effectual as between the Lessor and the Lessee irrespective of whether it may in fact be of no effect by reason of the infancy or other incapacity of the Lessee to enter into the same or any other reason whatsoever.
16. Any notice of demand authorised or permitted to be given by the Guarantor under this Guarantee shall be in writing and may be signed by the person duly authorised by the Lessor and may be served by leaving the same at or posting the same in a pre-paid letter addressed to the Guarantor at the Guarantor's address stated in Item 1 of the Schedule hereto. Any such notice or demand posted (by priority post) as aforesaid shall be deemed to be served on the Guarantor on the day following the day of such postage and if left as aforesaid shall be deemed to have been served at the time of such leaving. In the case of there being more than one Guarantor a document served upon one only shall be deemed served on both or all.
17. All moneys payable to the Lessor hereunder shall be paid at the address of the Lessor set out in Item 2 of the Schedule hereto or at such other address in the said State as the Lessor may from time to time stipulate by notice in writing to the Guarantor.
18. Any promissory note negotiable instrument or bank order taken by the Lessor or any moneys secured hereby shall be regarded as collateral only and notwithstanding discounting or negotiations shall not be deemed payment until made nor shall the Lessor's rights and powers be affected by any such receipt. Payment by cheque shall be deemed not to have been made until such cheque is honoured.



19. A statement in writing made up from the books of the Lessor and signed by the person duly authorised by the Lessor of the amount due or owing by the Lessee or any guarantor at the date mentioned in such statement shall be prima facie evidence that such amount is due or owing by such Lessee or Guarantor and of all matters therein set forth.
20. Nothing done or omitted to be done by the Lessor shall operate as a waiver of the Lessor's rights except to the extent indicated by the Lessor in writing whether with respect to a continuing recurrent or subsequent breach by the Guarantor or otherwise.
21. This Guarantee and the obligations duties powers rights and privileges of the Guarantor and the Lessor created and given hereby are subject in all respects to the provisions of every Act of the Parliament of Australia or the said State in force in the said State at any time during the continuance of this Guarantee. In the event that any provision or provisions of this Guarantee shall remain in full force and the effect except only to the extent of such invalidity and this Guarantee shall be deemed to have been amended so as to comply in all respects with any such Act. In the further event that any right or privilege of the Lessor created hereunder shall at any time be exercisable only upon compliance with the provisions of such Act notwithstanding that the same shall be inconsistent with the provisions of this Guarantee which (except only to the extent of the inconsistency) shall remain in full force and effects in all respects.
22. The Guarantor hereby agrees to pay-
  - (a) all costs of the preparation and execution of this Guarantee and all stamp duty of and incidental thereto and to the transaction evidenced thereby,
  - (b) all costs and expenses incurred in the enforcement or attempted enforcement of this Guarantee.
23. In this Guarantee unless the context shall otherwise require:-  
 "Act" shall mean and include any Act Ordinance Regulation Order Proclamation or any other Statutory provision.  
 "Guarantor" shall mean and include the respective executors and administrators and permitted assigns of the Guarantor and where the Guarantor consists of more than one person of each such person where the Guarantor is or includes a Corporation the term

"the Guarantor" shall include the successors assigns of any such Corporation.

Words importing the singular number or plural numbers shall include the plural numbers and singular number respectively.

Words importing the masculine gender shall include the feminine gender and shall also have application to bodies corporate of every nature.

24. (a) The Laws of the State of South Australia shall apply to this Guarantee.  
(b) Any proceedings in respect of any cause of action arising hereunder shall at the option of the Lessor be instituted heard and determined in a Court of competent jurisdiction in the capital city of the said State and such Court shall possess territorial jurisdiction to hear and determine such proceedings.

25. This Guarantee is collateral to and secures payment of the same moneys as are payable under any agreement now or hereafter entered into between the Lessor and the Lessee.

The Guarantor acknowledges having received a copy of this Deed.

THE SCHEDULE

1. NAME AND DETAILS OF THE GUARANTOR  
**MARTIN BRUCE ELTON**  
**UNIT 4 58 WHEATLAND STREET SEACLIFF SA 5049**
  
2. NAME AND DETAILS OF THE LESSOR  
**BERNARD ROSS DAVIES AND DIANNE MARGARET DAVIES AND**  
**SCOTT BERNARD DAVIES OF C/- Commercial SA**  
**P O Box 2138 Adelaide SA 5001**
  
3. NAME AND DETAILS OF THE LESSEE  
**ELTON LANDSCAPES PTY LTD A C N 609 554 550**  
**UNIT 4 58 WHAETLAND STREET SEACLIFF SA 5049**

DATED the                      day of

SIGNED SEALED AND DELIVERED  
 by the said **MARTIN BRUCE ELTON**



in the presence of :



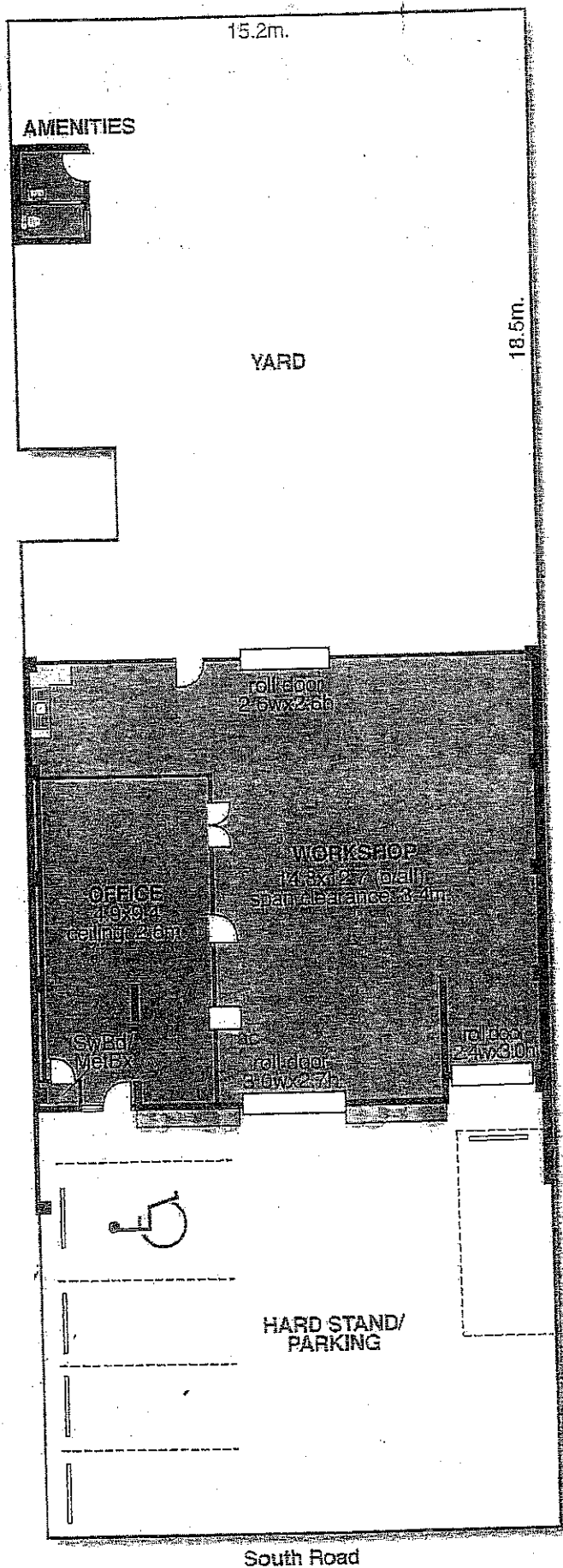
**WITNESS**

Print Name: **MARTIN BRUCE ELTON**

Address: **UNIT 1, 195 VICTORIA SQ ADELAIDE**

Occupation: **REAL ESTATE**

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## Commercial

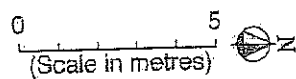
1252 South Road, Clovelly Park

### ESTIMATED GROSS LETTABLE AREA

□ Workshop	143 sq. metres
□ Office	53 sq. metres
■ Amenities	7 sq. metres

Total Gross L.A.	203 sq. metres
Site (approx.)	657 sq. metres

Complies with the PCA Method of Measurement





**CONSENTS OF MORTGAGEES AND SECTION 32 DEVELOPMENT ACT CERTIFICATION**

This lease does not contravene Section 32 of the Development Act 1993

DATED THE 12<sup>th</sup> DAY OF July 2018

**THE LESSOR DOES NOT WARRANT THAT THE PREMISES YOU ARE ABOUT TO LEASE WILL, FOR THE DURATION OF YOUR LEASE, BE STRUCTURALLY SUITABLE FOR THE TYPE OF BUSINESS THAT YOU INTEND TO CARRY ON**

**EXECUTION**

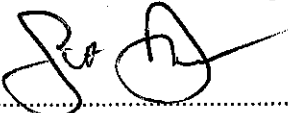
**LESSOR**



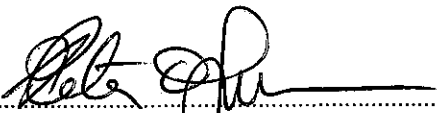
Signature of LESSOR Bernard Ross Davies



Signature of LESSOR Diane Margaret Davies



Signature of LESSOR Scott Bernard Davies



Signature of WITNESS - Signed in my presence by the LESSOR who is either personally known to me or has satisfied me as to his or her identity.\*

PETER DAVID SCOTT SMITH

Print Full Name of Witness

9 CYGNET CT

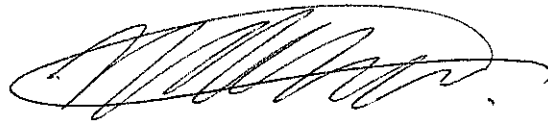
GURNELG NORTH SA 5075

Address of Witness

Business Hours Telephone Number..... 0414 841 825

**LESSEE**

Signed in accordance with the Constitution of Elton Landscapes Pty Ltd and pursuant to Sect 127(1) of the Corporations Act



Martin Bruce Elton

Sole Director and Sole Secretary

LANDS TITLES REGISTRATION  
OFFICE  
SOUTH AUSTRALIA

**MEMORANDUM OF LEASE**

FORM APPROVED BY THE REGISTRAR-GENERAL

**BELOW THIS LINE FOR OFFICE &  
STAMP DUTY PURPOSES ONLY**

Prefix
<b>L</b>
Series No.

**BELOW THIS LINE FOR AGENT USE ONLY**

CERTIFIED CORRECT FOR THE PURPOSES  
OF THE REAL PROPERTY ACT 1886

\_\_\_\_\_  
Registered Conveyancer  
Cornelis Vermey  
(Ref: C7876)

AGENT CODE

Lodged by:

Correction to:

ATZ1

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH  
INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

- 1.....
- 2.....
- 3.....
- 4.....

PLEASE ISSUE NEW CERTIFICATE(S) OF TITLE AS FOLLOWS

- 1.....
- 2.....
- 3.....
- 4.....

**DELIVERY INSTRUCTIONS** (Agent to complete)  
PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE  
UNDERMENTIONED AGENT(S)

ITEM(S)	AGENT CODE

RevenueSA – Stamp Duty – ABN 19 040 349 865 ©

RevNetID/PRA Bundle No: \_\_\_\_\_

Orig/Copy \_\_\_\_\_ of/ with \_\_\_\_\_ copies

Consideration/Value/Security: \$ \_\_\_\_\_

SA Proportion (if applicable): \$ \_\_\_\_\_

SD: \$ \_\_\_\_\_ LTO Fees: \$ \_\_\_\_\_

Int: \$ \_\_\_\_\_ Pen/Add Tax: \$ \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

CORRECTION	PASSED
REGISTERED	
REGISTRAR-GENERAL	