

Lodger Details

Lodger Code
Name
Address
Lodger Box
Phone
Email
Reference

For Office Use Only

**THE BACK OF THIS FORM
MUST NOT BE USED**

MORTGAGE

Jurisdiction SOUTH AUSTRALIA

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Estate and/or interest being mortgaged

FEE SIMPLE

Land Title Reference	Part Land Affected?	Land Description
CT 5210/4	WHOLE	

Mortgagor

Name	THORP ENTERPRISES PTY LTD
ACN	ACN 661 075 636
Address	c/- 12-18 Hudson Road Mawson Lakes SA 5095

Mortgagee

Name	RB45 PTY LTD ACN 127 550 323
Address	c/- 18-22 Hudson Road Mawson Lakes SA 5095

The mortgagor mortgages the estate and/or interest in land specified in this mortgage to the mortgagee as security for the debt or liability described in the terms and conditions set out or referred to in this mortgage, and covenants with the mortgagee to comply with those terms and conditions.

Terms and Conditions of this Mortgage

- (a) ~~Document Reference~~ _____
(b) Additional terms and conditions
-

COVENANTS

1. Dictionary:

In this Mortgage:

- 1.1 **"Borrower"** means Thorp Investments Australia Pty Ltd ACN 661 075 056 as trustee for Thorp Superannuation Fund being the beneficial owner of the Mortgaged Property.
- 1.2 **"Encumbrance"** means any encumbrance or security interest and includes any legal or equitable mortgage, charge, hypothecation, pledge, lien, lease, restrictive covenant, licence to occupy, *profit á prendre*, easement, caveat or order of Court but ignoring any:
 - 1.2.1 statutory easement over the Land that relates only to the provision of electricity, gas, water or sewerage to that or other land;
 - 1.2.2 statutory charge, lien or other security interest over the Land to secure payment of rates or taxes or utilities so long as the liability or debt it secures is not overdue.
- 1.3 **"Event of Default"** means any of these circumstances:
 - 1.3.1 for at least 14 days the Mortgagor or Borrower fails to pay when due any money payable to the Mortgagee under any Transaction Document;
 - 1.3.2 the Mortgagor commits a breach of this Mortgage (other than in the payment of money) that is not remedied within 14 days after written notice from the Mortgagee identifying the breach and requiring its remedy;
 - 1.3.3 a person comprised in the Mortgagor or Borrower becomes an insolvent under administration (within the meaning of *Corporations Act 2001*);
 - 1.3.4 an Encumbrance over any of the Mortgaged Property becomes enforceable; or
 - 1.3.5 distress, execution or other legal process is levied against any of the Mortgaged Property.
- 1.4 **"Insurance"** means any present or future insurance policy that the Mortgagor takes out over the Mortgaged Property, whether the insurance policy is:
 - 1.4.1 of a kind which this document requires the Mortgagor to take out;
 - 1.4.2 in the name of the Mortgagor alone or in the names of the Mortgagor and the Mortgagee;
 - 1.4.3 over the Mortgaged Property alone or with other property.
- 1.5 **"Loan Deed"** means the Loan Deed dated on or about the date of this Mortgage between the Mortgagee as lender, the Borrower as borrower and the Mortgagor as bare trustee for the Borrower, for which this Mortgage is security.
- 1.6 **"Mortgaged Property"** means the whole or any part of the present and future right, title, estate and interest of the Mortgagor in the Land now mortgaged including without limitation:
 - 1.6.1 any improvements or fixtures at any time upon that Land;
 - 1.6.2 any present or future right to the reversion under any lease or tenancy;
 - 1.6.3 the enjoyment of any easement of which the Land is the dominant tenement;
 - 1.6.4 money and rights to money that become payable as purchase moneys, compensation or otherwise in respect of the Land or any part thereof or as a result of any resumption, or the grant of, any easement, lease, licence, *profit á prendre* or other right thereover;
 - 1.6.5 proceeds of Insurance so far as concerns any loss or damage to the Land.
- 1.7 **"Mortgagee"** means the party specified as the 'Mortgagee' as trustee for RB45 Trust and includes that party's successors and assigns and if more than one means each of them jointly and severally.
- 1.8 **"Mortgagee Representative"** means each:
 - 1.8.1 receiver or receiver and manager (in either case, a **receiver**) appointed by the Mortgagee under this Mortgage; and / or

- 1.8.2 attorney of the Mortgagor appointed under this Mortgage.
- 1.9 **"Mortgagor"** means the party specified as the 'Mortgagor' and if more than one means each of them jointly and severally.
- 1.10 **"Secured Money"** means the whole or any money that the Mortgagor or Borrower now or in the future owes to the Mortgagee in connection with this Mortgage and, without limitation, includes:
- 1.10.1 all money advanced by the Mortgagee under any Transaction Document and not repaid;
 - 1.10.2 interest accrued under any Transaction Document and unpaid;
 - 1.10.3 a judgment in enforcement of any Transaction Document or in recovery of other Secured Money;
 - 1.10.4 costs or expenses reasonably incurred by the Mortgagee in the preparation, registration, variation, discharge, enforcement or attempted enforcement of any Transaction Document or in the recovery or attempted recovery of other Secured Money;
 - 1.10.5 costs, expenses and remuneration payable by the Mortgagor to a Mortgagee Representative under any Transaction Document; and
 - 1.10.6 loss or damage suffered by the Mortgagee to the extent caused by a breach by the Mortgagor of any Transaction Document.
- 1.11 **"Transaction Document"** means this Mortgage, the Loan Deed and any other document contemplated by this Mortgage or Loan Deed and any other document in which this Mortgage has been contemplated by the parties.
- 1.12 **"Trust"** means the trust created by a certain Deed of Bare Trust pursuant to which the Borrower appoints the Mortgagor as its bare trustee for the purpose of holding legal title to the Mortgaged Property.

2. Interpretation

In this Mortgage: singular includes plural and *vice versa*; words importing individuals include corporations and *vice versa*; headings do not affect construction.

3. Mortgagor as Trustee

- 3.1 The Mortgagor confirms that it has entered into this Mortgage at the direction of the Borrower and that the Borrower has received a copy of this Mortgage (unexecuted) prior to that direction being given.
- 3.2 Each Transaction Document to which the Mortgagor is a party binds the Mortgagor only in its capacity as trustee of the Trust.
- 3.3 The Mortgagee only has recourse to the Mortgaged Property when seeking to recover the Secured Money. For the avoidance of doubt, the Mortgagee acknowledges that no other assets (other than the Mortgaged Property) of either the Borrower or the Mortgagor shall be available in the event of the Secured Moneys becoming due and payable or an Event of Default occurring.
- 3.4 The Mortgagor represents and warrants that the Mortgagor has full and valid authority under the Trust to enter into each Transaction Document to which it is a party and the transaction is evidenced by each Transaction Document for the proper purpose of the Trust as well as for the commercial benefit of the Borrower.
- 3.5 Without the consent of the Mortgagee, the Mortgagor must not or must not cause:
- 3.5.1 the Mortgagor to resign or be removed as trustee of the Trust or appoint or allow a new or additional trustee of the Trust to be appointed;
 - 3.5.2 the Mortgagor to vest or distribute the property of the Trust (other than income), advance or distribute the capital of the Trust to the Borrower, or resettle any of the property of the Trust;
 - 3.5.3 the current terms of the Trust to be amended or revoked;

- 3.5.4 anything which breaches the Trust or which would permit the Mortgagor to be removed as trustee of the Trust to be done;
- 3.5.5 a power to terminate the Trust to be exercised.
- 3.6 After an Event of Default the Mortgagor:
 - 3.6.1 must not exercise its powers or discretions (if any) under the Trust without the consent of the Mortgagee; and
 - 3.6.2 must exercise its rights of indemnity against the assets of the Trust on demand.

4. Title Documents

Subject to the rights of any prior Encumbrancee, the Mortgagee is entitled to the possession of all certificates of title and any other documents evidencing title to any of the Mortgaged Property (even if these also relate to property in addition to the Mortgaged Property).

5. Insurance

- 5.1 Until this Mortgage is discharged, the Mortgagor must insure the Mortgaged Property:
 - 5.1.1 in the name of the Mortgagor and noting the Mortgagee's interest;
 - 5.1.2 for the amounts, the risks and on the terms that the Mortgagee requires or, if the Mortgagee does not give notice of its requirements, that a normally prudent owner of the Mortgaged Property would consider appropriate.
- 5.2 If at any time the Mortgagee requires, within 7 days the Mortgagor must deliver up to the Mortgagee all insurance documents including the policy, renewal certificates, certificates of currency, endorsements, receipts for premiums.
- 5.3 The Mortgagor must not do or permit anything that might render the insurance void, voidable or unenforceable, or which might prejudice a claim under the insurance or prevent the Mortgagee recovering money under the insurance.

6. Maintenance and Repair

The Mortgagor will:

- 6.1 promptly and in a good and workmanlike manner make such repairs, renovations, additions and constructions to the Mortgaged Property as necessary for:
 - 6.1.1 keeping all buildings, structures and other improvements now or after comprising the Mortgaged Property in good and tenantable repair and condition;
 - 6.1.2 complying with the requirements of any Government or Statutory authority in relation to the Mortgaged Property; and
 - 6.1.3 complying with any written notice of the Mortgagee to repair any defect in the condition of the Mortgaged Property;
- 6.2 not without the Mortgagee's prior written consent, allow any alteration or addition to the Mortgaged Property to be made or pull down, remove or demolish any buildings, structures or other improvements comprising the Mortgaged Property; and
- 6.3 keep the Mortgaged Property clean, tidy and clear of rubbish.

7. Dealings Restricted

Except with the Mortgagee's prior written consent, the Mortgagor must not:

- 7.1 create or permit any other Encumbrance over the Mortgaged Property (excepting an Encumbrance notified to the Mortgagee before the date of this Mortgage or granted with the Mortgagee's prior written consent); or
- 7.2 sell, gift, exchange, transfer, surrender or part with or share possession of any of the Mortgaged Property.

8. Power of Attorney

- 8.1 Until this Mortgage is discharged, the Mortgagor irrevocably appoints the Mortgagee and each Mortgagee Representative severally to be the attorneys of the Mortgagor to (in the name of the Mortgagor or in the names of the Mortgagor and the Mortgagee) do anything on the Mortgagor's

behalf that the Mortgagor can lawfully do by an attorney in respect of the Mortgaged Property or this Mortgage.

8.2 The Mortgagor must remunerate the attorney as the Mortgagee decides.

9. Mortgagee May Remedy a Default

If the Mortgagor fails to observe or perform this Mortgage, the Mortgagee may remedy or attempt to remedy the default without prejudicing the Mortgagee's other rights. Any reasonable costs or expenses the Mortgagee so incurs are added to the Secured Money.

10. Powers

During an Event of Default, the Mortgagee may:

- 10.1 by written notice to the Mortgagor make all or part of the Secured Money immediately payable and if upon receipt of that notice the Mortgagor does not immediately pay all demanded Secured Money, the Mortgagee may sue the Mortgagor for that Secured Money as a debt;
- 10.2 exercise all or any of the Mortgagee's powers under any rule of law or equity, *Real Property Act 1886*, *Law of Property Act 1936*, or any other statute;
- 10.3 sell or exchange any of the Mortgaged Property, altogether or in lots, by private treaty, at auction, by tender or otherwise upon any terms the Mortgagee decides;
- 10.4 sever and sell fixtures within the Mortgaged Property separately from the other Mortgaged Property;
- 10.5 take possession of the Mortgaged Property and enjoy the rents and profits of the Mortgaged Property;
- 10.6 do anything to protect or enforce this Mortgage or recover the Secured Money;
- 10.7 appoint in writing one or more persons jointly, severally, or jointly and severally to be a receiver or receiver and manager (in either case, a **receiver**) of any of the Mortgaged Property and: (i) the Mortgagee may remove the receiver and appoint another receiver; (ii) the Mortgagee may fix the remuneration of the receiver; (iii) the receiver is the agent of the Mortgagor who alone is responsible for the receiver's acts, omissions and remuneration; (iv) the receiver may exercise the powers of a receiver under any rule of law or equity, *Law of Property Act 1936*, or other statute and otherwise do anything that the Mortgagee or the Mortgagor's attorney can do under this Mortgage; and
- 10.8 without notice to the Mortgagor, exercise the powers of a receiver, whether or not the Mortgagee has appointed a receiver under this Mortgage.

11. Protection of Third Parties

- 11.1 A person dealing with the Mortgagee or a Mortgagee Representative need not enquire whether:
 - 11.1.1 there was or is an Event of Default;
 - 11.1.2 a Mortgagee Representative is properly appointed;
 - 11.1.3 the Mortgagee or a Mortgagee Representative properly exercised a power; or
 - 11.1.4 money paid by that person to the Mortgagee or a Mortgagee Representative is properly applied.
- 11.2 These matters do not affect that person's title to any property (irrespective of notice).

12. About this Mortgage

- 12.1 The Mortgagee's rights under this Mortgage are not merged in or prejudiced by any present or future: (i) security; (ii) negotiable or other instrument; (iii) judgment or order; or (iv) agreement or understanding.
- 12.2 This Mortgage is independent of every other security the Mortgagee may obtain in respect of the Secured Money.
- 12.3 This Mortgage is a continuing security for the whole of the Mortgagor's (present and future) obligations to the Mortgagee as may be Secured Money.

- 12.4 The Mortgagor is discharged from liability under this Mortgage only when the Mortgagee finally discharges the Mortgagor in writing. Even when the Mortgagor does not owe any Secured Money to the Mortgagee, the Mortgagee is not obliged to discharge this Mortgage if in the Mortgagee's reasonable opinion a payment made to the Mortgagee in reduction of the Secured Money might be void or voidable for any reason.
- 12.5 The Mortgagee may complete, fill in any blanks, date and register this Mortgage without notice to or consent of the Mortgagor.
- 12.6 This Mortgage is executed as a deed.

Mortgagor Execution

Executed on behalf of **THORP ENTERPRISES PTY LTD ACN 661 075 636** in accordance with Section 127(1) of the Corporations Act 2001:

Signer Name

MARK SIMON THORP

Signer Role

DIRECTOR

Signature



Execution Date

10TH JAN 2023

Signer Name

UNA ANNE THORP

Signer Role

DIRECTOR

Signature



Execution Date

10th Jan 2023

Mortgagee Execution

Executed on behalf of **RB45 PTY LTD ACN 127 550 323** in accordance with Section 127(1) of the Corporations Act 2001:

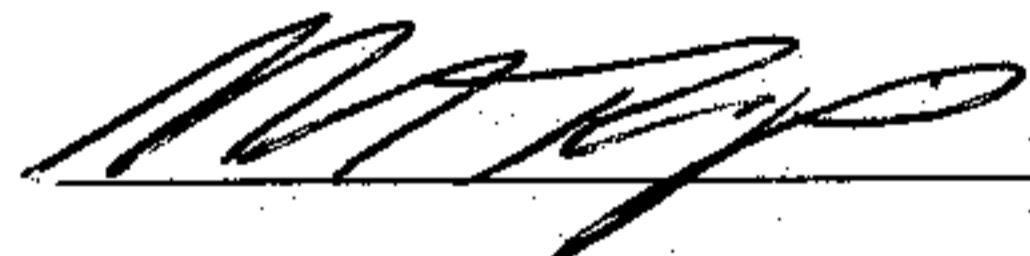
Signer Name

MARK SIMON THORP

Signer Role

SOLE DIRECTOR &
SECRETARY

Signature



Execution Date

10TH JAN 2023

Mortgagee Execution

1. The Certifier has taken reasonable steps to verify the identity of the mortgagee.
2. The Certifier has holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.
5. The Certifier, or the Certifier is reasonably satisfied that the mortgagee it represents:
 - (a) has taken reasonable steps to verify the identity of the mortgagor; and
 - (b) Holds a mortgage granted by the mortgagor on the same terms as this Registry Instrument or Document.

Executed on behalf of **RB45 PTY LTD ACN 127 550 323**:

Signer Name _____

Signer Organisation _____

Signer Role _____

Signature _____

Execution Date _____