

COMMERCIAL LEASE AGREEMENT

(where the Lease is for a Term of 3 years or less)

(Note: Where there is insufficient space in any Item place details in an Annexure and refer to the Annexure in the Item - e.g. 'Refer Additional Expenses Annexure')

Item

Item Schedule

1. PREMISES

Clause 1(13)

Address: **1/17 Middle Street, Cleveland QLD 4163**

Description: **Commercial Office Space**

(e.g. as shown on attached diagram)

Lot No.: **1** on Plan: **BUP100568** Title Reference: Area of Premises: **55** m² (approx.)

2. DATE OF AGREEMENT

THE **1st** DAY OF **July** 20 **17**

3. LANDLORD

Name: **Fernyard Pty Ltd ATF Health Care Centre Staff Superannuation Fund**

Address: **C/- Howe Ford & Boxer PO Box 24, Cleveland QLD 4163**

ABN: **36 571 472 283**

Phone: **(07) 3286 2189**

Mobile: **0448 849 879**

Email: **froelichclinic@gmail.com**

4. TENANT/S

Name: **Fernyard 2 Pty Ltd Atf Froelich Family Trust**

DOB:

Address: **1/17 Middle Street, Cleveland QLD 4163**

ABN: **24 903 286 024**

Phone: **(07) 3286 2189**

Mobile: **0448 849 879**

Email: **froelichclinic@gmail.com**

5. GUARANTOR/S

Clause 32

(1) Name:

Address:

ABN:

Phone:

Mobile:

Email:

(2) Name:

Address:

ABN:

Phone:

Mobile:

Email:

6. TERM

Clauses 1(12) and 4.1

Lease Commencement Date: **01 / 07 / 2017** Lease End Date: **30 / 06 / 2020**

Lease Term: **3 Years**

7. RENT

Clauses 1(8), 5 and 24

Annual Rent year one: **\$21,600.00** including / excluding / plus GST.

Monthly Rent: **\$1,800.00** including / excluding / plus GST payable in advance on the: **First day of the month**

Rent Review Basis: **GPI / Current Market Rent / Other** (if other, see Special Conditions)

Date of Initial Rent Review: **Fixed rent price for the first 3 years**

And thereafter: **CPI on takeup of option** (e.g. annually)

Payable to: **Fernyard P/L as Trustee for the Health Care Centre Staff Superannuation Fund**

Bank / Building Society

Bank: **ANZ**

Branch: **Cleveland**

BSB: **0 | 1 | 4 | 2 | 3 | 1**

Account Name: **As Above Payable To;**

Account Number: **2 | 5 | 4 | 3 | 0 | 5 | 0 | 0 | 7**

8. OPTION TO RENEW*Clauses 6 and 29.2*

(Note: it is recommended that the Tenant obtain professional legal advice regarding registration of a lease containing an option to renew)

8.1 Option to renew given: ☒ Yes ☐ No

8.2 Option Details: (1) Term: **2 x 3 year options**

(2) Rental Year one: Tick **ONE** only

☐ Current Market Rent (see Clause 6.4)

☒ Other (insert as a Special Condition)

8.3 Period in which to exercise the option: (if no period is specified, notice shall be given no more than 6 and no less than 3 months from the date of expiry of the term)

No more than 6 months and no less than 3 months from the date of expiry of the term

9. PERMITTED USE*Clause 7*

Health Centre

10. DEPOSIT / SECURITY BOND*Clauses 1(15), 3 and 19*

10.1 Deposit: **Nil** **excluding / including GST**
(Payable on signing of Agreement, by Tenant)

10.2 Security Bond:

11. LANDLORD'S LETTING AGENT *The Landlord's Letting Agent is not responsible for this Agreement after signing. Clauses 22 and 23*

Name: **K B One Pty Ltd T/as R & W Springwood**

ABN: **35062056820**

Address: **2 & 3/8 Dennis Road, Springwood QLD 4127**

12. LANDLORD'S MANAGING AGENT (if applicable)*Clause 22*

Name:

Address:

ABN: Phone: Mobile:

Email:

13. LANDLORD'S OUTGOINGS*Clauses 1(11) and 9.1(4)*

Payable by Tenant: ☒ Yes ☐ No

Payable: **weekly / fortnightly / monthly** in advance on the: **on the first day of the month**

Tenant's proportion / percentage: **100%**

(see attached Outgoings Schedule if applicable)

14. CAR PARKS

Provided: ☒ Yes ☐ No Number allocated: **one** Licence Agreement: ☐ Yes ☒ No

Description (car park location): **Eastern side at clinic rear**

15. INSURANCE*Clause 20*

Public Liability (including product liability) cover: **\$20,000,000.00**

Additional requirements:

16. INTEREST ON UNPAID MONIES*Clause 26*

(1) Rate: (if left blank, Item 16(2) is applicable)

(2) Queensland Law Society Inc Standard Contract Default Interest Rate

17. SPECIAL CONDITIONS

Clause 29.1

The Special Conditions are inserted under instruction from a party to this Agreement and where not prepared by that party, were prepared by an Australian Legal Practitioner and not the Agent (Letting Agent or Managing Agent). No legal advice has been given or warranty provided by the Agent (Letting Agent or Managing Agent). Legal advice should be sought.

- 1) Annual rent to be reviewed by way of CPI on the take up of options.
- 2a) Outgoings shall be paid in the amount of 100% for the term of the lease and any take up of option. Current review figures are \$6,537.38, which is a breakdown of body corporate levies \$4,072.00pa & council rates of \$2,465.38pa.
- 2b) All outgoing are subject to annual review, due to Council rates & body corporate fees increasing or decreasing annually.
- 3) Conclusion of the tenancy; the tenant agrees at the conclusion of the tenancy, at the tenants expense, to;
 - A) Make good any modifacations made to the building and return the premises to the original condition, the tenancy as at the commencement of the lease, fair wear & tear accepted or as otherwise agreed upon in writting by the Lessor and Lessee.
 - B) Remove and make good all external signage to the demised premises or as otherwise agreed upon in writting by the Lessor and the Lessee .
- 4) Representations and general matters;
 - A) The Lessee acknowledges and accepts the condition of the demised tenancy and agrees with the Lessor to make necessary repairs or upgrades at their own expense, with written consent of the Lessor.
 - B) The Lessee acknowledges that no promise, representation, warranty or undertaking has been given by or on behalf of the Lessor in respect to the suitability of the demised premises for any purpose or for an business to be carried on therein. It is the Lessee's respobsibility to obtain any statutory of government consents and approvals required (if any) with respect to the proposed use of the premise.
 - C) As to the finished facilities and amenities of the demised premises, no warranties are provided.
 - D) The Lessee agrees to return to the Lessor, this tenancy agreement appropriatley executed within 14 business day of it's receipt.
 - E) The Lessor retains the ownership of all fixtures, fittings, plant and equipment installed by the Lessor in the demised premises.
- 5) Refuse; The tenant (at the tenant expense) is to make its own arrangements in respect to rubbish removal during the course of the tenancy and abiding by all by-laws, governing bodies& EPA requirements.
- 6) Fire Extinguishers; It is the Lessee's responsibility to ensure the have adequate fire fighting equipment for the use and size of the premises and to keep all equipment serviced on a regular six monthly basis and provide for safe keeping all service reports.
- 7) The tenant at the tenant's expense will maintain all power & lighting fixtures in a safe state of repair & in full working condition. Also ensure the all door & window catches, handles and locking devices are maintained in full working order at all times.
- 8) The tenant is responsible for internal pest control within the premises.
- 9)The tenant must advise the Lessor, in writting whether they decide to continue to lease or vacate the property at the end of this 3 year first term agreement, no less than 3 months prior to the end of the 3 year term of their decision to remain or vacate the premises.
- 10) The tenant acknowledges that the air conditioning installed in the demised premises is the property of the Lessor and that the tenant will use same with reasonable care. The tenant shall be responsible for the maintenance, operating costs & repair of the air conditioning system. The tenant hereby agrees to take out & maintain an air conditioning maintenance agreement with a reputable, licenced contractor and be responsible for the cost of such maintenance. In the vent that any capital works/expense are to be undertaken the tenant will be responisble for the cost of such replacement units.

18. SIGNATURES

WARNING: By signing this Agreement the parties confirm that no legal advice as to the conditions contained herein was provided by an Agent (Letting Agent or Managing Agent). The parties have been advised to seek legal advice with respect to this Agreement.

Landlord:	Witness:
Tenant(s):	Witness(es):

Guarantor(s):	Witness:

Terms and Conditions

1. Definitions

In this Schedule the following mean:

- (1) **Agreement:** this Commercial Lease Agreement consisting of the Item Schedule, the Terms and Conditions and any additional schedules and special conditions that may be attached.
- (2) **Business Day:** Any day other than a Saturday, Sunday or public holiday in the State of Queensland.
- (3) **Commercial Building:** means the building or buildings used for carrying on commercial activities of which the Premises are a part.
- (4) **Consumer Price Index (CPI):** is the Consumer Price Index (All Groups Index) for Brisbane as published by the Australian Statistician.
- (5) **Electronic Document:** means any electronic communication (including Notices) as defined in the *Electronic Transactions (Queensland) Act 2001* including any electronically generated document situated on an external server readily accessible via a link within an electronic communication or other electronically generated document.
- (6) **Externally-administered Body Corporate:** a body corporate with the characteristics listed in Section 9 of the *Corporations Act 2001*.
- (7) **GST:** has the same meaning used in the *A New Tax System (Goods and Services Tax) Act 1999* and "GST" includes any applicable rulings issued by the Commissioner of Taxation.
- (8) **Initial Rent Review Date:** the initial date the rental amount charged to the Tenant is reviewed (as provided in Item 7).
- (9) **Item:** means items detailed in the Item Schedule of this Agreement.
- (10) **Land:** the Land upon which the Commercial Building is constructed.
- (11) **Landlord's Outgoings:** expenses incurred by the Landlord with respect to the Land and Commercial Building including:
 - (a) all government and local government rates and charges including water and sewerage rates, general rates and fire levy;
 - (b) periodic charges such as insurance premiums;
 - (c) repair, maintenance and painting (excluding structural matters and major repairs); and
 - (d) body corporate fees and levies payable by the Landlord in respect to the Premises.
- (12) **Lease Term:** the period of time set out in Item 6.
- (13) **Premises:** the premises referred to in Item 1.
- (14) **Related Document:** means any written communication (including Notices) with regard to this matter between the parties, including any Electronic Documents.
- (15) **Security Bond:** a cash bond or bank guarantee in the amount as set out in Item 10 adjusted annually in accordance with rental increases.
- (16) **Security Interest:** has the meaning given it in accordance with Section 12 of the *Personal Property Securities Act 2009 (Cth)*.
- (17) **Tenant's Chattels:** The Tenant's items of personal property.
- (18) **Valuer:** a Valuer registered with the Valuer's Registration Board in accordance with the provisions of the *Valuers Registration Act 1992*.

2. Interpretation

In this Agreement, unless the contrary intention appears:

- (1) the singular includes the plural and vice versa;
- (2) 'person' includes a firm, a body corporate;

- (3) an agreement, representation or warranty:
 - (a) in favour of two or more persons is for the benefit of them jointly and severally; and
 - (b) on the part of two or more persons binds them jointly and severally;
- (4) a reference to:
 - (a) an item number is a reference to an item in the Item Schedule;
 - (b) a person includes the person's executors, administrators, successors and assigns;
 - (c) a document includes any variation to that document; and
 - (d) any law includes all regulations and other instruments under it and amendments or replacements of any of them;
- (5) the Item Schedule and any attached addendum pages and annexures shall form part of this Agreement;
- (6) any party signing as trustee contracts personally and as trustee; and
- (7) headings do not form part of this Agreement.

3. Deposit

- 3.1 The Tenant must pay the Deposit as required in Item 10.1 as directed by the Landlord and in the case of no specific direction, to the Landlord's Managing Agent.
- 3.2 Where the Tenant has paid a deposit on signing an Offer to Lease for the Premises, such deposit will be credited to the Deposit required under Item 10.1.
- 3.3 The Deposit is to be applied against Rent at the commencement of the Lease Term.

4. Holding Over

- 4.1 At the Lease End Date stated in Item 6 the Tenant may continue but only with the Landlord's prior written consent, to occupy the Premises and shall do so as a monthly Tenant subject to the provisions of this Agreement.
- 4.2 A monthly tenancy may be terminated by either party giving to the other, not less than one month's notice.

5. Rent

- 5.1 The Tenant agrees to pay the Rent monthly in advance as directed by the Landlord at the time specified in Item 7.
- 5.2 Rent for any broken period of less than a month will be apportioned on a daily basis.
- 5.3 Rent will be reviewed in accordance with Item 7.
- 5.4 If specified in Item 7 the Rent amount is to be reviewed in accordance with the CPI then the Rent shall be adjusted in accordance with the following formula:
$$R = A \times \frac{B}{C}$$
Where:
 - R** represents the CPI adjusted Rent.
 - A** is the Rent payable immediately prior to the Review Date.
 - B** is the CPI for the quarter immediately prior to the relevant Review Date in Item 7.
 - C** is the CPI published for the quarter ending one year prior to the quarter in **B**.
- 5.5 If the CPI is suspended or discontinued, the Index used for the formula in Clause 5.4 will be that which is substituted by the Australian Statistician.
- 5.6 If specified in Item 7 that the Rent amount is to be reviewed in accordance with Current Market Rent:

- (1) the Landlord may at any time not less than thirty (30) days prior to the date stated in Item 7 (Initial Rent Review Date) give written notice to the Tenant of the amount of Rent the Landlord believes is the Current Market Rent for the Premises as at the Initial Rent Review Date;
- (2) if the Landlord does not give written notice in accordance with Clause 5.6(1) in respect of the Initial Rent Review Date, the Rent payable for the lease year commencing from that Initial Rent Review Date will be calculated in accordance with Clause 5.4;

- (3) if the Landlord gives written notice in accordance with Clause 5.6(1), the Tenant may give written notice to the Landlord within twenty-one (21) days of receipt of the Landlord's notice disputing the Landlord's assessment of the Current Market Rent;
- (4) if the Tenant does not give notice in accordance with Clause 5.6(3), the amount set out in the Landlord's notice will be the Rent payable from the Initial Rent Review Date;
- (5) if the Tenant gives notice in accordance with Clause 5.6(3), the Current Market Rent will be determined by an independent Valuer appointed by the parties or failing agreement, nominated by the President for the time being of the Australian Property Institute (Queensland Division) on the Application of the Landlord or Tenant;
- (6) the Valuer will determine the Current Market Rent of the Premises assuming:
 - (a) that the Tenant has complied with all obligations including those relating to repair and decoration imposed by this Agreement;
 - (b) that the lease covenants continue other than for quantum of Rent; and/or
 - (c) any improvements made to the Premises by the Tenant had not been made;
- (7) in any case, Current Market Rent or other, the Rent shall not be less than the rental charged at the expiration of the prior term;
- (8) once determined, the rental will be payable from the Initial Rent Review Date; and
- (9) the Landlord and the Tenant shall equally share any costs incurred relating to a rental determination under Clause 5.6.

6. Option/s to extend Lease Period

- 6.1 If an option to extend the Lease Term of the Agreement is given in accordance with Item 8 the Tenant must exercise the option in writing in accordance with the exercise period in Item 8.
- 6.2 An option to extend the Lease Term of the Agreement shall only be granted by the Landlord if the Tenant has complied with the Terms of this Agreement such that there is no existing or unremedied breach or default at the date of exercise of the option.
- 6.3 Upon the Tenant complying with Clause 6.1 and 6.2, the Landlord will grant a further lease of the Premises to the Tenant on the same Terms as this Agreement subject to Clause 6.4, excluding Item 8 and this Clause and otherwise varying Item 6 as to the Lease Commencement and Lease End Date.
- 6.4 Rental for the further term will be:
 - (1) as agreed between the parties;
 Or failing agreement:
 - (2) as provided in Item 8.2
 Provided however, where the rental is to be determined by Current Market Rent, it will be determined in accordance with the provisions of Clause 5.6 provided in such case the initial Rent Review Date will be 60 days prior to the expiry of the then current term and the Rent determined will be payable from the commencement date of the new term.

7. Tenant's permitted use of the Premises

- 7.1 The use of the Premises, by the Tenant, shall be for the Permitted Use (Item 9) only.
- 7.2 The Tenant must obtain all the necessary approvals from any statutory, public or other competent authorities regarding the use of the Premises.
- 7.3 The Tenant and/or the Tenant's employees must not:
 - (1) erect, paint, write or attach any sign upon any part of the Premises without first having written approval from the Landlord and where necessary, the relevant authorities;
 or

- (2) install any equipment in the Premises that may overload any Services; or
- (3) carry on any illegal activities or activities which could interfere with the rights of other tenants; or
- (4) do or neglect to do anything to or upon the Premises which may make void or increase the premium of any insurance on the Premises or any property in them; or
- (5) not to operate audio equipment at a volume that can be heard external to the Premises; or
- (6) erect any signage on the exterior of the Premises without the Landlord's consent; or
- (7) carry out an auction on the Premises; or
- (8) use any chemicals, burning fluids, volatile or explosive substances except in the normal course of the Tenant's business permitted under this Agreement; or
- (9) except in the case of emergency, interfere with any fittings, fixtures or services including air conditioning or fire equipment without first obtaining the Landlord's consent.

8. Building Works and Other Alterations

- 8.1 The Tenant must not carry out any building works and alterations to the Premises without:
 - (1) submitting to the Landlord the necessary specifications and plans for the proposed works; and
 - (2) obtaining written approval from the Landlord (and if required from the local authorities).
- 8.2 Once approved by the Landlord the Tenant must:
 - (1) make payments of all costs relating to obtaining approvals, installation, operation and removal of equipment, fixtures, fittings or machinery and any other costs associated with such building works;
 - (2) obtain and provide a copy to the Landlord of all required permits and approvals necessary to enable the proposed works to be lawfully executed; and
 - (3) ensure the works are carried out in a proper and workmanlike manner and approved by the local council or other relevant authorities and in accordance with the Landlord's directions.

9. Tenant's Responsibilities

- 9.1 The Tenant will:
 - (1) maintain the Premises and all fixtures and fittings in a reasonable state of repair without damage or loss (fair wear and tear excepted);
 - (2) keep the Premises and immediate surrounds clean and tidy;
 - (3) make repairs in respect to damage caused by the Tenant;
 - (4) on receipt of notice pay to the Landlord the Landlord's Outgoings in accordance with Item 13 no later than the due date specified in the Schedule;
 - (5) carry out works on the Premises in accordance with notice given by the Landlord under Clause 11.2(3);
 - (6) pay all taxes, levies, fees or duties in relation to this Agreement when due;
 - (7) at all times in its use of the Premises, comply with the requirements of the *Building Fire Safety Regulation 2008*, the Queensland Fire and Emergency Service and the laws and regulations for the time being in force relating to fire safety requirements and the Landlord's reasonable requirements for fire safety and fire drills;
 - (8) not do or omit to do anything as a result of which the Landlord may become liable to pay any penalty or expense with respect to any statute, regulation, by-law, requirement or notice; and
 - (9) ensure where a product, fixture or fitting provided with the Premises has a warning label or safety instructions attached such label or instruction is not defaced, damaged or removed.

- 9.2 At the end of the lease the Tenant must vacate the Premises and:
- (1) remove all Tenant's Chattels;
 - (2) remove all Tenant's fittings and fixtures as directed or required by the Landlord;
 - (3) repair any damage caused by the removal of chattels, fixtures and fittings as provided for in Clauses 9.2(1) and 9.2(2);
 - (4) leave the Premises including fixtures and fittings in a clean and reasonable state of repair; and
 - (5) return all keys and other devices and codes for access to or as directed by the Landlord.
- 9.3 If the Tenant fails to remove the Tenant's Chattels as required by Clause 9.2 the Landlord may:
- (1) remove and store the Tenant's Chattels at the Tenant's risk and expense; or
 - (2) treat the Tenant's Chattels as if the Tenant had abandoned its interest in it and the Tenant's Chattels has become the Landlord's property and may deal with it as the Landlord thinks fit without being liable to account to the Tenant.
- 9.4 After Termination or the expiry of the lease the Tenant remains liable for payments in respect of periods prior to such Termination or expiry.
- 10. Quiet Enjoyment**
The Tenant performing its obligations under this Agreement may use the Premises without interruption or disturbance from the Landlord or persons claiming through or under the Landlord.
- 11. Landlord's Rights and Responsibilities**
- 11.1 On delivery of possession of the Premises the Landlord will ensure the Premises:
- (1) are clean, safe and fit to occupy;
 - (2) comply with state and local building regulations; and
 - (3) have, where required under the *Work Health and Safety Regulation 2011 (Qld)*, a current asbestos register and asbestos management plan.
- 11.2 It is the Landlord's responsibility to:
- (1) promptly carry out repairs of a structural nature;
 - (2) maintain services for the Premises including services used in common with the Landlord and other Tenants; and
 - (3) serve upon the Tenant written notice of any defect, requiring the Tenant to make repairs in accordance with any covenant expressed or implied in this Agreement.
- 11.3 On the giving of 2 days notice to the Tenant, the Landlord may at reasonable times enter the Premises for the purposes of:
- (1) inspecting the Premises; or
 - (2) viewing the state of repair of the Premises; or
 - (3) performing any building and other repair work in accordance with Clause 11.2(1) and 11.2(2) or those works that the Tenant has failed to complete in accordance with Clause 9.1(5); or
 - (4) carrying out requirements of public authorities, and repairs under the Lease; or
 - (5) in the case of a proposed sale or reletting of the Premises:
 - (a) showing the Premises to prospective purchasers or tenants; and/or
 - (b) erecting sale or lease signage at the Premises.
- 11.4 The Landlord may in cases of emergency enter the Premises without first giving notice to the Tenant.
- 11.5 Where particulars of the Land are registered in the contaminated land register give notice to the Tenant in accordance with section 407 of the *Environmental Protection Act 1994*.
- 11.6 If the Tenant fails to carry out any of its obligations hereunder the Landlord may after giving notice in accordance with Section 124 of the *Property Law Act 1974* rectify such breach and recover any expenditure from the Tenant.
- 12. Damage or Destruction**
- 12.1 Where the Premises becomes wholly or partially unfit for the Tenant to occupy due to damage or destruction, not caused by the Tenant or the Tenant's employees, the Landlord will adjust the Rent and other amounts payable by the Tenant in accordance with the degree of damage or destruction until the Premises are restored and made fit for the Tenant to occupy.
- 12.2 The Landlord is not required to restore the Premises. However should the Landlord not notify the Tenant of its intention to restore the Premises within one month of the date of damage or destruction either party may give one month's notice terminating the Tenancy.
- 12.3 Termination under this Clause is without prejudice to the rights of either party for any antecedent breach or non observance of any provision of this Agreement.
- 12.4 Should the damage or destruction have been caused or contributed to by the Tenant or its employees or should the Tenant or Tenants employee's actions result in the Landlord's insurer refusing to indemnify, Clause 12.1 and 12.2 will not apply, in so far as they relate to the Tenant.
- 12.5 Any dispute under this Clause will be determined by an independent Valuer appointed by the president of the Australian Property Institute (Queensland Division) at the request of either the Landlord or the Tenant. The Valuer will act as an expert and not an arbitrator; his determination will be final and binding.
- 12.6 The costs of the dispute will, unless otherwise determined by the Valuer, be paid equally by the parties.
- 13. Assignment or Subletting**
- 13.1 The Tenant will not assign or sublet without the Landlord's consent.
- 13.2 The Landlord will not, in the case of suitable assigns, unreasonably refuse to grant the Tenant's requests where the Tenant is not in default.
- 13.3 The Tenant will pay the Landlord's costs in relation to any assignment or subletting.
- 13.4 The Tenant shall provide:
- (1) references from the proposed tenant; and
 - (2) written agreement from the proposed tenant agreeing to comply with the terms of this Agreement.
- 14. Dealings**
The Tenant is not entitled to deal with the lease or other assets of the business on, in or from the leased Premises by way of security or by way of creating a Security Interest, without first having obtained the Landlord's consent, which consent, is at the sole discretion of the Landlord and may be granted upon such terms and conditions as the Landlord considers reasonable.
- 15. Personal Property Securities**
- 15.1 Security Interest notification
The Tenant must notify the Landlord on or before the Commencement Date if any of the personal property owned or used by the Tenant which will be either located in the Premises or relevant to this Agreement is subject to any Security Interest.
- 15.2 Exclusion of *Personal Property Securities Act 2009 (Cth)* (PPS Act) provisions.
To the extent the law permits:
- (1) the Tenant waives its rights to receive notifications, verifications, statements, disclosures, proposals and any other documentation specified under sections 95, 118, 121(4), 130, 132(3)(d), 132(4), 135 and 157 of the PPS Act; and

- (2) the Landlord and the Tenant agree that sections 96, 125, 129, 142 and 143 of the PPS Act do not apply to this Agreement.

16. Registration and Release of Security Interest

- 16.1 Where registration or release of a Security Interest is required each party will do all things reasonably necessary to facilitate such registration or release.
- 16.2 The Tenant agrees the Landlord may register a Security Interest over any of the personal property (including Security Bond) owned or used by the Tenant which is either located in the Premises or relevant to this Agreement.
- 16.3 The Tenant having complied with its obligations under the Agreement and not being otherwise in default the Landlord will release any Security Interest over the Tenant's personal property at the end of the Lease Term or any extension of the Lease Term.

17. Indemnity

- 17.1 The Tenant indemnifies the Landlord from and against all claims, demands, losses, damages and expenses including legal actions the Landlord may sustain or become liable for during or after this agreement arising from:
- (1) neglect or default by the Tenant or Tenant's employees or any person for whom the Tenant is legally responsible; or
 - (2) the Tenant's failure to give notice of service defects; or
 - (3) damage to person or property caused or contributed to by the Tenant or Tenant's employees; or
 - (4) anything the Landlord is permitted or required to do under this Agreement unless the claim has arisen due to the negligence of the Landlord or its employees or contractors; or
 - (5) a warning label or safety instructions having been removed, damaged or defaced where a product or fitting has been supplied to the Premises with such a label or instruction attached.
- 17.2 By signing this Agreement the Tenant for itself and its employees agrees that use and occupancy of the Premises will be at the Tenant's own risk.

18. Tenant's Default

- 18.1 The following events are considered an act of default by the Tenant:
- (1) the Tenant's failure to pay the Rent Amount within 7 days of the due date or any other monies payable under this Agreement when due; or
 - (2) repairs required by any notice under Clause 9.1(5) are not carried out by the Tenant within the time specified in the notice; or
 - (3) The Tenant fails to remedy any breach of its covenants or obligations under this Agreement within a reasonable time, 7 days, after receiving written notice from the Landlord specifying the particular breach and requiring the Tenant to remedy the breach; or
 - (4) The Tenant becomes bankrupt or assigns its property for the benefit of creditors; or
 - (5) The Tenant becomes an externally-administered body corporate within the meaning of the Corporations Law.
- 18.2 If the Tenant defaults under this Agreement, subject to giving any prior demand or notice required by any law, the Landlord may, without limiting other remedies, including action for damages and/or specific performance:
- (1) re-enter and take possession of the Premises (by force if necessary) and eject the Tenant and all other persons and this Agreement will terminate; or
 - (2) by notice to the Tenant, terminate this Agreement from the date of giving the notice; and/or
 - (3) claim the loss, if any, incurred by the Landlord.

19. Security Bond

- 19.1 If a requirement for a Security Bond is provided for in Item 10.2, for the purpose of securing the performance by the Tenant of its obligations under this Agreement, the Tenant must:
- (1) lodge with the Landlord a cash deposit; or
 - (2) arrange for the issue of an unconditional bank guarantee, in favour of the Landlord which does not have an expiry date.
- 19.2 On the sale or the transfer of the Premises the Landlord may assign its right with respect to the Security Bond to the purchaser and upon notifying the Tenant the Landlord will be released from all obligations in relation to the Security Bond. Where the Security Bond is not assignable, the Tenant will cause a replacement guarantee to be issued in favour of the purchaser the reasonable costs of which will be met by the Landlord. Where a replacement Security Bond has been issued the original must be released to the Tenant.
- 19.3 The Landlord may apply the Tenant's Security Bond towards compensation for any loss or damage incurred or sustained by the Landlord due to the Tenant's failure to comply with any of its obligations under this Agreement.
- 19.4 The Landlord's exercise of its rights with respect to the Security Bond does not prejudice any other rights of the Landlord arising from a breach of the terms of the Agreement.
- 19.5 The Landlord will as soon as practicable after the end of the Lease Term or any extension of the Lease Term cause to be released, subject to any unsatisfied claim under Clause 19.3, the Security Bond to the Tenant.

20. Tenant's Insurance

Throughout the Lease Term the Tenant must:

- (1) obtain and maintain insurance policies in its name and noting the Landlord's interest required to cover all stock, furnishings and plant and equipment, including fixtures and improvements owned or installed by the Tenant in the Premises, against loss or damage including fire with standard extension coverage for not less than 90% replacement cost;
- (2) have the following insurances:
 - (a) legal/public liability insurance cover for a minimum of 10 million dollars; and
 - (b) plate glass insurance against all risks specified by the Landlord;
- (3) ensure that all current insurance policies or those required by the Tenant under this Agreement:
 - (a) have been approved by the Landlord; and
 - (b) cover the agreed risks in accordance with Item 15 and contain conditions acceptable to the Landlord and the Landlord's insurer;
- (4) upon request provide copies and provide certificates annually for each insurance policy confirming the currency of such policies to the Landlord.

21. Professional Fees

All professional fees incurred by the Landlord in relation to this Agreement shall be paid by the Tenant.

22. Landlord's Managing Agent

The parties agree that the Landlord may appoint a Managing Agent to administer this Agreement from time to time.

23. Landlord's Letting Agent's Release

Where the Landlord has appointed an Agent in Item 11 as the Landlord's Letting Agent only, the Tenant acknowledges and confirms, subject to Clause 22, after signing this Agreement all matters relating to this Agreement are to be referred directly to the Landlord or Landlord's Managing Agent.

24. GST

Unless otherwise expressly stated, all monies payable or other considerations to be provided under or in accordance with this Agreement are exclusive of GST.

25. Time

25.1 Time shall be of the essence in connection with the Tenant's responsibilities to pay money.

25.2 Any event that must occur on or before a specified date, in respect to this Agreement, which date does not fall on a Business Day shall be extended to the next Business Day following the specified date.

26. Interest on Unpaid Monies

Any monies payable under this Agreement (or any Judgment given in respect of this Agreement) not paid when due, will attract Interest from the due date, to the date of payment, at the rate prescribed in Item 16 and the party, to whom those monies are owed, when such monies are paid, may recover the interest thereon from the other party as liquidated damages.

27. Termination

The Landlord may give notice terminating this Agreement if:

- (1) the Tenant fails to remedy a default; or
- (2) the Premises is permanently unfit for the Tenant to occupy in accordance with Clause 12.

28. Entire Agreement

This Agreement forms the entire Agreement between the parties and each party has entered into this Agreement without relying on representations not contained herein.

29. Special Conditions

29.1 Any Special Conditions to this Agreement shall form part of this Agreement. Should there be any inconsistency between the Terms of Agreement and the Special Condition the Special Condition shall apply.

29.2 NOTE:

This Agreement is not suitable, nor intended to be used for leases:

- (1) under the *Residential Tenancies and Rooming Accommodation Act 2008* and / or the *Retail Shop Leases Act 1994*; and
- (2) in excess of 3 years without modification.

30. Applicable Law

30.1 The laws of Queensland are the laws applicable to this Agreement.

30.2 The provisions of Sections 105 and 107 of the *Property Law Act 1974* are hereby excluded from this Agreement.

31. Severability

Should any court or tribunal of competent jurisdiction determine any term, provision or obligation of this Agreement to be void, illegal or unenforceable by law, that term, provision or obligation must be read down to the extent possible or removed from the Agreement whilst keeping the operation of the remainder of the lease in effect.

32. Guarantor

In consideration of the Landlord granting this lease to the Tenant at the Guarantor's request, the Guarantor guarantees to the Landlord:

- (1) the payment by the Tenant of the Rent and other money agreed to be paid;
- (2) prompt performance and observance of all of the Tenant's covenants and obligations contained or implied in this Agreement; and
- (3) indemnifies the Landlord against all claims which the Landlord may suffer or incur in connection with any breach or default by the Tenant under this Agreement or any extension or renewal of the Lease Term.

33. Related Documents / Notices / Electronic Communication

33.1 The parties agree and confirm any documents and communications in relation to this Agreement may be forwarded electronically and where this document has been forwarded electronically (either for signing or otherwise) the party receiving the document confirms having consented to the delivery of the document (and any other materials) by way of the electronic means of delivery before receiving the documentation.

33.2 A Related Document to be served on any party under this Agreement shall be in writing and may be served on that party:

- (1) by delivering it to the party personally; or
- (2) by leaving it for the party at that party's address as stated in this Agreement; or
- (3) by posting it to the party by ordinary mail or security mail as a letter addressed to the party at the address as stated in this Agreement; or
- (4) by electronic communication to the party at the appropriate electronic address as stated in this Agreement; or
- (5) by delivery to an alternative address, provided in writing by the party, by any of the methods outlined in Clauses 33.2(1) to (4) above.

33.3 A document posted shall be deemed to have been served, unless the contrary is shown, at the time when, by the ordinary course of post, the document would be delivered.

33.4 A document sent by electronic communication will be deemed to have been received in accordance with Section 24 of the *Electronic Transactions (Queensland) Act 2001*.

33.5 Documents given by a party's solicitor will be deemed to have been given by and with the authority of the party.

33.6 Documents must be served before 5pm on a Business Day, failing which, such document will be deemed to have been served on the next Business Day.

33.7 The parties acknowledge and agree an Electronic Document readily accessible via a link within a Related Document is received when the Related Document is served and will be opened when the Related Document is opened.

33.8 The parties agree to execution, delivery and service of documents electronically by a method provided by DocuSign or such other agreed electronic signature service provider.