

Dealing Number

Duty Imprint



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1. Lessor	Lodger (Name, address, E-mail & phone number)	Lodger Code
PARK AVENUE DEVELOPMENT CORPORATION PTY LTD ACN 603 672 457	MINTER ELLISON Waterfront Place, 1 Eagle Street, BRISBANE mark.jenvey@minterellison.com (07) 3119 6228 MJ RAL 1168713	021A

2. Lot on Plan Description	Title Reference
VOLUMETRIC LOT 3 ON SP 275450	51069161

3. Lessee Given names	Surname/Company name and number	(include tenancy if more than one)
MADISON CLAUDIO	NOSKE D'ANDREA	AS TENANTS IN COMMON IN EQUAL SHARES

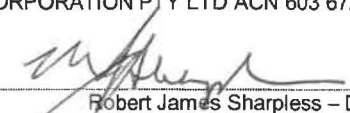
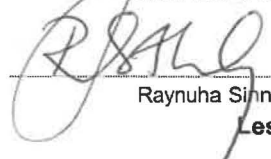
4. Interest being leased
Fee simple

5. Description of premises being leased
Whole of the lot

6. Term of lease	7. Rental/Consideration
Commencement date/event: 28/09/2017 Expiry date: 27/09/2022 *Options: 1 x 5 years *insert nil if no option or insert option period (eg 3 years or 2 x 3 years)	See Schedule

8. Grant/Execution
The Lessor leases the premises described in Item 5 to the Lessee for the term stated in Item 6 subject to the covenants and conditions contained in the attached schedule.

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

..... signature		PARK AVENUE DEVELOPMENT CORPORATION PTY LTD ACN 603 672 457
..... full name		 Robert James Sharpless – Director
..... qualification	08/08/2017	 Raynuha Sinnathamby – Director
Witnessing Officer (Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)	Execution Date	Lessor's Signature

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

..... signature	
..... full name		
..... qualification	/ /	See enlarged panel
Witnessing Officer (Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)	Execution Date	Lessee's Signature

Title Reference 51069161

9. Acceptance

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


signature
Peter Brendan Walsh
Solicitor
full name
qualification

12 8 JUL 2017
Execution Date



Madison Noske
Lessee's Signature

Witnessing Officer

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

9. Acceptance

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


signature
Peter Brendan Walsh
Solicitor
full name
qualification

12 8 JUL 2017
Execution Date


Claudio D'Andrea
Lessee's Signature

Witnessing Officer

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

Title Reference 51069161

Table of contents

Reference table	7
Special provisions (clause 1.5)	10
Agreed terms	13
1. Defined terms and interpretation	13
1.1 Defined terms	13
1.2 Interpretation	15
1.3 Governing law	16
1.4 Measurement	16
1.5 Special Provisions	16
2. Length of this Lease	16
2.1 Starting and ending	16
2.2 Monthly tenancy	16
3. What the Tenant must pay the Landlord	16
3.1 What the Tenant must pay the Landlord	16
3.2 The Landlord may charge interest if the Tenant is late	16
3.3 Adjustments, errors	17
3.4 Payment without deduction	17
4. Goods and Services Tax	17
4.1 Gross up of consideration	17
4.2 Tax invoices	17
4.3 Reimbursements	17
5. Base Rent and Base Rent reviews	18
5.1 Tenant to pay	18
5.2 Overview of Base Rent review process	18
5.3 Percentage increase	18
5.4 CPI variations	18
5.5 CPI+ variations	18
5.6 Base Rent until determination	18
5.7 Intentionally deleted	19
6. Turnover Rent	19
6.1 If the Tenant pays Turnover Rent	19
6.2 Gross Sales	19
7. Outgoings	20
7.1 Application of clause 7	20
7.2 The Tenant must pay the Tenant's share of Outgoings	20
7.3 Outgoings	20
7.4 Estimates of Outgoings	21
7.5 Accounting for Outgoings	22
7.6 Tenant's share of Outgoings	22

Title Reference 51069161

8.	Other money	22
8.1	The Tenant must pay for Services to the Premises	22
8.2	Bulk supply of Electricity	22
8.3	The Promotion Levy	23
8.4	The Landlord's legal and other costs	23
8.5	Costs specific to the Premises	23
8.6	Tenancy Coordination Fee	23
9.	Security	24
9.1	Bank guarantee	24
9.2	Security deposit	24
10.	Tenant's obligations generally	25
10.1	The Tenant must obey the law	25
10.2	Using this Lease etc as security	25
10.3	Using the Common Area	25
10.4	Tenant's behaviour	25
10.5	The Tenant must fix damage	25
10.6	Reporting damage and copy notices	25
11.	The Tenant's obligations concerning the Premises	25
11.1	Using the Premises	25
11.2	Trading hours and costs	26
11.3	After-hours trading	26
11.4	Dealing with the Premises	27
11.5	Maintaining the Premises and the Tenant's Property	28
11.6	Altering the Premises	29
11.7	Tenant's works	29
11.8	Fitout Manual	29
11.9	Refurbishing the Premises	29
11.10	When this Lease ends	29
12.	Workplace Health and Safety	30
12.1	Defined terms	30
12.2	Acknowledgment by Tenant	30
12.3	Obligations of Tenant	30
12.4	Appointment of Tenant as Principal Contractor	31
12.5	Notice of appointment	31
12.6	Acknowledgment by Tenant	31
12.7	Obligation to comply not limited	31
12.8	Signage	31
12.9	Indemnity	31
13.	The Landlord's rights and obligations	32
13.1	The Landlord's management	32
13.2	The Landlord must obey the law	32
13.3	Common Area	32
13.4	The Tenant's quiet enjoyment	32
13.5	The Landlord's Services	32

Title Reference 51069161

13.6	The Landlord may enter the Premises	32
13.7	The Landlord may do things on the Tenant's behalf	32
13.8	Giving the Landlord's consent or approval	32
14.	Repairs or building work	32
14.1	The Landlord may do any repairs or building work	32
14.2	When the Landlord does repairs or building work	33
14.3	Intentionally deleted	33
14.4	Subdivision and easements	33
15.	Intentionally deleted	33
16.	If the Premises are damaged, destroyed, or resumed	33
16.1	If damaged or destroyed	33
16.2	If resumed	33
17.	Risks and insurances	33
17.1	The Tenant must have insurance	33
17.2	The Tenant releases and indemnifies the Landlord and the Manager	34
18.	Guarantee and indemnity	35
18.1	Interpretation	35
18.2	Consideration	35
18.3	Guarantee	35
18.4	Payment under guarantee	35
18.5	Indemnity	35
18.6	Extent of guarantee and indemnity	36
18.7	Liabilities and rights not affected	36
18.8	Guarantor's rights waived	36
18.9	Guarantor's rights suspended	36
18.10	Costs	37
18.11	Interest	37
18.12	Reinstatement of guarantee	37
18.13	Assignment	37
18.14	Defined terms	37
19.	Rules	37
19.1	Rules	37
20.	Breach of this Lease	38
20.1	How the Tenant breaches this Lease	38
20.2	If the Tenant breaches this Lease	38
20.3	What the Landlord may do if the Tenant breaches an essential term	38
20.4	If the Landlord breaches this Lease	38
21.	Limitation of liability	39
22.	Notices	39
22.1	Requirement for writing	39
22.2	Serving notices	39
23.	Other matters	39
23.1	Disclosure statement acknowledgment	39
23.2	Major Lessees	40

Title Reference 51069161

23.3	No caveat	40
23.4	Validity of Manager's actions	40
23.5	Validity of the Landlord's documents	40
23.6	Saturdays, Sundays and public holidays	40
23.7	Complete agreement	40
23.8	Severance of invalid and other provisions	40
23.9	Provisions survive Lease	40
23.10	Change of Landlord	41
24.	Tenant not to object	41
25.	Building Management Statement	41
25.1	Obligations	41
25.2	Dealings	42
25.3	Acknowledgement	42
25.4	Car Parking	43
26.	Greater Springfield	43
26.1	Acknowledgment of further development	43
26.2	No claims	43
26.3	Intellectual property	43
26.4	No objection to development	44
	Schedule 1 – Rules	45
	Schedule 2 – Condition Report	50

Title Reference 51069161

Reference table

Item	Subject	Details										
1	Parties											
	(a) Landlord	Park Avenue Development Corporation Pty Ltd ACN 603 672 454										
	(b) Tenant	Madison Noske and Claudio D'Andrea (as tenants in common in equal shares)										
	(c) Guarantor	Not applicable whilst the Tenant is Madison Noske and Claudio D'Andrea										
2	Premises (clause 1.1)	The whole of Volumetric Lot 3 on SP 275450 bearing title reference 51069161 having an approximate area of 84 square metres										
3	(a) Building	The building and improvements erected on the Land (of which the Premises form part) situated at the corner of Barry Alexander Drive and Ian Keilar Drive, Springfield Central, Qld, 4300										
	(b) Land (clause 1.1)	Lot 506 on SP 275450 bearing title reference 51000099 Lot 508 on SP 275450 bearing title reference 51000100 Lot 1 on SP 275450 bearing title reference 51000099 Lot 2 on SP 275450 bearing title reference 51000099 Lot 3 on SP 275450 bearing title reference 51000099 Lot 4 on SP 275450 bearing title reference 51000099										
4	Trading name (clause 11.1(e))	Pizzeria La Prima										
5	Term of Lease (clause 1.1)	5 years										
6	Starting Date (clause 2.1)	28 September 2017										
7	Expiry Date (clause 2.1)	27 September 2022										
8	Base Rent (clause 5.1)	Year 1 - \$42,000 per annum (plus GST) calculated at the rate of \$500 per square metre per annum (plus GST)										
9	Base Rent review dates and type of review (clause 5)	<table border="1"> <thead> <tr> <th>review date</th> <th>review type</th> </tr> </thead> <tbody> <tr> <td>Year 2</td> <td>4%</td> </tr> <tr> <td>Year 3</td> <td>4%</td> </tr> <tr> <td>Year 4</td> <td>4%</td> </tr> <tr> <td>Year 5</td> <td>4%</td> </tr> </tbody> </table>	review date	review type	Year 2	4%	Year 3	4%	Year 4	4%	Year 5	4%
review date	review type											
Year 2	4%											
Year 3	4%											
Year 4	4%											
Year 5	4%											
10	(a) Turnover Rent	Yes/ No										
	(b) Agreed Percentage for Turnover Rent	Not applicable										
11	Promotion Levy (clause 8.3)	Not applicable										

Title Reference 51069161

Item	Subject	Details
12	Tenancy Coordination Fee (clause 8.6)	Not applicable
13	(a) Bank guarantee	Yes/ No
	(b) Bank guarantee amount (clause 9.1(a))	An amount equivalent to three (3) months' Base Rent, Tenant's share of Outgoings, Promotion Levy and all recurrent charges payable under any related agreement multiplied by 1.1
	(c) Security deposit	Yes/ No
	(d) Security deposit amount (clause 9.2(a))	Not applicable
14	Repainting period (clause 11.5)	Not applicable
15	Refurbishment date (clause 11.9)	Not applicable
16	Use of Premises (clause 11.1)	The advertising, marketing, preparation and retail sale of dine-in or take-away of hot and cold drinks, pizza and ancillary products and light meals trading as 'Pizzeria La Prima'
17	Food Court - items for sale (clause 11.1)	Not applicable
18	Public liability insurance amount (clause 17.1)	\$20 million
19	Manager (clause 1.1)	As nominated by the Landlord
20	Interest rate (clause 3.2)	The rate quoted by the Landlord's bank on the due date for payment on unsecured overdraft accommodation over \$100,000.
21	(a) Tenant's address for service of notices	278 Lakeside Avenue, Springfield Lakes Qld 4300
	(b) Landlord's address for service of notices	Level 10 Springfield Tower 145 Sinnathamby Boulevard Springfield Central Qld 4300
	(c) Guarantor's address for service of notices	Not applicable whilst the Tenant is Madison Noske and Claudio D'Andrea
22	Trading hours of the Tenant (clause 11.2 and Rule 3.1)	Unless prohibited by law, 10am to 12.00am - Monday to Sunday However, the parties acknowledge that whilst these days and hours prescribe the maximum period during which the Tenant may open for trade, the Tenant will not be in breach of its obligations under this Lease should the Tenant elect to remain open for trade for a lesser period than 10.00am to 12.00am on any given day.
23	Major Lessee (clause 23.2)	Is the Tenant a Major Lessee? Yes/ No
24	Outgoings	Outgoings applies/ does not apply

Title Reference 51069161

Item	Subject	Details
	(clause 7)	
25	Further Term/s (Special Provision 3)	One (1) Further Term of five (5) years duration with base rent to be calculated as follows: <ul style="list-style-type: none">• for the first year of the Further Term - equivalent to the amount of base rent payable during the last year of the original Term increased by a fixed percentage of 4%; and• for the balance of the Further Term on each anniversary of the Starting Date - to be increased by a fixed percentage of 4% in accordance with Item 9 and clause 5

Title Reference 51069161

Special provisions (clause 1.5)

In the event of any inconsistency between the terms of this Lease and the Special Provisions, the Special Provisions shall prevail to the extent of any such inconsistency.

A. Special provisions that apply whoever is tenant

1. Tenant's Fitout

- (a) Once the Tenant has satisfied the Landlord's Pre-Handover Requirements, the Landlord will advise the Tenant in writing of the Handover Date.
- (b) From the Handover Date, the Tenant must in accordance with the requirements outlined under clauses 11.6, 11.7 and 11.8 of this Lease complete the Fitout Works during the Fitout Period.
- (c) The Tenant will not be permitted to trade from the Premises whilst the Tenant is carrying out the Fitout Works.

2. Authority to Complete (Starting Date, Expiry Date, Rent, Condition Report etc)

The Tenant hereby irrevocably authorises the Landlord or the Landlord's solicitor to insert the following details into the Lease once known:

- (a) the Starting Date calculated as the earlier of the following:
 - (i) day immediately following the end of the Tenant's Fitout Period; and
 - (ii) commencement of trade / operations by the Tenant;
- (b) the Expiry Date calculated as the date which is five years after the Starting Date; and
- (c) the Condition Report in Schedule 2.

3. Option to Renew for Further Term

3.1 Notice for Further Term

- (a) The Tenant is entitled to lease the Premises for a further term of 5 years (**Further Term**) subject to the provisions of this Special Provision 3.
- (b) At least 6 months but no more than 9 months before the Expiry Date, subject always to Special Provision 3.1(c), the Tenant must tell the Landlord by notice in writing if the Tenant wishes to lease the Premises for a Further Term.
- (c) The Landlord may reject a notice from the Tenant under Special Provision 3.1(b) if the Tenant is in breach of this Lease when the Tenant gives the notice under Special Provision 3.1(b) or on the Expiry Date and the Landlord has complied with all requirements under the *Property Law Act 1974*.

3.2 Lease for Further Term

If the Tenant gives the Landlord a notice under Special Provision 3.1, the Tenant must take and the Landlord must grant a lease of the Premises for the Further Term that is on the same terms as this Lease except that:

- (a) the term will be specified in Special Provision 3.1;
- (b) the starting date will be the date immediately after the Expiry Date and the expiry date will accord with the term of the new lease in Special Provision 3.1;

Title Reference 51069161

(c) Item 9 will remain the same with base rent for the Further Term to be reviewed as follows:

Item 9	Base Rent review dates and type of review	review date	review type
	(clause 5)	Year 2	4%
		Year 3	4%
		Year 4	4%
		Year 5	4%

- (d) the base rent at the starting date of the Further Term will be equivalent to the amount of base rent payable during the last year of the original Term increased by a fixed percentage of 4%;
- (e) the amount of any bank guarantee and security deposit will be recalculated based on the amount of the Base Rent, Tenant's share of Outgoings and all recurrent charges under any related agreement;
- (f) if Item 25 specifies more than one further term, then the number of further terms in Item 25 will be reduced by one;
- (g) if Item 25 specifies only one further term, then Item 25 will be deleted;
- (h) the new lease will reflect any alterations to this Lease the parties have agreed upon during the Term including any assignment of this Lease;
- (i) Special Provision 1 of Part B (50% Rent Abatement) will be deleted; and
- (j) this Special Provision 3 will be deleted.

3.3 Intentionally deleted

3.4 No Further Term

- (a) Subject to clause 2.2, if the Tenant does not give the notice under Special Provision 3.1, this Lease ends on the Expiry Date.
- (b) Despite Special Provision 3.1(a), but subject to the Act if the Act applies, the Tenant is not entitled to a lease of the Premises for a Further Term unless the Tenant is not in breach of this Lease at the Expiry Date.

3.5 Execution of new lease

The Tenant must execute the new lease within 14 days of receiving the new lease and return it to the Landlord together with any new bank guarantee or security deposit required under the new lease.

B. Special provisions that apply only to the tenant

While the party specified in Item 1(b) is the Tenant and is in occupation of the Premises, the provisions of this Lease are varied as follows:

1. 50% Rent Abatement

- (a) Despite any other provision of the Lease, the Tenant will during the six month period commencing from the Starting Date only be required to pay each month an amount equivalent to 50% of the monthly Rent figure due and payable in accordance with the terms of this Lease (**Rent Abatement**).

Title Reference 51069161

- (b) For the avoidance of doubt, the parties acknowledge and agree that:
- (i) the Tenant will still be required to pay the Tenant's share of Outgoings and all other monies payable under this Lease and this Rent Abatement shall be disregarded and must not be taken into account when determining any future rent reviews; and
 - (ii) this Special Provision is personal to this Tenant and will only apply whilst Madison Noske and Claudio D'Andrea are the Tenant.

Title Reference 50772563

Agreed terms

1. Defined terms and interpretation

1.1 Defined terms

In this Lease:

Act means the *Retail Shop Leases Act 1994* (Qld).

Agreed Percentage means the percentage in Item 10(b).

Base Rent means the amount in Item 8 varied as set out in clause 5.

Building means the building constructed on the Land (of which the Premises forms part), and where appropriate in the context, includes the Common Area.

Building Management Statement means the building management statement registered on the title for the Premises and the Land, as varied from time to time.

Chief Executive means the Chief Executive under the Act.

Committee has the same meaning as in the Building Management Statement.

Common Area means those Shared Areas (as defined in the Building Management Statement) that the Landlord is authorised to use under the terms of the Building Management Statement in its capacity as owner of the Premises.

Common Area Electricity means the amount of electricity supplied by the Landlord and consumed in the Common Area, as determined by the Landlord and notified to the Tenant.

Condition Report means the condition report prepared by the parties showing the condition of the Premises on the Handover Date a copy of which is attached in Schedule 2.

CPI means the All Groups Consumer Price Index for the capital city of the State, published by the Australian Bureau of Statistics. If that index no longer exists it means the index officially substituted for it.

CPI Rate means the change in the CPI measured from the CPI for the quarter ending immediately before the last date on which the Base Rent was reviewed (or the Starting Date if there has been no intervening Base Rent review) to the CPI for the quarter ending immediately before the relevant review date, expressed as a percentage.

Defective Statement has the meaning given to it under the Act.

Expiry Date means the date in Item 7.

Financial Year means 1 July to 30 June or any other period nominated by the Landlord. The Landlord may nominate different periods for different purposes.

Fitout Manual means the fitout manual provided by the Landlord.

Fitout Period means the six week period from the Handover Date.

Fitout Works means those works as approved by the Landlord in accordance with the requirements under Lease (and where required under the Building Management Statement, approved by the Committee), which are required to be undertaken by the Tenant to make the Premises fit for the Permitted Use.

Gross Sales is defined in clause 6.2(d).

Guarantor means the Guarantor specified in Item 1(c).

Title Reference 51069161

Handover Date means the date the Landlord gave access and handed over the Premises to the Tenant for the purpose of carrying out the Tenant's Fitout Works.

Item means an Item in the Reference Table.

Land means the land in Item 3(b) together with any adjoining or nearby land at any time the Landlord includes in or uses for the purposes of the Building and the Common Area.

Landlord means the Lessor in Item 1 of the Form 7 and where relevant, includes the Manager, the Landlord's employees and any other persons the Landlord authorises.

Landlord's Property means all plant, equipment, fixtures and fittings, furniture, furnishings and other property the Landlord provides in the Premises.

Major Lessee has the meaning given to it under the Act.

Manager means the person in Item 19, or any manager the Landlord appoints. Where relevant, it includes the Manager's employees or any person the Manager authorises.

Outgoings is defined in clause 7.3.

Pre-Handover Requirements means the following requirements which the Tenant must satisfy to the Landlord's satisfaction (in its absolute discretion) prior to the Landlord giving handover of the Premises to the Tenant:

- (a) obtaining approval of the Tenant's Fitout Works by the relevant authorities, the Landlord and the Committee (where required under the Building Management Statement);
- (b) providing the executed Lease (three copies), Bank Guarantee, certificates of insurance and a cheque in payment of the registrations fees for the Lease.

Premises means the premises specified in Item 2 and includes the Landlord's Property. It includes the area:

- (a) from the undersurface of the floor to the upper surface of the ceiling;
- (b) to the outside surface of the shopfront and any windows;
- (c) to the median surface of internal walls (under any paint or wall covering); and
- (d) to the inside surface of any external wall.

Promotion Levy means the amount in Item 11. When the Base Rent increases, the Promotion Levy will increase by the same proportion.

Reference Table means the reference table at the start of this Lease.

Rent means both the Base Rent and the Turnover Rent.

Rules means the rules of the Building. At the Starting Date it means the rules in Schedule 1. The Landlord may change those rules (see clause 19).

Services means the services provided to or for the benefit of the Premises and the Building, including Common Area Electricity, gas, water, electricity, sewerage, lifts, escalators, air conditioning, sprinkler systems, fire protection and control, essential services, security equipment, rubbish storage and removal and communication together with all plant and equipment relating to those services and includes services provided by the Landlord, authorities and others.

Special Provisions means the special provisions at the start of this Lease.

Starting Date means the date in Item 6.

State means the state or territory of Australia in which the Premises are located.

Tenancy Coordination Fee means the amount in Item 12.

Title Reference 51069161

Tenant means the Lessee in Item 3 of the Form 7 where relevant, includes the Tenant's employees, agents, customers and any other persons the Tenant allows on the Premises or in the Building.

Tenant's Property means all property on the Premises, which is not Landlord's Property.

Term means the period in Item 5 and where the context permits includes any overholding under clause 2.2.

Turnover Period means each of:

- (a) the period from and including the Starting Date to and including the first 30 June in the Term;
- (b) each 12 month period ending on 30 June during the Term; and
- (c) the period from and including the last 1 July in the Term to and including the Expiry Date.

Turnover Rent means any amount by which the Agreed Percentage of the Gross Sales for a Turnover Period exceeds the Base Rent for that Turnover Period.

Valuer means a valuer with the qualifications required by the Act agreed by the Landlord and the Tenant or, failing agreement, appointed by the person specified in the Act at the request of either party.

1.2 Interpretation

In this Lease, unless the contrary intention appears:

- (a) words or expressions used in this Lease, which are defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth), have the same meaning in this Lease;
- (b) headings are for ease of reference and do not affect the meaning of this Lease;
- (c) the singular includes the plural and vice versa and a gender includes another gender;
- (d) other grammatical forms of defined words have corresponding meanings;
- (e) a reference to:
 - (i) the Form 7, Reference Table, Special Provisions or Rules; or
 - (ii) a clause, paragraph, schedule, or annexure,
is to:
 - (iii) the Form 7, Reference Table, Special Provisions or Rules in;
 - (iv) a clause or paragraph of; or
 - (v) a schedule or annexure to,
this Lease;
- (f) a reference to this Lease includes the Form 7, Reference Table, Special Provisions, Rules and any other schedule or annexure;
- (g) a reference to this Lease or any other document includes a reference to it as novated, altered or replaced;
- (h) a reference to anything is a reference to the whole and each part of it;
- (i) a reference to a party includes a reference to that party's executors, administrators, successors and permitted assigns;
- (j) words importing natural persons include partnerships, bodies corporate, associations, governments and governmental and local authorities and agencies;
- (k) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;

Title Reference 51069161

- (l) an agreement, representation or warranty in favour of two or more persons is in favour of them jointly and severally; and
- (m) an agreement, representation or warranty made by two or more persons binds them jointly and severally.

1.3 Governing law

- (a) The law of the State governs this Lease.
- (b) The implied covenants under the *Property Law Act 1974* (Qld) are excluded from and do not apply to this Lease.

1.4 Measurement

Where this Lease provides for an area to be measured, the area will be calculated according to the method of measurement adopted by the Property Council of Australia as at the Starting Date, or any equivalent that the Landlord nominates.

1.5 Special Provisions

- (a) The covenants in paragraph A of the Special Provisions vary this Lease.
- (b) The covenants in paragraph B of the Special Provisions vary this Lease only while the party in Item 1(b) is the Tenant and occupies the Premises.

2. Length of this Lease

2.1 Starting and ending

This Lease begins on the Starting Date. It ends at midnight on the Expiry Date.

2.2 Monthly tenancy

If the Tenant continues to occupy the Premises with the Landlord's approval after the Expiry Date, the Tenant does so on the same terms as at the Expiry Date, except that:

- (a) the Base Rent for the tenancy will be determined by reviewing the Base Rent at the Expiry Date in the same way that it was last reviewed (for example: if the Base Rent was varied by the CPI Rate on the last review date, it is varied by the CPI Rate); and
- (b) the Landlord or the Tenant may end the tenancy on any day by giving at least one month's notice to the other.

3. What the Tenant must pay the Landlord

3.1 What the Tenant must pay the Landlord

On time the Tenant must pay the Landlord the Rent, the Tenant's share of the Outgoings, the Promotion Levy and any other money the Tenant owes the Landlord. If required by the Landlord, the Tenant must sign an order on the Tenant's bank directing payment of the Rent and other money payable by the Tenant under this Lease to the Landlord so that the Landlord may debit the Tenant's account and credit those amounts to the Landlord's account. The Landlord will provide the Tenant with written details of the Landlord's account.

3.2 The Landlord may charge interest if the Tenant is late

- (a) If the Tenant is late in paying the Landlord any money, the Landlord may charge daily interest on it at a rate equal to 2% above the rate specified in Item 20.

Title Reference 51069161

- (b) The Landlord calculates the interest on any unpaid money on each day from the day the unpaid money was due until the day it is paid in full.
- (c) Also, on the last day of each month, the Landlord adds the interest to the unpaid money, and charges interest on the total amount.

3.3 Adjustments, errors

- (a) Where any money the Landlord charges the Tenant is calculated using a time period, and this Lease starts or ends during that time period, the Landlord must make any necessary proportional adjustment.
- (b) If either the Tenant or the Landlord proves an error in any money charged, the Landlord must correct it and make any necessary adjustment in the Tenant's next monthly statement (or as soon as possible if this Lease has expired).
- (c) Expiry or termination of this Lease does not affect:
 - (i) the Tenant's obligations:
 - (A) to make payments under this Lease for periods before or after then; or
 - (B) to give information to the Landlord to enable it to calculate those payments; or
 - (ii) the Landlord's obligations to account to the Tenant for any overpayment made in advance.

3.4 Payment without deduction

- (a) The Tenant must make payments under this Lease without set-off, counterclaim, withholding or deduction.
- (b) The Landlord need not make demand for any amount payable by the Tenant unless this Lease says that the demand must be made.

4. Goods and Services Tax

4.1 Gross up of consideration

Despite any other provision in this Lease, if a party (**Supplier**) makes a supply under or in connection with this Lease on which GST is imposed (not being a supply the consideration for which is specifically described in this Lease as GST inclusive):

- (a) the consideration payable or to be provided for that supply under this Lease but for the application of this clause (**GST Exclusive Consideration**) is increased by, and the recipient of that supply (**Recipient**) must also pay to the Supplier, an amount equal to the GST payable by the Supplier on that supply; and
- (b) the amount by which the GST Exclusive Consideration is increased must be paid to the Supplier by the Recipient, at the same time as the GST Exclusive Consideration is payable or to be provided.

4.2 Tax invoices

The Supplier will provide a tax invoice before the GST is payable.

4.3 Reimbursements

The Supplier must, when calculating the amount of:

- (a) Outgoings;
- (b) any other reimbursement to the Supplier under this Lease; and
- (c) the indemnification under this Lease of an expense, loss or liability incurred or to be incurred by the Supplier,

Title Reference 51069161

include the GST paid or payable on the supply giving rise to the amount and deduct the amount of any input tax credit to which the Supplier is entitled.

5. Base Rent and Base Rent reviews

5.1 Tenant to pay

- (a) The Tenant must pay the Base Rent by equal monthly instalments in advance on or before the first day of each month from the Starting Date.
- (b) Each instalment is to be one twelfth of the Base Rent but if an instalment period is less than one month, the instalment for that period is apportioned on a daily rate for the relevant lease year.

5.2 Overview of Base Rent review process

Item 9 has two columns, review date and review type. The review date column indicates either:

- (a) the date on which the Base Rent is to be reviewed; or
- (b) the lease year of the Term, the first day of which is the date on which the Base Rent is to be reviewed.

The review type column indicates the type of review applicable for each review date.

The Base Rent varies on the date, or on the first day of each lease year of the Term, specified in the review date column in the manner specified in the review type column for that review date.

5.3 Percentage increase

If Item 9 specifies a fixed percentage for a particular review date, the Base Rent is increased by that percentage on the relevant review date.

5.4 CPI variations

If Item 9 specifies CPI for a particular review date, the Base Rent is varied by the CPI Rate on the relevant review date.

5.5 CPI+ variations

If Item 9 specifies CPI + x% for a particular review date, the Base Rent is varied by a percentage being the sum of the CPI Rate and the stated percentage on the relevant review date.

5.6 Base Rent until determination

If the Base Rent to apply from any review date is not determined before that review date, then:

- (a) until it is determined, the Tenant must continue paying instalments of Base Rent at the rate applicable before that review date; and
- (b) on the next date for payment of Base Rent after the reviewed Base Rent is determined:
 - (i) if the Base Rent increases the Tenant must pay any shortfall for the period from the review date until the next date for payment of Base Rent; and
 - (ii) if the Base Rent decreases the Landlord must credit to the Tenant any overpayment by the Tenant for the period from the review date until the next date for payment of Base Rent.

Title Reference 51069161

5.7 Intentionally deleted

6. Turnover Rent

6.1 If the Tenant pays Turnover Rent

- (a) If Item 10(a) provides for Turnover Rent, the Tenant must pay the Landlord Turnover Rent in addition to the Base Rent.
- (b) Within three months after the end of each Turnover Period, the Landlord must give the Tenant a statement of the Turnover Rent payable for the previous Turnover Period. The Tenant must pay the Landlord the Turnover Rent with the Tenant's next monthly payment after the Landlord gives the Tenant the statement.

6.2 Gross Sales

- (a) On or before the seventh day of each month, the Tenant must give the Landlord a statement of the Tenant's Gross Sales in the previous month. Within one month after the end of each Turnover Period, the Tenant must give the Landlord an audited statement from a registered auditor under the Act with reasonable details of the Tenant's Gross Sales in the previous Turnover Period. If the Tenant does not, the Landlord may work out the Tenant's Gross Sales based on 12 times the highest monthly Gross Sales according to the Tenant's statement or the Landlord's audit (see clause 6.2(b)).
- (b) The Tenant must keep accurate, numbered accounting records of the Tenant's Gross Sales, including the number of transactions, for two years after the end of the Turnover Period. The Landlord may inspect and audit the records at any reasonable time and at the Premises unless the Landlord agrees to another place. If the audit shows the Tenant's statement to have understated Gross Sales by more than 3% the Tenant must pay the cost of the audit.
- (c) When the Tenant has provided the audited statement referred to in clause 6.2(a) or the Landlord has audited the Tenant's Gross Sales under clause 6.2(b) then the parties must make the appropriate adjustment of Turnover Rent. This adjustment is to be made only once in respect of Turnover Rent paid in each Turnover Period.
- (d) **Gross Sales** means the amount the Tenant receives as the sale price of all goods and the charge for all services, whether by cash, credit, charge or instalment including, those delivered, made or provided:
 - (i) from the Premises, wherever originating;
 - (ii) from somewhere other than the Premises, but originating from the Premises;
 - (iii) neither from the Premises, nor originating from them, but which would normally be attributed to the Tenant's business at the Premises;but does not include:
 - (iv) if the Act applies to this Lease, any amount that the Landlord is not permitted under the Act to include in Gross Sales; or
 - (v) any amount of GST included in an amount the Tenant receives and that is included in Gross Sales.

Lay-by payments and instalments of hiring charges for goods hired without an option to purchase are included in Gross Sales for the Turnover Period in which they are due for payment.

Title Reference 51069161

7. Outgoings

7.1 Application of clause 7

This clause 7 applies only if Item 24 states that 'Outgoings applies'.

7.2 The Tenant must pay the Tenant's share of Outgoings

The Tenant must pay the Landlord the Tenant's share of the Outgoings for the Premises. The Tenant's share is calculated under clause 7.6. For the avoidance of doubt, if an Outgoing is assessed against the Land or the Building (as opposed to the Premises) and is not recoverable from the lot owners under the Building Management Statement, the Tenant's obligation under this clause is to pay the Landlord a reasonable and proper proportion of the costs of the Outgoing based on what is fair and equitable in the circumstances.

7.3 Outgoings

Outgoings means all money paid or payable by the Landlord concerning the Premises, including:

- (a) all costs, fees, expenses, levies and/or contributions payable by the Landlord under the Building Management Statement;
- (b) rates, assessments or other fees, levies or charges (for example: council rates, water rates, sewerage rates, body corporate charges or levies, fire services levies and parking charges);
- (c) taxes, including unless prohibited by law, land tax, but excluding:
 - (i) the Landlord's income tax;
 - (ii) capital gains tax; and
 - (iii) any GST payable in respect of this Lease;
- (d) insurance against all risks concerning the Premises, the Landlord and the Manager, including:
 - (i) insurance of the Premises against all usual risks to the full reinstatement value;
 - (ii) plate glass;
 - (iii) public liability;
 - (iv) workers compensation;
 - (v) machinery breakdown; and
 - (vi) any other insurance the Landlord considers appropriate;
- (e) costs in connection with:
 - (i) cleaning the Common Area and other non lettable parts of the Building;
 - (ii) cleaning the exterior of the Premises;
 - (iii) rubbish, sullage and sanitary storage and removal; and
 - (iv) controlling pests and vermin;
- (f) costs in connection with:
 - (i) providing and caring for indoor and outdoor plants in the Building; and
 - (ii) indoor and outdoor gardening and landscaping at the Building and areas near it;
- (g) costs in connection with providing, maintaining and managing the car park at the Building, including:
 - (i) signage;

Title Reference 51069161

- (ii) surfacing;
- (iii) supervision;
- (iv) traffic regulation; and
- (v) authority levies, charges and other fees;
- (h) costs in connection with the Services including:
 - (i) providing, maintaining, repairing (including replacing parts and components associated with repair and the fees payable to specialist consultants and contractors), testing and (where applicable) replacing the Services;
 - (ii) upgrading the Services; and
 - (iii) providing electricity to the Common Areas and electricity to the other Services;
- (i) costs in connection with repairing, maintaining, redecorating and enhancing the Building;
- (j) costs in connection with supplying, maintaining, repairing and replacing all signs, including:
 - (i) directory boards in the Building;
 - (ii) signs and directional signage in or near the Building; and
 - (iii) fees, rent and other charges payable for erecting, maintaining, repairing or replacing signage, whether in the Building or elsewhere, that promotes or advertises the Building;
- (k) costs the Landlord incurs for the management and operation of the Building, including:
 - (i) wages, payroll taxes, superannuation contributions and long service leave payments;
 - (ii) legal costs and other professional charges; and
 - (iii) audit costs;
- (l) costs of running the Building including:
 - (i) the public address system;
 - (ii) security;
 - (iii) caretaking; and
 - (iv) fire protection; and
- (m) any other money paid or payable by the Landlord in respect of the Premises.

Outgoings do not include:

- (a) capital costs of the Premises; or
- (b) any expenses that the Landlord is not permitted by law to recover from the Tenant.

7.4 Estimates of Outgoings

- (a) When this Lease is entered into, the Landlord must give the Tenant the Landlord's estimate of the Outgoings for the Financial Year.
- (b) At least one month before the start of each Financial Year, the Landlord must give the Tenant the Landlord's estimate of the Outgoings for the next Financial Year.
- (c) The Tenant must pay the Landlord the Tenant's share of the estimated Outgoings in equal monthly instalments, in advance, on or before the first day of each month.

Title Reference 51069161

7.5 Accounting for Outgoings

- (a) Within three months after the end of each Financial Year, the Landlord must give the Tenant a statement of the Outgoings, for the previous Financial Year. The statement must comply with the Act.
- (b) If the Tenant's share of the actual Outgoings is greater than the Tenant's share of the estimated Outgoings paid, the Tenant must pay the Landlord any difference with the Tenant's next monthly payment. If it is less, the Landlord must credit the Tenant with this in the next monthly statement or refund the difference.

7.6 Tenant's share of Outgoings

As the Tenant is leasing the whole of the lot, the Tenant shall be responsible for payment or reimbursement to the Landlord of all Outgoings. The Tenant's share of Outgoings is therefore one hundred percent (100%).

8. Other money

8.1 The Tenant must pay for Services to the Premises

- (a) The Tenant must pay on time for all Services supplied to the Premises, including electricity, water, gas and telephone.
- (b) The Tenant must pay on time or reimburse the Landlord on demand all rates, taxes, assessments and other charges (for example: pedestal charges and signage levies) that are or may be assessed, charged, levied or imposed on the Premises or that relate to the Premises or arise out of the Tenant's use of the Premises.
- (c) The Tenant must pay on time for all electricity separately metered to the Premises. If the Premises are not separately metered for electricity, the Tenant must install a meter at its own cost.

8.2 Bulk supply of Electricity

- (a) To the extent permitted by law and where the Landlord accepts the Tenant's offer for the Landlord to supply electricity to the Tenant in accordance with this clause 8.2, the Tenant must pay the Landlord for the electricity used in the Premises supplied by the Landlord.
- (b) If the Landlord obtains a bulk supply of electricity from an electricity retailer and provides separately metered electricity to the Premises, the Tenant must pay for the electricity used in the Premises at the lowest rate that the Tenant would have paid for consumption if it had consumed electricity as a tariff customer of an electricity retailer in the relevant area.
- (c) Before entering into an agreement with an electricity retailer for the sale and purchase of electricity for the Premises, the Tenant must deliver to the Landlord a notice offering to purchase electricity from the Landlord at the lowest rate offered in writing by the electricity retailer but otherwise on the terms of this clause 8.2 (other than clause 8.2(b)).

The Landlord may accept the offer at any time within 14 days after the Landlord receives the offer from the Tenant.

- (d) The Landlord:
 - (i) will not be liable for any direct or indirect loss or damage incurred by the Tenant as a result of the Landlord's failure to supply electricity to the Tenant under this Lease, except if that failure to supply is a result of the Landlord's wilful default; and
 - (ii) excludes all implied conditions and warranties relating to the sale or supply of electricity, except any implied condition or warranty the exclusion of which would contravene any statute or cause any part of this clause to be void (**Non-excludable Condition**).

Title Reference 51069161

- (e) To the extent permitted by law, the Landlord's liability to the Tenant for breach of any express provision of this Lease relating to the sale or supply of electricity by the Landlord to the Tenant or any Non-excludable Condition (other than an implied warranty of title) is limited, at the Landlord's option, to refunding the price of the electricity in relation to which the breach occurred, or to providing the electricity again.
- (f) If requested by the Landlord, the Tenant will meet with the Landlord to negotiate in good faith any amendments to this Lease that, in the Landlord's opinion, are necessary or desirable as a result of any amendments or changes to any applicable law relating to the sale or supply of electricity. Until the parties reach agreement, the Tenant will continue to pay a tariff at the rate applicable at the time of the amendments or changes or, if that rate cannot lawfully be charged, the maximum rate payable at law.

8.3 The Promotion Levy

- (a) The Tenant must pay the Landlord the Promotion Levy monthly, and in advance on the first day of each month.
- (b) At least one month before the start of each Financial Year, the Landlord must give the Tenant a statement of the estimated marketing budget for the next Financial Year. The statement must comply with the Act.
- (c) Within three months after the end of each Financial Year, the Landlord must give the Tenant the statement required by the Act about marketing expenses for the previous Financial Year.

8.4 The Landlord's legal and other costs

- (a) Unless the Act applies and provides otherwise (in which case see clause 8.4(b)), the Tenant must pay:
 - (i) the Landlord's reasonable legal and other costs arising out of this Lease including:
 - (A) preparing, negotiating, executing and, if applicable, obtaining the consent of any mortgagee of the Premises to, and registering this Lease;
 - (B) any dealing arising out of this Lease (for example: assignment, subletting); and
 - (C) any incidental expenses arising from this Lease (for example: credit checks, searches, printing and couriers);
 - (ii) lease duty and, if applicable, mortgagee consent, registration and survey fees on this Lease or any other document arising out of this Lease;
 - (iii) the Landlord's reasonable costs of considering the Tenant's request for the Landlord's approval or consent including considering plans, designs or references; and
 - (iv) the Landlord's costs and expenses (including legal costs), on a full indemnity basis, incurred as a result of any default under or breach of this Lease by the Tenant.
- (b) If the Act applies to this Lease and precludes the Landlord from recovering one or more of the expenses detailed in clause 8.4(a), the Landlord must pay these costs.

8.5 Costs specific to the Premises

The Tenant must pay any cost that the Landlord incurs for or in respect of the Premises that results from the Tenant's use or occupation of the Premises.

8.6 Tenancy Coordination Fee

The Tenant must pay the Tenancy Coordination Fee to the Landlord upon demand.

Title Reference 51069161

9. Security

9.1 Bank guarantee

- (a) If Item 13(a) provides for a bank guarantee, on or before the Starting Date the Tenant must give the Manager an unconditional bank guarantee:
 - (i) addressed to the Landlord, or any other party nominated by the Landlord;
 - (ii) in a form and on terms acceptable to the Landlord, including that the guarantee;
 - (A) is for all obligations under the Lease;
 - (B) is assignable by the Landlord; and
 - (C) contains no expiry date; and
 - (iii) for the amount specified in Item 13(b) (varied as set out in clause 9.1(b)).
- (b) When the Base Rent increases the bank guarantee amount will increase by the same proportion and the Tenant must give the Landlord a replacement unconditional bank guarantee for the increased bank guarantee amount or a further unconditional bank guarantee for the amount of the increase. In either case, the bank guarantee must be addressed to the Landlord and comply with clause 9.1(a).
- (c) The Landlord may present the bank guarantee to recover the Landlord's loss due to the Tenant's breach (see clause 20). The Tenant must promptly replace the bank guarantee if it is presented.
- (d) When this Lease ends and the Tenant has:
 - (i) vacated the Premises; and
 - (ii) complied with all of the Tenant's obligations under this Lease,the Landlord must return the bank guarantee to the Tenant unless it is needed to recover the Landlord's loss.
- (e) If the Landlord changes, the Tenant must do whatever is necessary on the Tenant's part to give any party nominated by the new person the benefit of the bank guarantee.

9.2 Security deposit

- (a) If Item 13(c) provides for a security deposit, on or before the Starting Date, the Tenant must give the Landlord cash or a bank cheque for the amount in Item 13(d) (varied as set out in clause 9.2(b)).
- (b) When the Base Rent increases the security deposit amount will increase by the same proportion and the Tenant must give the Landlord cash or a bank cheque for the amount of the increase.
- (c) The Landlord must hold the security deposit as security for the Tenant complying with this Lease. The Landlord may deduct any part of the security deposit to recover the Landlord's loss due to the Tenant's breach (see clause 20). The Tenant must promptly pay to the Landlord any part of the security deposit deducted.
- (d) When this Lease ends and the Tenant has:
 - (i) vacated the Premises; and
 - (ii) complied with all of the Tenant's obligations under this Lease,the Landlord must return the security deposit to the Tenant unless it is needed to recover the Landlord's loss.

Title Reference 51069161

10. Tenant's obligations generally

10.1 The Tenant must obey the law

The Tenant must:

- (a) obey any law that requires the Tenant to do, or to refrain from doing anything concerning the Premises, the Tenant's use of the Premises, or this Lease; and
- (b) obtain and keep current all permits and licences necessary for the lawful conduct of the business conducted by the Tenant in the Premises.

10.2 Using this Lease etc as security

- (a) The Tenant must get the Landlord's consent before the Tenant uses the Tenant's Property as security. The Landlord may impose conditions if the Landlord gives consent.
- (b) The Tenant must not use this Lease as security.
- (c) Section 45 of the Act does not apply to this Lease. [Note: section 45 of the Act governs the Tenant's right to deal with this Lease and the Tenant's business assets].

10.3 Using the Common Area

The Tenant may use the Common Area in common with other tenants or people in the Building and as set out in the Rules.

10.4 Tenant's behaviour

The Tenant must not do anything that is, or may be, dangerous, annoying or offensive to, or that may interfere with, other tenants or people in the Building or adjacent buildings.

10.5 The Tenant must fix damage

The Tenant shall be responsible for repairing any damage the Tenant causes to the Building.

10.6 Reporting damage and copy notices

The Tenant must promptly:

- (a) report to the Landlord:
 - (i) any damage to or accident in the Premises or the Building; and
 - (ii) any faulty Service in the Premises or the Building; and
- (b) give the Landlord a copy of any notice or report affecting the Premises.

11. The Tenant's obligations concerning the Premises

11.1 Using the Premises

- (a) The Tenant may only use the Premises for the purpose specified in Item 16 and any storage reasonably associated with that use.
- (b) The Landlord may allow other tenants in the Building to carry on the same or similar use or to sell similar items.
- (c) The Tenant must carry on the Tenant's business and use of the Premises:
 - (i) to the best of the Tenant's ability;

Title Reference 51069161

- (ii) in a professional and competent way;
 - (iii) properly and efficiently and in accordance with best industry practices; and
 - (iv) to the Landlord's satisfaction (acting reasonably).
- (d) The Tenant must do all that is necessary to carry on the Tenant's business in the Premises to the best advantage.
- (e) The Tenant must not trade from the Premises under a name other than the name specified in Item 4, without the Landlord's prior written consent. The Tenant specifically acknowledges and agrees that the Tenant must not use a trading name that includes words derived from the name of the Building. However, if with the Landlord's prior written consent (which may be granted or withheld in the Landlord's absolute discretion), the name under which the Tenant conducts its business at the Premises includes words derived from the name of the Building, then at the expiration or sooner determination of this Lease the Tenant will if required by the Landlord:
- (i) change its name so as to exclude those words; and
 - (ii) execute a transfer of all rights in respect of the business name that includes those words whether standing alone or in combination with any other words) in favour of the Landlord or any person nominated by it including the transfer of any registered business name or any rights under the *Trade Marks Act*. The Landlord is hereby irrevocably constituted the attorney of the Tenant for the purpose of executing those transfers.

11.2 Trading hours and costs

- (a) **Trading Costs** means the costs incurred in relation to the Premises and Building to enable the Tenant to carry on its business during the trading hours as set out in Item 22. Without limitation, in addition to the costs incurred in relation to the Premises, these costs include the Tenant's share (as reasonably determined and advised to the Tenant by the Landlord) of the running and maintenance costs of the Building's air-conditioning, lighting and other utilities and services, Building cleaning costs, Building security costs and Building management costs.
- (b) The Tenant must keep the Premises open for business during the trading hours as set out in Item 22.
- (c) The Tenant shall be responsible for the Trading Costs incurred for keeping the Premises and Building open and / or the Tenant carrying on its business during the trading hours as set out in Item 22.
- (d) The Tenant agrees to pay to the Landlord upon demand the Trading Costs.

11.3 After-hours trading

- (a) In this clause:

After-hours Trading means trading during hours other than the Tenant's trading hours as set out in Item 22.

After-hours Trading Costs the costs incurred in relation to the Premises and Building to enable the Tenant to carry on its business during the hours of After-hours Trading. Without limitation, in addition to the costs incurred in relation to the Premises, these costs include the Tenant's share (as reasonably determined and advised to Tenant by the Landlord) of the additional running and maintenance costs of the Building's air-conditioning, lighting and other utilities and services, additional Building cleaning costs, additional Building security costs and additional Building management costs.

- (b) The Landlord acknowledges that the *Trading Hours (Allowable Hours) Act 1990 (Qld)* may permit retail tenants in parts of Queensland to engage in After-hours Trading.
- (c) The Tenant must not engage in After-hours Trading unless it:
- (i) has the right to do so by law; and

Title Reference 51069161

- (ii) has obtained the Landlord's written consent.
- (d) Where the Tenant intends to engage in After-hours Trading it must give the Landlord at least one week's written notice.
- (e) The Tenant agrees to pay to the Landlord upon demand the After-hours Trading Costs.

11.4 Dealing with the Premises

- (a) The Tenant must get the Landlord's consent before the Tenant deals with the Premises or the Tenant's interest in the Premises (for example: assigning, subleasing, sharing or licensing). If the Tenant is a company that is not listed on the Australian Stock Exchange, the Tenant must get the Landlord's consent before there is any dealing with any shares in the Tenant (for example: transferring).
- (b) At least seven days before asking the Landlord to consent to an assignment of this Lease the Tenant must give to the new person a disclosure statement in the form and containing the information prescribed by the Act and obtain from the new person a disclosure statement in the form and containing the information prescribed by the Act. The new person must give the Landlord a disclosure statement in the form and containing the information prescribed by the Act before the Landlord consents to the assignment.
- (c) When the Tenant asks for the Landlord's consent, the Tenant must:
 - (i) if required by the Landlord (acting reasonably) pay to the Landlord an amount reasonably nominated by the Landlord, which will be a non-refundable deposit toward the cost to the Landlord of making inquiries about the new person;
 - (ii) give to the Landlord:
 - (A) detailed financial references and detailed business references on the new person containing sufficient detail to enable the Landlord to properly consider the experience of the new person, the ability of the new person to trade from the Premises and the new person's ability to meet the Tenant's financial obligations under this Lease; and
 - (B) any other information that the Landlord reasonably requires; and
 - (C) in the case of an assignment, a copy of the disclosure statement given by the Tenant to the new person in accordance with the Act and a copy of the disclosure statement given by the new person to the Tenant before the Landlord was asked to consent to the assignment.
- (d) The Landlord must not unreasonably withhold the Landlord's consent if all of the following are obeyed:
 - (i) the Tenant proves to the Landlord that the new person:
 - (A) does not intend to change the use of the Premises;
 - (B) is at least as capable as the Tenant of meeting the financial obligations of the Tenant under this Lease; and
 - (C) has financial resources and retailing skills that are not inferior to those of the Tenant;
 - (ii) the Tenant has complied with clause 11.4(c);
 - (iii) the Tenant does any thing that the Landlord reasonably requires concerning the dealing (for example giving the Landlord a stamped transfer of lease and/or a copy of the contract of sale);
 - (iv) the Tenant and the new person enter any agreement (for example: deed of consent) and give any security (for example: personal guarantee, security deposit or bank guarantee) that the Landlord reasonably requires;
 - (v) the Tenant is not in breach of this Lease;

Title Reference 51069161

- (vi) in the case of an assignment:
 - (A) if Item 10(a) provides for Turnover Rent, the Tenant pays to the Landlord Turnover Rent to the date of assignment;
 - (B) the new person has provided to the Landlord a disclosure statement in the form and containing the information prescribed by the Act; and
 - (C) if required by the Act, the new person has provided to the Landlord a financial advice report and a legal advice report in the form and containing the information prescribed by the Act.
- (e) The Tenant agrees that if this Lease is assigned:
 - (i) the Landlord must give the new person and not the Tenant the statement of Outgoings required under clause 7.5;
 - (ii) the new person and not the Tenant will be entitled to any refund of Outgoings due under clause 7.5; and
 - (iii) the Tenant must pay or procure the new person to pay the Landlord any difference in Outgoings due under clause 7.5.

11.5 Maintaining the Premises and the Tenant's Property

- (a) The Tenant acknowledges that, except for the possible latent defects of which the Tenant could not be aware, on the Handover Date, the Premises were in the condition as described in the Condition Report.
- (b) The Tenant must:
 - (i) keep the Premises clean and tidy and free from vermin and pests; and
 - (ii) comply with all health regulations and laws.
- (c) The Tenant must keep the Premises in good condition and in at least as good a condition as at the Starting Date except for fair wear and tear, including carrying out any repairs and fixing any damage the Tenant causes.
- (d) The Tenant must maintain, repair and keep:
 - (i) the Tenant's Property;
 - (ii) the Premises' flooring;
 - (iii) all doors, locks and windows forming part of and servicing the Premises;
 - (iv) all fire extinguishers and hot water services in the Premises; and
 - (v) the shopfront;in good repair at the Tenant's cost.
- (e) The Tenant must keep the waste pipes, drains and conduits within or servicing the Premises in a clean, clear and free flowing condition and employ licensed experienced and competent tradespersons meeting any criteria specified by the Landlord, to clear any blockages.
- (f) The Tenant must promptly replace worn or damaged light bulbs and plate glass in the Premises with items of similar quality.
- (g) The Tenant must not remove any of the Landlord's Property from the Premises without the Landlord's consent.
- (h) The Tenant must:

Title Reference 51069161

- (i) paint the Premises when the Landlord reasonably requires the Tenant to do so and at least once in every period in Item 14; and
- (ii) when the Tenant paints the Premises, patch any holes in the walls and generally repair the Premises.

11.6 Altering the Premises

The Tenant must get the Landlord's consent before the Tenant alters, installs any equipment in, re-designs the interior of, builds a partition in, or does any other building work in the Premises.

11.7 Tenant's works

The Tenant must ensure that any works it does, including works under clause 11.5, are done:

- (a) by contractors approved by the Landlord;
- (b) in a proper and workmanlike manner;
- (c) in accordance with any plans, specifications and schedule of finishes required and approved by the Landlord (and where required under the Building Management Statement, approved by the Committee);
- (d) in accordance with all laws and the requirements of authorities; and
- (e) in accordance with the Landlord's reasonable requirements and directions including all directions which will affect the Building's Australian Building Greenhouse Rating (**ABGR**) or National Australian Built Environment Rating System (**NABERS**) rating.

11.8 Fitout Manual

- (a) The Tenant must always comply with the Fitout Manual.
- (b) The Landlord must provide to the Tenant on request a copy of the current Fitout Manual.

11.9 Refurbishing the Premises

- (a) If Item 15 provides for refurbishment during the Term, at any time after the refurbishment date specified in Item 15 the Landlord may require the Tenant to refurbish the Premises to a standard in keeping with other premises within the Building.
- (b) Refurbishment may include:
 - (i) new finishes to internal walls;
 - (ii) new floor coverings;
 - (iii) new signs and new lighting; and
 - (iv) new shop fixtures, fittings and shopfront.
- (c) The Landlord must give the Tenant a notice at least 60 days before the Tenant must start the refurbishment. Within 30 days of receiving the notice, the Tenant must give the Landlord professionally drawn plans and specifications for the refurbishment, for the Landlord's approval. When the Landlord gives the Landlord's approval, the Tenant must then get any relevant authority's approval.
- (d) The Tenant must start the refurbishment within 14 days of getting the approvals, and the Tenant must build and finish it in accordance with the Landlord's approval within 60 days of that start or a later time if the Landlord consents.

11.10 When this Lease ends

When this Lease ends the Tenant must:

Title Reference 51069161

- (a) vacate the Premises and give them back to the Landlord in the same condition as they were in at the Starting Date, except for fair wear and tear; and
- (b) make sure all the Tenant's Property is removed and any damage caused by removing the Tenant's Property is made good. Anything left on the Premises becomes the property of the Landlord and the Landlord may keep it or dispose of it. However the Landlord may require the Tenant by a notice to leave the shopfront and/or the ceiling, which then becomes the property of the Landlord for no cost.

12. Workplace Health and Safety

12.1 Defined terms

In this clause 12:

- (a) **Construction Work, Construction Project, Person Conducting a Business or Undertaking and Person in Management or Control of Workplaces** have the meanings given to them in the WHS Act.
- (b) **Other Work** means any work in relation to the Premises carried out by or on behalf of the Tenant which is a Construction Project whether or not directed or approved by the Landlord.
- (c) **Principal Contractor** means the person engaged as the principal contractor in accordance with the WHS Act.
- (d) **Third Party Work** means contractors or others undertaking work or Other Work in or at the Premises.
- (e) **WHS Act** means the *Work Health and Safety Act 2011 (Qld)* and includes any Regulations, Codes of Practice and Advisory Standards made under it.

12.2 Acknowledgment by Tenant

The Tenant acknowledges that:

- (a) for the purposes of the WHS Act, the Tenant is the Person in Management or Control of the Premises including the property of the Landlord; and
- (b) the Tenant has an obligation to ensure the safety of any persons at the Premises including workers and other persons engaged in Third Party Work.

12.3 Obligations of Tenant

The Tenant must ensure:

- (a) compliance with its obligations under the WHS Act, in particular with the obligations it has as a Person Conducting a Business or Undertaking and a Person in Management or Control of Workplaces;
- (b) that it and all workers and other persons connected with its business or undertaking comply at all times with the requirements of the WHS Act and any directions, manuals, policies or rules formulated from time to time by the Landlord;
- (c) that it has systems in place to assess and eliminate risks and hazards at the Premises, which meet the standard required by the WHS Act;
- (d) that where risk and hazards cannot be eliminated, the risks and hazards are controlled in a way which meets the standard required by the WHS Act;
- (e) that it provides appropriate training and supervision for all workers and other persons at the Premises;
- (f) that only suitably qualified persons are engaged by or on behalf of the Tenant to carry out any Third Party Work;

Title Reference 51069161

- (g) that it immediately complies with directions on safety issued by any relevant Authority or by the Landlord;
and
- (h) that it does all things to assist the Landlord in discharging any obligations it may have under the WHS Act.

12.4 Appointment of Tenant as Principal Contractor

- (a) Without limiting or in any way affecting the Tenant's obligations under this Landlord Lease or any other document, where any Other Work is to be undertaken at the Premises, whether during the Term or any prior period of occupation to fitout the Premises before the Starting Date, the Landlord engages and the Tenant accepts engagement as the Principal Contractor
- (b) For specific Other Work to be conducted at the Premises, the Tenant may ask the Landlord to consent to the engagement of a third party as Principal Contractor in place of the Tenant. If the Landlord consents to the engagement of a third party as Principal Contractor, the Tenant must ensure that the third party enters into an agreement with the Landlord to be engaged as Principal Contractor.

12.5 Notice of appointment

The Tenant will complete all forms (if any) and attend to all statutory requirements (if any) to ensure it or a third party is engaged as the Principal Contractor.

12.6 Acknowledgment by Tenant

The Tenant acknowledges that it will have all responsibilities connected with its appointment as the Principal Contractor for the Other Work until the end of the Term or the sooner termination of this Lease unless a third party is appointed as a Principal Contractor in accordance with this clause 12.

12.7 Obligation to comply not limited

The Tenant's compliance with the WHS Act in performing its obligations under this clause is in addition to, not in substitution for, the Tenant's obligation to comply with any other legislation or regulations.

12.8 Signage

The Tenant will ensure that when any Other Work is carried out, signs that are clearly visible from outside the Premises are placed on the Premises:

- (a) identifying the Principal Contractor appointed in accordance with clause 12.4;
- (b) stating the contact telephone numbers (including an after hours emergency number) of the Principal Contractor; and
- (c) showing the location of the site office for the Construction Project (if any).

Signage must be clearly visible from the outside of the workplace or the work area where a Construction Project is being undertaken

12.9 Indemnity

The Tenant will, on and from the earlier of the date of this Lease, the Starting Date or the date the Tenant is first given access to the Premises (as the case may be) to the extent permitted by law, indemnify the Landlord against liability or loss arising from, or cost incurred in connection with, any breach by the Tenant of this clause or of the obligations applicable to the Principal Contractor under the WHS Act.

Title Reference 51069161

13. The Landlord's rights and obligations

13.1 The Landlord's management

The Landlord may appoint agents or others to exercise any of its rights or perform any of its obligations under this Lease. Communications from the Landlord will override those from the agents or others if they are inconsistent.

13.2 The Landlord must obey the law

The Landlord must obey any law that requires the Landlord to do anything concerning the Premises.

13.3 Common Area

- (a) The Landlord may use the Common Area for any purpose.
- (b) The Landlord may make Rules for the Tenant's use of the Common Area (see clause 19).

13.4 The Tenant's quiet enjoyment

Subject to the rights, obligations and requirements under the Building Management Statement, the Landlord must allow the Tenant to occupy and use the Premises without the Landlord interrupting or disturbing the Tenant, except where this Lease allows the Landlord to do so.

13.5 The Landlord's Services

If the Landlord supplies any Services to the Premises (for example: airconditioning), the Landlord must do all the Landlord reasonably can to ensure that they are working efficiently during the Tenant's trading hours. However, if any of the Services do not work efficiently, unless the Act applies and provides otherwise, the Landlord is not liable to compensate the Tenant and the Tenant cannot end this Lease if the Landlord does not.

13.6 The Landlord may enter the Premises

The Landlord may enter the Premises for the following purposes:

- (a) inspection or to carry out maintenance, repairs or building work; and
- (b) showing the Premises to prospective purchasers, investors or tenants,

at any reasonable time after giving reasonable notice. If there is an emergency, the Landlord may enter at any time without giving the Tenant notice.

13.7 The Landlord may do things on the Tenant's behalf

The Landlord may carry out any of the Tenant's obligations on the Tenant's behalf if the Tenant does not carry out the Tenant's obligations on time (for example: if the Tenant does not do repairs). The Tenant must promptly reimburse the Landlord's costs of doing this.

13.8 Giving the Landlord's consent or approval

Unless this Lease says otherwise, if the Tenant is required to obtain the Landlord's consent or approval for any thing, the Landlord may give, give conditionally or withhold its consent or approval at its absolute discretion.

14. Repairs or building work

14.1 The Landlord may do any repairs or building work

The Tenant acknowledges that the Landlord may:

- (a) do repairs or maintenance to the Building or to one or more of the lots comprising the Building; and

Title Reference 51069161

- (b) do any building work to extend or change the Building or one or more of the lots comprising the Building.

14.2 When the Landlord does repairs or building work

When the Landlord does repairs, maintenance or building work to the Premises, the Landlord must cause as little disruption to the Tenant's use of the Premises as is reasonable in the circumstances.

14.3 Intentionally deleted

14.4 Subdivision and easements

The Landlord may:

- (a) subdivide the Premises; or
(b) grant easements over the Premises,

so long as in doing so the Landlord does not substantially and permanently reduce the Tenant's enjoyment of the Premises.

15. Intentionally deleted

16. If the Premises are damaged, destroyed, or resumed

16.1 If damaged or destroyed

- (a) If the Premises or Building are damaged or destroyed, and as a result the Tenant cannot use or access the Premises, the Tenant may ask the Landlord to re-build them. Meanwhile the Tenant must continue to use any part of the Premises that is reasonably useable, safe and accessible.
- (b) If the Landlord does not begin rebuilding the Premises within a reasonable time after the Tenant asks, or if the Landlord decides not to re-build the Premises, the Tenant or the Landlord may end this Lease by at least seven days' notice to the other.
- (c) The Landlord is not liable to pay the Tenant compensation, but the Landlord must reduce the Base Rent and any other money by a reasonable amount depending on the type and extent of the damage or destruction, from the date of the damage or destruction until the Premises are again fit for use, or this Lease is ended.
- (d) Despite clauses 16.1(b) and 16.1(c), the Tenant cannot end this Lease and must continue to pay the whole of the Rent and all other money up to the Expiry Date if the Landlord's insurer is not legally required to pay for the rebuilding/reinstatement because the Tenant caused or contributed to the damage or destruction.

16.2 If resumed

If a competent authority resumes the Premises or the Building, and this makes the Premises unfit for the Tenant's use, the Landlord is not liable to pay the Tenant any compensation.

17. Risks and insurances

17.1 The Tenant must have insurance

- (a) The Tenant must have current insurance for all the following:

Title Reference 51069161

- (i) public liability insurance policy for the amount specified in Item 18, or such higher amount as the Landlord reasonably requires;
 - (ii) industrial special risks policy for the usual risks and covering the Tenant's Property for its full replacement value;
 - (iii) plate glass for its replacement value;
 - (iv) business interruption and loss of profits;
 - (v) workers compensation; and
 - (vi) any other insurance reasonably required by the Landlord.
- (b) The Tenant must:
- (i) have the interests of the Landlord and the mortgagee registered on the title for the Premises, and any other person nominated by the Landlord, noted on the Tenant's insurances;
 - (ii) give the Landlord evidence of the Tenant's insurance on 1 July in each year and whenever the Landlord asks; and
 - (iii) notify the Landlord immediately if an insurance policy required by this Lease (**Required Insurance**) is cancelled or an event occurs which may allow a claim or affect rights under a Required Insurance policy in connection with the Premises, the Building or property in them.
- (c) The Tenant must not do anything that:
- (i) may make the Landlord's insurance invalid or able to be cancelled; or
 - (ii) may increase the Landlord's insurance premium, unless the Tenant informs the Landlord and pays the increased premium.

17.2 The Tenant releases and indemnifies the Landlord and the Manager

- (a) The Tenant occupies and uses the Premises at the Tenant's own risk. The Tenant also carries out building work in the Premises at the Tenant's own risk.
- (b) The Tenant releases the Landlord and the Manager from, and agrees that the Landlord and the Manager are not liable for liability or loss arising from, or costs incurred in connection with:
 - (i) damage, loss, injury or death, except to the extent that it is caused by the act, negligence or default of the Landlord or the Manager; and
 - (ii) anything the Landlord or the Manager is permitted or required to do under this Lease.
- (c) The Tenant indemnifies the Landlord and the Manager against any action or demand due to any damage, loss, injury or death caused or contributed to by:
 - (i) the Tenant's act, omission, default or negligence;
 - (ii) the Tenant's use or occupation of the Premises, the Building or the Common Area;
 - (iii) any breach of this Lease by the Tenant; or
 - (iv) Services to the Premises, the Building or the Common Area,except to the extent that the Landlord or the Manager cause this by a negligent act or omission.
- (d) The Tenant indemnifies the Landlord and the Manager against any action or demand due to any damage, loss, injury or death caused or contributed to by the Landlord doing anything which the Tenant must do under this Lease, but has not done or has not done properly.

Title Reference 51069161

18. Guarantee and indemnity

18.1 Interpretation

In this clause:

Guaranteed Money means all money that the Tenant is or may at any time be liable (actually, prospectively or contingently) to pay to the Landlord under or in connection with:

- (a) this Lease (including the Tenant's default); and
- (b) the Tenant's occupation of the Premises,

and includes money which the Tenant would be liable to pay but for its insolvency.

Guarantor Assets means all debts and liabilities owed by the Tenant to the Guarantor and any security the Guarantor holds over the Tenant's assets.

Lease includes any holding over under it and extension and renewal of it.

18.2 Consideration

The Guarantor gives this guarantee and indemnity in consideration of the Landlord agreeing to enter into this Lease at the Guarantor's request.

18.3 Guarantee

The Guarantor irrevocably and unconditionally guarantees to the Landlord that the Tenant will:

- (a) pay the Guaranteed Money on time; and
- (b) comply on time with the Tenant's obligations under this Lease and in connection with the Tenant's occupation of the Premises.

18.4 Payment under guarantee

If the Tenant does not:

- (a) pay the Guaranteed Money; or
- (b) comply with the Tenant's obligations under this Lease or in connection with the Tenant's occupation of the Premises,

on time, the Guarantor must on demand pay that money to the Landlord or comply with those obligations or both, as the case may be, whether or not the Landlord has demanded that the Tenant pay or comply.

18.5 Indemnity

As an additional obligation of the Guarantor which the Landlord may enforce separately from the guarantee in clause 18.3, the Guarantor irrevocably and unconditionally indemnifies the Landlord against, and undertakes as principal debtor to pay the Landlord on demand a sum equal to all liability, loss, penalties, costs, charges and expenses directly or indirectly arising from or incurred in connection with:

- (a) the Tenant not paying the Guaranteed Money on time;
- (b) the Tenant not complying on time with the Tenant's obligations under this Lease or in connection with its occupation of the Premises; and
- (c) the Landlord not being able to recover all of the Guaranteed Money from the Tenant or enforce all of the Tenant's obligations under this Lease or in connection with the Tenant's occupation of the Premises for any reason,

Title Reference 51069161

whether or not the Landlord or the Guarantor knew or should have known about a fact or circumstance that gives rise to a claim under this indemnity. It is not necessary for the Landlord to incur expense or make a payment before enforcing this indemnity.

18.6 Extent of guarantee and indemnity

The guarantee and indemnity in this clause 18 are independent of and in addition to any other guarantee or security the Landlord holds and are continuing and are not discharged by any one payment and may not be terminated by the Guarantor. They continue until the Landlord unconditionally releases the Guarantor in writing or until all of the Guarantor's obligations under the guarantee and the indemnity are complied with.

18.7 Liabilities and rights not affected

The Guarantor's liabilities as a guarantor, indemnifier and principal debtor, and the Landlord's rights, under the guarantee and indemnity are not affected by anything which might otherwise affect them including but not limited to:

- (a) the Landlord giving time or any other concession to the Tenant, the Guarantor or any other person;
- (b) the Landlord abandoning or transferring any right, compromising with or releasing the Tenant or any person named as Guarantor;
- (c) the Landlord's acquiescence, delay or mistake;
- (d) the variation, assignment, extension, renewal, surrender, termination or expiry of this Lease;
- (e) this Lease not being effective as a lease for the Term;
- (f) any change in the Tenant's occupation of the Premises;
- (g) a liquidator or a trustee in bankruptcy disclaiming this Lease;
- (h) the Tenant, if a corporation, being wound up or dissolved;
- (i) the Tenant, if an individual, being declared bankrupt or dying;
- (j) the Landlord obtaining judgment against the Tenant or any person named as Guarantor for money secured under the guarantee and indemnity;
- (k) the obligations of a person named as Guarantor being partly or wholly unenforceable for any reason;
- (l) any person named as Guarantor not executing the guarantee and indemnity or not executing it correctly; and
- (m) the Guarantor being wholly or partly released from its obligations for any other reason.

18.8 Guarantor's rights waived

So far as it legally can, the Guarantor waives:

- (a) any right it has of requiring the Landlord to proceed against or enforce any right against the Tenant or any other person before claiming against the Guarantor under the guarantee and indemnity;
- (b) any claim, right of set off or counterclaim or any defence which might reduce or discharge the Guarantor's liability under the guarantee and indemnity; and
- (c) any legal or equitable rights it has that are inconsistent with its obligations under the guarantee and indemnity.

18.9 Guarantor's rights suspended

Until the Landlord:

- (a) has received all the Guaranteed Money;

Title Reference 51069161

- (b) is satisfied that it will not have to repay any of it; and
- (c) is satisfied that all the Tenant's obligations under this Lease and in connection with the Tenant's occupation of the Premises have been complied with,

the Guarantor must not:

- (d) claim for any reason to have a right to the benefit of the bank guarantee, security deposit or any other guarantee or security the Landlord holds in connection with this Lease;
- (e) make a claim or enforce a right against the Tenant or its property; or
- (f) prove or claim or exercise voting rights if a liquidator, provisional liquidator, administrator or trustee in bankruptcy is appointed in respect of the Tenant.

18.10 Costs

The Guarantor must pay the Landlord on demand for:

- (a) the Landlord's costs, charges and expenses (including but not limited to legal costs, charges and expenses on a full indemnity basis whether incurred by or awarded against the Landlord) in connection with this guarantee and the indemnity including but not limited to its enforcement; and
- (b) all taxes, duties, imposts and charges in connection with the guarantee and indemnity or any transaction contemplated by it.

18.11 Interest

The Guarantor must pay interest on any amount payable by it under the guarantee and indemnity, which it does not pay on time on demand or at times the Landlord specifies from when the amount becomes due until it is paid. Interest is calculated on daily balances at 2% above the rate specified in Item 20 and is capitalised on the last day of each month if unpaid.

18.12 Reinstatement of guarantee

If any payment or other transaction in connection with this Lease or the guarantee and indemnity is void, voidable, unenforceable or defective or is claimed to be so and that claim is upheld or settled then:

- (a) the liability of the Guarantor is to be what it would have been if the payment or other transaction had not been made; and
- (b) immediately the Landlord requests it, the Guarantor must do everything necessary to put the Landlord back into the position it would have been if the payment or other transaction was not void, voidable, unenforceable or defective.

18.13 Assignment

The Landlord may assign its rights under this clause to any person to whom it transfers the Premises or assigns its interest in this Lease.

18.14 Defined terms

In this clause 18, a reference to the Tenant includes any successor or assign of the Tenant.

19. Rules

19.1 Rules

- (a) The Rules are part of this Lease and the Tenant must obey them.

Title Reference 51069161

- (b) The Landlord may change the Rules as the Landlord thinks necessary or desirable. The Landlord must give the Tenant a copy of the changed Rules.
- (c) If a term of this Lease and a Rule are inconsistent, the term of this Lease prevails.
- (d) If a term of the Building Management Statement and a Rule are inconsistent, the terms of the Building Management Statement prevail.

20. Breach of this Lease

20.1 How the Tenant breaches this Lease

The Tenant breaches this Lease if the Tenant disobeys any term of this Lease, including if the Tenant:

- (a) does not pay the Landlord on time any part of the Rent, the Tenant's share of the Outgoings, or the Promotion Levy; or
- (b) uses the Premises for any use other than for the use of the Premises permitted in clause 11.1; or
- (c) breaches or causes the Landlord to be in breach of any obligation or requirement under the Building Management Statement.

20.2 If the Tenant breaches this Lease

- (a) If the Tenant breaches this Lease the Landlord may do any one or more of the following:
 - (i) re-enter and take possession of the Premises;
 - (ii) end this Lease (see clause 11.10);
 - (iii) recover from the Tenant or the Guarantor any loss the Landlord suffers due to the Tenant's breach;
 - (iv) use the bank guarantee (see clause 9.1(c)) or the security deposit (see clause 9.2(c)) to recover any loss the Landlord suffers due to the Tenant's breach; or
 - (v) exercise any of the Landlord's other legal rights.
- (b) Clause 20.2(a) is subject to the Tenant failing to comply with any notice that the Landlord is required by law to give to the Tenant allowing the Tenant a reasonable time to remedy the breach if it is capable of remedy or to pay the Landlord reasonable compensation to the Landlord's satisfaction where compensation in money is required.

20.3 What the Landlord may do if the Tenant breaches an essential term

- (a) If the Tenant breaches an essential term of this Lease and the Landlord re-enters and takes possession of the Premises, the Landlord may recover all money payable by the Tenant under this Lease up to the Expiry Date. The Landlord must take all reasonable measures to minimise the Landlord's loss.
- (b) The essential terms for this clause are clauses 3.1, 4, 5, 6.1, 7.1, 7.4(c), 7.5(b), 8.1(b), 8.2, 8.3, 8.4, 8.5, 9.1(a), 9.1(b), 9.1(e), 9.2(a), 9.2(b), 10.4, 11.1, 11.2, 11.3(e), 11.4(a), 11.5, 17.1 and 25.

20.4 If the Landlord breaches this Lease

If the Landlord breaches this Lease, the Tenant must give the Landlord a notice specifying the details of the breach and requiring the Landlord to remedy the breach.

Title Reference 51069161

21. Limitation of liability

- (a) If the Landlord (including any successors and assigns) enters into this Lease as Trustee of the Trust, then it does so in its respective capacity as Trustee of the Trust and in no other capacity.
- (b) Any liability arising under or in connection with this Lease is limited to and can only be enforced against the Trustee to the extent to which it can be satisfied out of property of the Trust out of which the Trustee is actually indemnified for liabilities. This limitation of the Trustee's liability applies despite any other provision of this Lease and extends to all liabilities and obligations that the Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Lease.
- (c) The Tenant may not sue the Trustee in any capacity other than as Trustee of the Trust, including seeking the appointment of a receiver (except in relation to property of the Trust), a liquidator and administrator or any similar person to the Trustee or prove in any liquidation, administration or arrangement of or affecting the Trustee (except in relation to the property of the Trust).
- (d) **Trust** means the trust having the beneficial ownership of the Land.

22. Notices

22.1 Requirement for writing

A notice, consent or approval required by this Lease must be in writing.

22.2 Serving notices

- (a) The Landlord may only serve a notice on the Tenant by:
 - (i) giving it to the Tenant personally; or
 - (ii) leaving it at, or posting or faxing it to the address specified in the Reference Table.
- (b) The Tenant may serve a notice on the Landlord by leaving it at, or posting or faxing it, to both of the addresses specified in the Reference Table.
- (c) The Landlord may only serve a notice on the Guarantor by:
 - (i) giving it to the Guarantor personally; or
 - (ii) leaving it at, or posting or faxing it to the Guarantor's address specified in the Reference Table.
- (d) The Landlord, the Tenant and the Guarantor may only change an address for the service of notices under this Lease by notice to the other parties to this Lease.

23. Other matters

23.1 Disclosure statement acknowledgment

The Tenant acknowledges:

- (a) having received at least seven days before entering into this Lease:
 - (i) unless clause 23.2 applies, a disclosure statement in the form and containing the information prescribed by the Act; and
 - (ii) a draft lease for the Premises;
- (b) that the Disclosure Statement was not a Defective Statement.

Title Reference 51069161

23.2 Major Lessees

If the Act applies to this Lease and the Tenant is a Major Lessee, the Tenant acknowledges and warrants that:

- (a) it is a Major Lessee, will remain a Major Lessee during the Term and whilst it is otherwise in possession of the Premises; and
- (b) this clause constitutes written notice to the Landlord that the Tenant:
 - (i) has received appropriate financial and legal advice about the lease; and
 - (ii) waives the entitlement under the Act, to receive the Disclosure Statement within the disclosure period required by the Act.

23.3 No caveat

The Tenant must not lodge a caveat on any title to the lot comprising the Premises or allow a caveat lodged by a person claiming through the Tenant to be lodged against or remain on any title to the lot comprising the Premises.

23.4 Validity of Manager's actions

The Manager may do anything that the Landlord may or must do in this Lease.

23.5 Validity of the Landlord's documents

- (a) The Landlord's document or notice is valid when:
 - (i) executed under the Landlord's common seal; or
 - (ii) signed by the Landlord or under the Landlord's power of attorney or by the Landlord's lawyer.
- (b) Despite clause 23.5(a), a notice is also valid when signed by the Manager.

23.6 Saturdays, Sundays and public holidays

Anything to be done on a Saturday, Sunday or a public holiday in the State may be done on the next day, except the Tenant's obligations concerning trading hours.

23.7 Complete agreement

This Lease is the full agreement between the Landlord and the Tenant. The Tenant agrees that no matter was discussed or circumstance represented about the Premises or the Building or this Lease that is not included in this Lease.

23.8 Severance of invalid and other provisions

If any provision of this Lease is void, voidable, unenforceable or illegal, then it is to be severed from this Lease and the remainder of this Lease will continue with full force and effect. The Landlord may modify or amend any provision of this Lease so that it is no longer void, voidable, unenforceable or illegal to place the parties in as similar a position as is possible if the provision was not void, voidable, unenforceable or illegal.

23.9 Provisions survive Lease

Each provision in this Lease that can be performed either:

- (a) before this Lease ends; or
- (b) when this Lease ends,

survives the end of this Lease and must be performed even if this Lease has ended.

Title Reference 51069161

23.10 Change of Landlord

If the Landlord sells or transfers the Premises so that another person becomes the Landlord:

- (a) the Landlord is released from its obligations under this Lease arising after it ceases to have an interest in the Land;
- (b) the Tenant must procure the changes required by that other person to the insurances referred to in clause 17.1 and to any bank guarantee required under this Lease; and
- (c) the Tenant and any Guarantor must enter into those documents and assurances the Landlord or that other person reasonably requires to enable that other person to enforce the benefit of all obligations owed under this Lease in that other person's name.

The Landlord must pay the Tenant's reasonable legal costs to a maximum of \$500 (plus GST) in respect of any documents or assurances required by the Landlord to be executed under clause 23.10(c).

24. Tenant not to object

The Tenant acknowledges that:

- (a) Springfield is being developed progressively by Springfield Land Corporation and other persons and this involves (among other things) the carrying out of development works and the making of town planning and building applications with various Government agencies and semi-government authorities.
- (b) the Tenant must not make any objection, submission, appeal, claim, demand or bring any legal proceedings either alone or jointly with others or through a nominee against or in relation to any of the applications referred to in clause 24(a). Subject to the Tenant's rights under the Act, the Tenant must not make any claim or objection or claim any compensation in relation to any dust, noise or traffic interference which results from the ongoing development of Springfield. The Tenant acknowledges that the rights under this clause are for the benefit and integrity of Springfield as a whole.

25. Building Management Statement

25.1 Obligations

- (a) The Landlord discloses to the Tenant and the Tenant acknowledges that the Premises is one of the lots included in a subdivision which is governed by the Building Management Statement.
- (b) The Building Management Statement governs the rights of the owners of each lot included in the Building Management Statement.
- (c) The Tenant must comply with the Landlord's obligations under or relating to the Building Management Statement which apply to the Landlord as the owner of the Premises as if the Tenant was the owner of the Premises except those obligations which:
 - (i) relate to the administration of the Building Management Statement; or
 - (ii) are notified from time to time by the Landlord to the Tenant; or
 - (iii) which relate to the payment (save any payment for which the Tenant is specifically liable for under the terms of this Lease) of any amount or the incurring of any financial liability (including actual, past, present, future or contingent liabilities).
- (d) If a repair notice is given to the Landlord under the Building Management Statement the following provisions will apply:

Title Reference 51069161

- (i) if the repair notice relates to an obligation of the Landlord under this Lease, the Landlord must, at its own cost, comply with the notice as soon as reasonably practicable and within any time frames contained within the notice and the Tenant must do all things reasonably necessary to enable to Landlord to comply;
 - (ii) if the repair notice relates to an obligation of the Tenant under this Lease, the Landlord must as soon as practicable provide the repair notice to the Tenant and the Tenant must comply at its own cost with the notice as soon as reasonably practicable and within any time frames contained within the notice;
 - (iii) if clause 25.1(d)(ii) applies, the Tenant is not obliged to allow service contractors engaged by others to access the Premises until the Tenant has had a reasonable time from receipt of the repair notice to effect the repairs and maintenance required by the repair notice;
 - (iv) save for clause 25.1(d)(iii) the Tenant must comply in all respects with its obligations under clause 25.1(d).
- (e) Nothing in this Lease entitles the Tenant to exercise the Landlord's rights or discretions under or relating to the Building Management Statement. However, the Tenant may request the Landlord to exercise a right or discretion under the Building Management Statement. The Landlord must not unreasonably refuse any request but may impose reasonable conditions on the exercise of its right of discretions.
- (f) The Landlord must:
- (i) if it is the owner of all lots to which the Building Management Statement relates, give to the Tenant at least 20 Business Days' notice of any proposal to change the Building Management Statement;
 - (ii) if it is not the owner of all lots to which the Building Management Statement relates, give to the Tenant as much notice as is reasonably practicable of any proposal to change the Building Management Statement; and
 - (iii) give notice to the Tenant of any change to the Building Management Statement.

25.2 Dealings

The Landlord may:

- (a) vote in any manner the Landlord determines (in its discretion) regarding any matter on which the Landlord is entitled to vote under the Building Management Statement; and
- (b) consent to a variation or extinguishment of the Building Management Statement as regards the Land, unless:
 - (c) this would have a material adverse effect on the Tenant's use of the Premises or the Tenant's rights under this Lease or rights that the Tenant may have under this Lease before any variation; or
 - (d) this would result, or is reasonably likely to result, in the material increase in the Tenant's obligations, liabilities or expenses in connection with this Lease or the Building Management Statement.

25.3 Acknowledgement

The Tenant acknowledges and agrees that:

- (a) the Committee may be responsible for some of the obligations of the Landlord under this Lease and, in such circumstances, the obligation on the Landlord under this Lease will be limited to procuring the Committee (if the Landlord has ultimate control of the Committee) or using reasonable endeavours to procure the Committee (if the Landlord does not have ultimate control of the Committee) to comply with the relevant obligation;
- (b) the Committee may exercise certain rights of the Landlord under this Lease; and

Title Reference 51069161

- (c) where the consent or approval of the Landlord is required under this Lease, the consent or approval of the Committee may also be required. In such circumstances, where the Landlord is prepared to give its consent or approval, the Landlord shall use reasonable endeavours, at the Tenant's reasonable cost, to obtain the consent of the Committee.

25.4 Car Parking

At no additional cost and subject to the Tenant complying with the obligations under the Building Management Statement, the Landlord will allow the Tenant to access and use on a non-exclusive basis the ten (10) car parks allocated for the use of the owners of the Retail Lots (as defined in the Building Management Statement).

26. Greater Springfield

26.1 Acknowledgment of further development

The Tenant acknowledges that:

- (a) the Premises (and adjoining land) is intended to be used for various diverse purposes, and noise or other nuisances may arise from time to time in the precinct because of its diverse uses, which may adversely affect the Lessee's use and occupation of the Premises; and
- (b) the Landlord and others may construct, or authorise the construction of, works in and around the precinct, during the Term; and
- (c) noise and dust may be generated by such works and the construction and operation of the works may interfere with the Tenant's use and occupation of the Premises.

26.2 No claims

To the extent permitted by law, the Tenant may not:

- (a) make any claim against the Landlord or any other person in relation to such works; and
- (b) make any claim against the Landlord or any other person in relation to any noise or other nuisances that may arise because of the diverse uses of the precinct (and adjoining land), whether the claim arises under this Lease or otherwise; and
- (c) require the Landlord or any other person to take any particular action in relation to the activities of any person in the precinct (for example, the Tenant may not require the Landlord or any governing body of any shared scheme to exercise any powers it may have to exclude any person from the precinct, or to require them to cease making noise).

26.3 Intellectual property

The Tenant must not use:

- (a) any name chosen by the Landlord to describe the Land or any development of which the Land forms part; or
- (b) any name similar to those names; or
- (c) any intellectual property of the Landlord (or of a related body corporate of the Landlord),

for any purpose without the prior written permission of the Landlord.

Title Reference 51069161

26.4 No objection to development

The Tenant acknowledges that the Landlord (and related bodies corporate/development partners) are systematically developing Greater Springfield. This includes making development applications of various types to various government authorities.

The Tenant:

- (a) must not make any objection, submission, appeal or claim, or bring any proceeding, in relation to any development application or any other application made by the Landlord (or a related body corporate of the Landlord) in respect of Greater Springfield; and
- (b) must not:
 - (i) do anything else, which would; or
 - (ii) omit to do anything else which, by that omission, would, prevent the Landlord (or a related body corporate of the Landlord) completing, leasing or selling (as relevant) Greater Springfield.

Title Reference 51069161

Schedule 1 – Rules

These are the Rules at the Starting Date. They may change under clause 19.

Note: The Rules are part of the Tenant's Lease (see clause 19).

Rule 1: Contact point

- 1.1 The Tenant must tell the Manager the Tenant's contact address and telephone number for all emergencies. The Tenant must keep the Landlord up to date with any changes at all times.

Rule 2: Security

- 2.1 The Tenant must do the Tenant's best to keep the Premises safe and secure, and to protect them against theft and malicious damage. The security of the Premises is the Tenant's responsibility.
- 2.2 The Tenant must make sure all doors and openings are locked or shut securely whenever the Premises are unoccupied.
- 2.3 The Landlord may enter the Premises for any purposes concerning the security of the Premises.

Rule 3: Hours of opening and closing

- 3.1 The trading hours of the Tenant are specified in Item 22.
- 3.2 The Tenant must not open the Premises for business where the law prohibits this for the Tenant's type of business or premises.
- 3.3 The Landlord must not require the Tenant to open the Premises for business at times the law prohibits the Landlord from doing so.
- 3.4 The Landlord may close or lock any doors or openings forming part of the Building during the times as notified by the Landlord from time to time.
- 3.5 The Landlord may close all or any part of the Premises or the Building if the Landlord thinks it is necessary for the safety of the Premises or the Building or any person in the Premises or the Building (for example: bomb scare, riot).

Rule 4: Keys

- 4.1 The Landlord may give the Tenant keys or access devices to the Premises or the Building.
- 4.2 Any key or access device given to the Tenant must be kept in the Tenant's possession. The Tenant must not give keys or access devices to any person. In particular, the Tenant must not:
- (a) give keys accessing staff toilets to members of the general public; or
 - (b) give keys accessing the Premises or the Building to any person who does not have their own key or access device.
- 4.3 The Tenant must not copy any key or access device.
- 4.4 If the Tenant misplaces a key or access device, the Landlord may replace that device at the Tenant's cost.
- 4.5 When the Tenant's Lease ends, the Tenant must return all keys and access devices to the Landlord.

Rule 5: Marketing

- 5.1 The Tenant must cooperate with any marketing or promotion of the Building the Landlord carries out.
- 5.2 The Tenant must cooperate with the Landlord in promoting the use of any tradenames or logos connected with the Building.

Title Reference 51069161

- 5.3 The Tenant must not use the name of the Building or any logo for the Building.
- 5.4 However, if the Landlord consents to the Tenant using the name of the Building, when the Tenant's Lease ends, the Tenant must cease using the name of the Building and cancel any registration adopting the name of the Building.

Rule 6: The Landlord's standards for Premises

- 6.1 The Tenant must get the Landlord's consent before the Tenant does any thing that affects the quality and standard of the Premises and its presentation. The Tenant must comply with the Fitout Manual and the Landlord's reasonable requirements and standards of design, quality, style and appearance.
- 6.2 The Tenant must observe the maximum load weights throughout the Premises and the Common Area.

Rule 7: Display

- 7.1 The Tenant must keep the display windows and appropriate parts of the Premises adequately lit during Tenant's trading hours.
- 7.2 The Tenant must not display any stock, produce, material or signage:
- (a) that may be considered offensive or indecent to the general public; or
 - (b) outside the Premises or in the Common Area.

Rule 8: Signs

- 8.1 The Tenant must get the Landlord's consent before the Tenant:
- (a) puts anything on the outside or inside of the shopfront of the Premises (for example: a sign, advertising board or advertisement); or
 - (b) uses any picture or likeness of the Building or the Premises for an advertisement (except as the Tenant's address or place of business).
- 8.2 The Landlord must consent to signs stating the Tenant's name and business if the Landlord believes they are of a standard in keeping with the Building.
- 8.3 The Tenant must not have any handwritten signs, advertisements or ticketing inside or outside the Premises.

Rule 9: Music in Premises, spruiking

- 9.1 If the Tenant plays music, makes any sound using sound equipment or uses a television, the Tenant must make sure the sound is not heard or likely to be heard outside the Premises.
- 9.2 However the Tenant may play 'background recorded music' as long as the Tenant makes sure that it does not annoy any other tenants or people using the Building.
- 9.3 The Tenant must not spruik or permit any other loud or like noise either inside or outside the Premises without the Landlord's prior approval.

Rule 10: No electronic games or flashing lights

- 10.1 The Tenant must not have any electronic games, vending machines or similar equipment in the Premises except if permitted by the Tenant's Lease.
- 10.2 The Tenant must not operate flashing or turning lights in the Premises.

Rule 11: Cooling and heating of Premises

- 11.1 The Tenant must get the Landlord's consent before the Tenant uses any services for cooling or heating the Premises other than those the Landlord supplies (for example: lighting, cooling, heating or circulating air).

Title Reference 51069161

Rule 12: Restrictions on food

12.1 The Tenant may only prepare or cook food in areas installed for that purpose.

Rule 13: Cleaning

13.1 The Tenant must, at the Tenant's expense, clean and keep clean:

- (a) the Premises;
- (b) the shop front;
- (c) the Common Area within two metres from the shop front; and
- (d) the Common Area within two metres from any entrance to the Premises.

13.2 The Tenant must immediately clean any spillage in the Premises or from the Premises onto the Common Area.

Rule 14: Use of facilities

14.1 The Tenant must only use facilities (for example: toilets, sinks, basins, drains, plumbing and Building rubbish bins) in the Premises and the Common Area for their proper purpose.

14.2 The Tenant must not deposit any rubbish or foreign material in any of the facilities.

Rule 15: Services

15.1 The Tenant must obey the Landlord's requirements concerning Services the Landlord supplies (for example: air-conditioning, the elevators and smoke detectors). The Tenant must not do anything that might interfere with their efficient operation.

15.2 If the Tenant falsely activates any of the Services to the Premises (for example: smoke detectors or fire alarms) the Tenant is responsible for any charges that result.

Rule 16: No dangerous behaviour

16.1 The Tenant must not do anything in the Premises or the Building that is likely to be dangerous to anyone.

16.2 The Tenant must promptly tell the Landlord about any accident to or problem with any Services or facilities that need repair especially if the Tenant is aware, or ought reasonably to be aware, that this may be a danger or risk to the Premises, the Building or any person in the Building.

Rule 17: Use of Common Area for business

17.1 The Tenant must get the Landlord's consent before the Tenant uses or allows any part of the Common Area to be used for:

- (a) any business or commercial purposes; or
- (b) display or advertising.

Rule 18: Delivering goods using trolley

18.1 The Tenant must only use the delivery areas of the Common Area at the times the Landlord approves.

18.2 The Tenant must make sure that any trolley the Tenant uses for carrying goods does not mark or damage the floor of the Premises or the Building and makes minimal noise. Any trolley must have rubber wheels.

Rule 19: Car parking

19.1 The Tenant must on request give to the Landlord the name, make and registration number of each car owned or regularly used by:

- (a) the Tenant in connection with the Premises; or
- (b) the Tenant's employees who work at the Premises.

Title Reference 51069161

- 19.2 The Tenant must not park nor permit the Tenant's employees to park in any part of the Building which is not designated for parking by the Tenant.
- 19.3 If the Tenant or any of the Tenant's employees park in any part of the Building not designated for tenant parking, the Tenant must indemnify the Landlord for any liabilities incurred by the Landlord as a result. Without limitation, the Tenant agrees that the liabilities incurred by the Landlord will include the amount of \$100.00 for every hour or part of every hour that the Tenant or the Tenant's employees so park.

Rule 20: Equipment

- 20.1 The Tenant must get the Landlord's consent before the Tenant installs equipment on the Premises.
- 20.2 In particular, the Tenant must get the Landlord's consent before the Tenant brings any heavy equipment onto the Premises. The equipment must be reasonably necessary for carrying on the Tenant's business in the Premises. The Landlord does not consent to any equipment that may cause any structural or other damage to the floors or other parts of the Premises or the Common Area or nuisance (including noise or vibration) to any occupier of the Building.
- 20.3 Before the Tenant brings any of the Tenant's equipment onto the Premises or the Common Area the Tenant must give the Landlord at least two days' notice.
- 20.4 The Landlord may direct the routing, installation and location of the equipment. The Tenant must obey all the Landlord's directions.

Rule 21: Rubbish

- 21.1 The Tenant must not burn any rubbish or any other material in the Premises or any part of the Building.
- 21.2 The Tenant must place all rubbish and other like material from the Premises in the receptacles nominated by the Landlord for rubbish of that type, and make sure the rubbish is removed regularly from the Premises.

Rule 22: Smoking

- 22.1 The Tenant must not permit any person to smoke in the Premises.
- 22.2 The Tenant must not:
- (a) smoke in the Building; or
 - (b) permit the Tenant's employees or customers to smoke in the Building.
- 22.3 The Tenant must display 'no smoking' signs in the Premises if required by the Landlord.

Rule 23: Public address system

- 23.1 The Landlord may provide a public address system in the Common Area.

Rule 24: Intentionally deleted

Rule 25: Loading area

- 25.1 The Tenant may only use the loading area for moving goods to or from the Premises at the times the Landlord approves.
- 25.2 The Tenant must comply with all requirements of the Landlord and any authority regarding deliveries to the Premises and the use of any loading area.

Rule 26: Keeping Common Area clear

- 26.1 The Tenant must keep the Common Area clear. In particular, the Tenant must not:
- (a) trade from outside the Premises; or
 - (b) block or obstruct the fire or escape doors or passageways.

Title Reference 51069161

- 26.2 The Tenant must not cover or obstruct any service duct, fire prevention device or thing that allows light into or ventilation of the Premises or the Building.
- 26.3 If the Tenant does not keep the Common Area clear, the Landlord may remove any offending Item at the Tenant's cost.

Rule 27: The Tenant must obey fire regulations

- 27.1 The Tenant must not store or use inflammable or explosive substances on the Premises, except as required in the normal course of the Tenant's business.

Rule 28: Fire or emergency drills

- 28.1 The Tenant must observe and obey all fire or emergency drills. The Landlord aims to give the Tenant prior notice of these drills.
- 28.2 The Tenant must make sure that it is fully aware of all safety and emergency procedures.

Rule 29: Danger or risk to Premises or the Building

- 29.1 If the Tenant is aware of a risk or a danger (for example: a bomb threat, fire, liquid spill, leak or any other similar thing) in any part of the Premises or the Building, the Tenant must tell the Landlord immediately.
- 29.2 If there is, or may be, any thing that is a risk or a danger (for example: a bomb threat, riot, liquid spill, leak or any other similar thing) the Tenant must immediately obey any instructions given by the Landlord, including leaving the Premises.
- 29.3 The Tenant must obey the instructions of the police or the fire brigade or other emergency authority. The Tenant must not re-enter the Premises or the Building unless the Landlord or the police or fire brigade or other appropriate authority tell the Tenant it is safe to do so.

Rule 30: Intentionally deleted

Rule 31: After hours functions

- 31.1 The Tenant must not hold any after hours activity, promotion or function in the Premises without the Landlord's approval.

Rule 32: Entrance conditions

- 32.1 The Tenant must comply with any notice of conditions of entry placed by the Landlord in the Building (for example: notices prohibiting bringing bicycles, skateboards or roller blades into the Building).

Title Reference 51069161

Schedule 2 – Condition Report

(Describing the condition of the Premises on the Handover Date)

The Premises are provided as a 'bare shell' i.e. concrete slab, block walls, trade waste and sewer connection points, potable water connection, electrical switchboard and basic fire service - 1 FHR, 1 FE, 1 x Smoke detector, 1 x EWIS speaker both coiled and hanging on underside of ceiling slab and 1 'running man' emergency exit sign.