



Dealing Number

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NOT A RELATED PARTY

|   |   |                    |
|---|---|--------------------|
| <b>1. Lessor</b>  | <b>Lodger</b> (Name, address, email & phone number)   | <b>Lodger Code</b> |
| Bourne Assets Pty Ltd ACN 151 700 097 as trustee under instrument 718101245 | DBL SOLICITORS<br>PO Box 602<br>Morningside QLD 4170<br>E-mail: morningside@dbl.com.au<br>Tel: 07 3899 0722 Ref: GPM:2020051343 | BE237A             |

|                                   |                        |
|-----------------------------------|------------------------|
| <b>2. Lot on Plan Description</b> | <b>Title Reference</b> |
| Lot 5 on SP 271270                | 50980324               |

|                  |             |                                       |                                    |
|------------------|-------------|---------------------------------------|------------------------------------|
| <b>3. Lessee</b> | Given names | Surname/Company name and number       | (include tenancy if more than one) |
|                  |             | Struterre WBA Pty Ltd ACN 115 038 429 |                                    |

**4. Interest being leased**  
Fee Simple

**5. Description of premises being leased**  
The whole of the land

|  |                                |
|--|--------------------------------|
| <b>6. Term of lease</b>  | <b>7. Rental/Consideration</b> |
| Commencement date/event: 01/07/2020<br>Expiry date: 30/06/2022 and/or Event:<br>#Options: 2 x 2 years<br># insert nil if no option or insert option period (eg 3 years or 2 x 3 years) | See attached schedule          |

**8. Grant/Execution**

The Lessor leases the premises described in item 5 to the Lessee for the term stated in item 6 subject to the covenants and conditions contained in the attached schedule.

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

signature .....

full name .....

qualification .....

**Witnessing Officer**

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

23/07/2020  
Execution Date

signature .....  
full name .....  
qualification .....  
Bourne Assets Pty Ltd ACN 151 700 097  
director/secretary  
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 .....

**Witnessing Officer**

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

17/7/20  
Execution Date

signature .....  
full name .....  
qualification .....  
Struterre WBA Pty Ltd ACN 115 038 429  
director/secretary  
Lessee's Signature

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This is the Schedule referred to in the Form 7 Lease.

1. REFERENCE DATA

|            |  |   |
|------------|--|---|
| Item 1     | <b>Parties:</b>                          |   |
|            | Lessor:                                  | Bourne Assets Pty Ltd ACN 151 700 097 as trustee under instrument 718101245                   |
|            | Address for Notices:                     |   |
|            | Lessee:                                  | Structerre WBA Pty Ltd ACN 115 038 429  |
|            | Address for Notices:                     |   |
| Item 2     | <b>Term:</b>                             |   |
|            | Date of Commencement:                    | 01/07/2020  |
|            | Expiration Date:                         | 30/06/2022  |
| Item 3     | <b>Building and Leased Premises:</b>     |   |
|            | Address of Building:                     | 5/41 Lavarack Avenue, Eagle Farm Qld 4000   |
| Item 4     | <b>Size of Premises:</b>                 | 289 m <sup>2</sup>  |
| Item 5     | <b>Rent:</b>                             | 4816.67 x 10 months = \$48166.70  |
|            | (a) Commencement date of rental payment: | 01/07/2020 (subject to special condition 24.1)<br>(rent free July & Aug 2020 per clause 24.1) |
|            | (b) Rent:                                |   |
|            | (i) Annual Rent:                         | \$57,800.00 (plus GST)  |
|            | (ii) Monthly Rent:                       | \$4,816.67 (plus GST) + 842.92+G outgoings = 5659.59 per month                                |
|            | (c) Rent due date:                       | the first day of each month   |
| Item 6     | (d) Interest on arrears:                 | at the Stipulated Rate as defined in clause 2   |
|            | <b>Review Date/s</b>                     | <b>Date</b>   |
|            |  | <b>Method of Review</b>   |
|            | 01/07/2021                               | Percentage Review – percentage increase 2%  |
|            | 01/07/2022                               | Market Review   |
|            | 01/07/2023                               | Percentage Review – percentage increase 2%  |
| Item 7     | <b>Use of Premises:</b>                  | Office/Warehouse/Laboratory   |
|            |  |   |
| Item 8     | <b>Insurance Requirements:</b>           | As set out in clause 8.2  |
| Item 9     | <b>Public Risk Insurance Amount:</b>     | \$20,000,000.00   |
| Item 10(a) | <b>First Right of Renewal:</b>           |   |
|            | Term:                                    | Two (2) years   |
|            | Date must be exercised in writing:       | No more than 6 and no less than 3 months before expiry of current term                        |
|            | Commencement Date of Renewed Term:       | 01/07/2022  |
|            |  |   |

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|            |  |  |
|------------|--|--|
| Item 10(b) | <b>Second Right of Renewal:</b>          |  |
|            | Term:                                    | Two (2) years  |
|            | Date must be exercised<br>in writing:    | No more than 6 and no less than 3 months before expiry of the<br>then current term                 |
|            | Commencement Date<br>of Renewed Term:    | 01/07/2024   |
| Item 11    | <b>Amount of Bond:</b>                   | Equivalent to three (3) months' Rent (plus GST) (being as at<br>the Commencement Date \$15,895.00) |
| Item 12    | <b>Guarantors:</b><br>(name and address) | The Five Group Pty Ltd<br>ABN 62 161 098 951<br>Level 3, 88 William St<br>Perth W.A. 6001          |

Each item in this Lease to any of the titles contained in this Part is to be construed to incorporate the data stated and the terms provided under that title.

## 2. DEFINITIONS AND INTERPRETATION

### 2.1 Definitions

Unless otherwise provided or unless there is something inconsistent in the subject matter, the expressions following (whether appearing with or without capital letters) have the meanings assigned to them in this clause:

- 2.1.1 "**After Hours Costs**" means all costs reasonably determined by the Lessor of providing access to the Premises and providing services outside the Core Trading Hours including the costs of labour, electricity, air-conditioning and security;
- 2.1.2 "**Air Conditioning Equipment**" means the plant, electrical, installations, ductwork, and diffusers used for the manufacture and reticulation of conditioned air throughout the Premises and includes all mechanical ventilation;
- 2.1.3 "**API**" means the Australian Property Institute (Inc) Queensland Division or the successor to that body;
- 2.1.4 "**Bank Guarantee**" means an unconditional undertaking to pay on demand a specified amount, by a bank and on terms acceptable to the Lessor acting reasonably;
- 2.1.5 "**Body Corporate**" means the body corporate constituted under the *Body Corporate and Community Management Act 1997* for the Scheme;
- 2.1.6 "**Common Property**" means the common property for the Scheme;
- 2.1.7 "**Core Trading Hours**" means 9.00 am to 7.00 pm, Monday to Saturday and 9.00 am to 5.00 pm Sunday;
- 2.1.8 "**Date of Commencement**" means the date referred to in Item 2 of the Reference Data as the Date of Commencement;
- 2.1.9 "**Fire Safety Equipment**" includes all stopcocks, hydrants, fire hoses, fire alarms, fire sprinklers, and other fire prevention extinguishing and detection equipment in the Premises;
- 2.1.10 "**Form 7**" means the lease in Form 7 to the *Land Title Act 1994* to which this Schedule is attached;

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- 2.1.11 **"Guarantor"** means the guarantor or collectively the guarantors referred to in Item 12 of the Reference Data and also any person who enters into covenants with the Lessor as a guarantor under clause 9.1. If the Guarantor is one person, the expression includes that person his executors and administrators. If the Guarantor is more than one person, the guarantor includes those persons and their respective executors and administrators jointly and severally. If the guarantor is a corporation, the guarantor includes that corporation and its successors or if more than one corporation includes those corporations and their respective successors;
- 2.1.12 **"Index Number"** means the Consumer Price Index (All Groups) for the city of Brisbane as published by the Australian Bureau of Statistics. If that index is suspended, discontinued, or modified so that it does not reflect on a consistent basis changes which have occurred in the cost of living in the city of Brisbane during any Lease Year, the expression will mean an index which in the opinion of the Australian Statistician (whether published or advised at the request of either party) does reflect on a consistent basis changes which have occurred in the cost of living in the City of Brisbane during any Lease Year. If the Australian Statistician has not published and will not advise an appropriate index, the expression will mean an index or method of measuring increases in the cost of living agreed in writing by the parties and in default of agreement within a period of fourteen (14) days, an index or method determined at the request of either party by the President or Acting President of the Australian Institute of Valuers & Land Economists (Qld Division) or their nominee;
- 2.1.13 **"Insured Risks"** means the risks against which the Lessor is required by this Lease to effect insurance and any additional risks against which the Lessor effects insurance relating to the Premises;
- 2.1.14 **"Land"** means the lot described in Item 2 of the Form 7;
- 2.1.15 **"Lease"** means this lease including the Form 7 together with any annexures and schedules and any covenant or agreement expressed to be supplemental to this Lease and all amendments to those documents;
- 2.1.16 **"Lease Year"** means each separate year of the term of this Lease the first Lease Year commencing on the Date of Commencement and each subsequent Lease Year commencing on the corresponding day of each succeeding year; the expression includes any broken period between the end of the last complete Lease Year and the date of termination;
- 2.1.17 **"Lessee"** means the lessee referred to in Item 3 of the Form 7 and includes any:
- (a) assign (permitted in writing by the Lessor) or successor of any corporate Lessee; and
  - (b) assign (permitted in writing by the Lessor) or executor or administrator of any individual who is a Lessee;
- 2.1.18 **"Lessee's Invitees"** means each of the Lessee's employees, agents, contractors, consultants, customers, clients, workmen, invitees, visitors, sublessees, licensees, franchisees, concessionaires and others, who are at any time in, on or adjacent to the Premises or the Land (whether with or without invitation) or who are otherwise relevant to the Premises or the Land;
- 2.1.19 **"Lessor"** means the lessor referred to in Item 1 of the Form 7 and includes any:
- (a) successors and assigns of a corporate Lessor;
  - (b) executors, administrators and assigns of any individual who is a Lessor; and, where the context allows,
  - (c) agents and employees of the Lessor;
- 2.1.20 **"Lessor's Property"** means any property owned by the Lessor in the Premises;
- 2.1.21 **"Market Review Dates"** are the dates specified in Item 6 of the Reference Data;

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2.1.22 "**Month**" means a calendar month;

2.1.23 "**Outgoings**" means all expenses and outgoings paid or incurred by the Lessor in respect of the Premises under the following heads of expenditure:

- (a) rates, charges and other levies payable to the local authority in whose area the Premises are located.
- (b) rates and charges payable to any local or other authority responsible for the provision or reticulation of water and/or sewerage and/or drainage services.
- (c) levies, contributions and/or other amounts payable to any local or other authority for or on account of fire protection services.
- (d) all rates, taxes, charges, assessments, outgoings, and impositions (whether parliamentary, municipal, or otherwise and whether assessed, charged, or imposed by or under Federal or State law or by Federal State or Local authorities and whether on a capital, revenue value, or any other basis and even though of a novel character) which are assessed, charged, or imposed in respect of the Premises or any part of them (including land tax) other than:
  - (i) income tax; and
  - (ii) capital gains tax.
- (e) all charges for electricity, gas, oil, or other fuel incurred in the operation of the Air Conditioning Equipment and other plant and equipment in the Premises.
- (f) insurance premiums and other charges (including stamp duties) for insurance of the Premises against fire with extended cover endorsement for vandalism, malicious mischief, earthquake, flood, water damage, boiler and pressure vessel explosion, fusion, and mechanical breakdown in broad cover form with repair and replacement terms.
- (g) public risk liability insurance against third party liability hazards including exposure to personal injury, bodily injury, and property damage on an occurrence basis including insurance for all contractual obligations and covering also actions of all employees, other persons, subcontractors and agents while working on behalf of the Landlord. The policy will be written on a comprehensive basis with limits of not less than \$5 million per occurrence or higher amounts reasonably required by the Landlord from time to time.
- (h) administrative fund, sinking fund and other levies raised by the Body Corporate in respect of the Land;
- (i) all reasonable costs in relation to the control of pest, vermin, insect or other similar infestation;
- (j) the Lessor's reasonable costs of management and administration of the Land (including rent collection and maintaining accounting functions and the provision of Services to any centre management office);
- (k) all other reasonable costs properly incurred by the Lessor in the administration, control, management, operation, insurance, repair, maintenance and security of the Land generally.

2.1.24 "**Outgoings Year**" means each period of twelve (12) months commencing on the 1<sup>st</sup> July of each year and expiring on the 30<sup>th</sup> June of the following year or such other twelve (12) month period as the Lessor may from time to time advise, notwithstanding that part of any twelve (12) month period does not fall within the Term (or any period of holding over as appropriate);

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- 2.1.25 "**Pipes**" means all pipes, sewers, drains, mains, conduits, ducts, gutters, water courses, wires, cables, channels, flues, and all other conducting media and including any fixings, louvres, cowls, and any ancillary apparatus;
- 2.1.26 "**PPSA**" means *Personal Property Securities Act 2009* (Cth) and any amendments to it or any replacement or successor provisions, laws or legislation of any kind;
- 2.1.27 "**PPSL**" means a Personal Property Securities Lease as described in the PPSA;
- 2.1.28 "**PPSR**" means the Personal Property Securities Register created pursuant to the PPSA;
- 2.1.29 "**Premises**" means the Land and all improvements on the Land;
- 2.1.30 "**Public Risk Insurance Amount**" means the amount specified in Item 9 of the Reference Data;
- 2.1.31 "**Redecorate**" includes:
- (a) washing down the whole of the exterior of the Premises and the interior of the Premises including all partitions and additions made to the Premises;
  - (b) treating as previously treated all internal surfaces of the Premises by painting, staining, polishing, or otherwise to a specification approved by the Lessor; and
  - (c) replacing all carpet and/or floor tiles which in the opinion of the Lessor are worn or damaged and in need of replacement allowing for fair wear and tear;
- 2.1.32 "**Reference Data**" means the data set out in clause 1 of this Schedule;
- 2.1.33 "**Rent**" has the meaning given to that expression in clause 3.2;
- 2.1.34 "**Review Date**" means each of the dates (if any) specified in Item 6 of the Reference Data;
- 2.1.35 "**Rules**" means the rules (if any) of the Land made or amended by the Lessor from time to time in accordance with this Lease;
- 2.1.36 "**Security Interest**" has the same meaning as ascribed to it in the PPSA;
- 2.1.37 "**Services**" means all services or systems provided in the Premises and/or Land from time to time. This includes any lighting, gas, fuel, power, water, sewerage, drainage, loading docks, plant rooms, storage areas, fire services, sprinkler system, telecommunications, lifts, escalators security systems, air-conditioning, and all associated fittings, fixtures, appliances, plant and equipment;
- 2.1.38 "**Scheme**" means the community titles scheme that includes the Land;
- 2.1.39 "**Stipulated Rate**" means a percentage interest rate per annum equal to the prime lending rate charged by the Lessor's bank plus five (5) per centum;
- 2.1.40 "**Valuer**" means a person who has at least five (5) years' experience in valuing the kind premises leased by this Lease;
- 2.1.41 "**writing**" includes printing, typing, lithography, and other modes of reproducing words in a visible form and "**written**" has a corresponding meaning.

2.2 Interpretation

- 2.2.1 Every covenant, agreement, or obligation expressed or implied in this Lease by which two or more persons covenant, agree, or are bound binds those persons jointly and each of them severally. Every provision expressed or implied in this Lease which applies to two or more persons applies to those persons jointly and each of them severally.

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- 2.2.2 References to the API and any other authorities, associations, and bodies whether statutory or otherwise will, if any of those authorities, associations, or bodies ceases to exist or is reconstituted, renamed, or replaced or if its powers or functions are transferred to any other authority, association, or body be deemed to refer to the authority, association, or body established or constituted in its place and/or as nearly as may be succeeding to its powers or functions.
- 2.2.3 References to any right of the Lessor to have access to the Premises extend to all persons authorised by the Lessor including agents, professional advisers, contractors, workmen and others.
- 2.2.4 References to the Premises, in the absence of any provision to the contrary, include any part of the Premises.
- 2.2.5 Any covenant by the Lessee not to do any act or thing is deemed to include an obligation not to permit that act or thing to be done, and to use its best endeavours to prevent that act or thing being done by a third party.
- 2.2.6 Any provision in this Lease requiring the consent or approval of the Lessor also requires the consent or approval of any mortgagee of the Premises and any superior lessor where that consent is required. Nothing in this Lease implies that any obligation is imposed upon any mortgagee or superior lessor not to refuse any consent or approval unreasonably.
- 2.2.7 References to the **"Consent of the Lessor"** or words to similar effect mean a consent in writing signed by or on behalf of the Lessor and references to **"Approved"** and **"Authorised"** or words to similar effect mean approved or authorised in writing by or on behalf of the Lessor.
- 2.2.8 The terms **"the Parties"** or **"Party"** mean the Lessor and/or the Lessee but except where there is an express indication to the contrary, exclude the Guarantor.
- 2.2.9 Words in the singular include the plural and vice versa. A reference to any gender includes every other gender. Words denoting individuals include corporations.
- 2.2.10 A reference in this Lease to an Act of Parliament or any section of an Act are to be read as though the words **"or any statutory modification or re-enactment of it or any statutory provision substituted for it"** were added to the reference. Any general reference to **"Statute"** or **"Statutes"** includes any regulations or orders made under the Statute or Statutes.
- 2.2.11 Every obligation or covenant (whether positive or negative) undertaken by any Party (including the Guarantor) will, despite the wording, be deemed to be and will be construed as if each obligation or covenant is a separate and independent covenant made by the Party undertaking the obligation and continuing (unless the context otherwise requires) throughout the term of this Lease and subsequently so long as it remains to be performed.
- 2.2.12 References in this Lease to any clause, subclause, paragraph, or Schedule without further designation will be construed as a reference to the clause, subclause, paragraph, or Schedule of this Lease so numbered.
- 2.2.13 The headings or marginal notes in this Lease are included for convenience only and do not affect the construction of this Lease.

3. RENT

3.1 Payment of Rent

The Lessee will pay the Rent to the Lessor without any formal or other demand by equal monthly instalments in advance on the first day of each month. In the case of any broken period of less than one month the Lessee will pay an instalment on the first day of the broken period of an amount ascertained by multiplying the number of days in that broken period by the Rent for the Lease Year of which it forms part and dividing the result by 365.



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3.2 Rent and Rent Reviews

The expression "Rent" means:

- 3.2.1 for the first Lease Year the amount shown in Item 5(b)(i) of the Reference Data;
- 3.2.2 for each subsequent Lease Year an amount calculated at the start of the Lease Year ("Review Date") by Percentage Review, Market Review or CPI Review as nominated in Item 6 of the Reference Data. In the absence of any nomination for a Lease Year, the Rent for that Lease Year will be the same as the previous Lease Year.

In this Lease:

- 3.2.3 "Percentage Review" adjustments to Rent means:

As from each Review Date for which a Percentage Review is specified in Item 6 of the Reference Data, the Rent shall be adjusted in accordance with the following formula:

$$R = A \times B + A$$

Where R = means the adjusted Rent; and

A = means the Rent immediately prior to the Review Date;

B = means the percentage increase specified in Item 6.

- 3.2.4 "Market Review" adjustments to Rent means:

As from each Review Date for which a Market Review is specified in Item 6 of the Reference Data, the Rent will be the lesser of Rent applying at the commencement of the immediately preceding two year term increased by 4% and the current market rent of the Premises agreed or determined in accordance with the following procedure:

- (a) Not earlier than 3 months before and not later than 3 months after the relevant Review Date, either the Lessor or the Lessee may notify the other of the amount it considers to be the current market rent for the Premises at the relevant Review Date and that amount will be the Rent payable from the relevant Review Date unless paragraph 3.2.4(b) applies. To avoid doubt if the Lessor notifies the Lessee of its market rent figure, it must also provide the basis of such calculation to the Lessee with the figure.
- (b) If the Lessor and the Lessee cannot agree on the current market rent within 1 month of the date of the notice given under paragraph 3.2.4(a) (or if both parties give a notice, the date of the earlier notice), the current market rent payable from the relevant Review Date is to be determined by a Valuer, acting as an expert and not an arbitrator, to be agreed upon by the Lessor and the Lessee or failing agreement, as nominated by the President of the API.
- (c) If neither party gives a notice within the period referred to in paragraph 3.2.4(a), the Rent will remain unchanged.
- (d) Any variation in the Rent, when agreed or decided, will take effect from the relevant Review Date.
- (e) The costs of any Valuer appointed pursuant to this clause, shall be borne equally by the Lessor and Lessee.

- 3.2.5 "CPI Review" adjustments to Rent means:

As from each Review Date for which a CPI Review is specified in Item 6 of the Reference Data, the Rent shall be adjusted in accordance with the following formula:

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

Where R = means the adjusted Rent;

A = means the index number for the last quarter immediately preceding the first day of the lease year under review;

B = means the index number for the last quarter immediately preceding the first day of the lease year last concluded;

C = means the Rent for the lease year last concluded.

3.2.6 No Reduction in Rent

The Rent for the period following a Review Date will not in any circumstances be less than the Rent payable in the period prior to the Review Date.

3.2.7 Obligation to Pay Pending Determination

Pending determination of the Rent for any Lease Year, rent will be paid at the rate payable during the Lease Year last concluded and will be adjusted retrospectively to the beginning of the Lease Year under review.

3.2.8 Rent Obligations Absolute

- (a) Lessee's obligation to pay all Rent and the rights of the Lessor to the Rent are absolute and unconditional and are not subject to any abatement, reduction, set-off, defence, counterclaim, or recoupment. Except as may otherwise be expressly provided in this Lease and despite any law to the contrary, this Lease will not terminate and the respective obligations of the Lessor or the Lessee will not otherwise be affected, by reason of:
- (i) the invalidity or unenforceability or lack of due authorisation or other defect of this Lease;
  - (ii) the lack of any right, power, or authority of the Lessee to enter into this Lease or any prohibition or interruption of or other restriction against the Lessee's use, operation, or possession of the Premises for any reason;
  - (iii) the interference with the use operation or possession by any person or entity;
  - (iv) any other indebtedness or liability whenever arising of the Lessor or the Lessee to any other person, firm, or corporation or to any governmental authority;
  - (v) any insolvency bankruptcy or similar proceedings by or against the Lessor or the Lessee; or
  - (vi) any other cause.
- (b) The Rent will continue to be payable in all events and in the manner and at the times provided in this Lease unless the obligation to pay it is terminated under the express provisions of this Lease.

3.2.9 Method Payment

Unless otherwise directed by the Lessor, Rent payments shall be paid to an account nominated by the Lessor by electronic funds transfer. The Lessor will provide the Lessee with a monthly tax invoice as required under the GST Act.

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4. OUTGOINGS

4.1 Outgoings

4.1.1 Allocation of Outgoings

The Lessor may allocate to particular tenants (including the Lessee) any Outgoing referable to those tenants (for example, After Hours Costs and the cost of operating air-conditioning equipment which services only particular premises or the cost of Services supplied to, or used by, only particular premises).

4.1.2 Payment of Outgoings by Lessee

The Lessee will from time to time during the term of this Lease, immediately on demand, pay to the Lessor all Outgoings in addition to the Rent. Any Outgoings assessed at intervals or for periods that do not fall wholly within the Term of the Lease will be apportioned as necessary. To avoid doubt the parties acknowledge that the Lessee is obliged to pay 100% of the Outgoings.

4.1.3 Lessor's Estimate

The Lessor, in addition to the Lessor's rights under clause 4.1.2 to require immediate reimbursement from the Lessee in respect of the Outgoings during an Outgoings Year, may give to the Lessee its written Estimate of Outgoings:

- (a) for the period from the Commencement Date to the end of the first Outgoings Year; and
- (b) for each following Outgoings Year prior to the commencement of that Outgoings Year.

4.1.4 Payments on Estimate

If the Lessor provides a written estimate in accordance with clause 4.1.3:

- (a) the Lessee must pay to the Lessor on account of the Outgoings, the estimated amount provided by the Lessor by equal monthly instalments in advance on the same day and in the same way as the Lessee is required to pay Rent;
- (b) within three (3) months after the end of each Outgoings Year, the Lessor must give the Lessee an annual statement of the Outgoings for that Outgoings Year;
- (c) within fourteen (14) days after the date of the annual statement from the Lessor, the Lessee must pay to the Lessor or the Lessor must credit to the Lessee's account (as appropriate) the difference between the amount paid on account of the Outgoings during that Outgoings Year and the amount actually payable.

4.2 Light and Power

The Lessee will not use any form of light, power, or heat other than electric current or gas supplied through meters. This covenant does not prevent the use of auxiliary power or lighting (other than an exposed flame) during any period of power failure or power restrictions.

4.3 Services

4.3.1 The Lessee shall pay by their respective due dates:

- (a) costs, rates, taxes or imposts imposed or separately charged by any law or by any Authority in relation to the Premises or in respect of the conduct of the Lessee's business in the Premises; and
- (b) costs for all Services, including (without limitation) for all sources of energy, electricity, gas, oil, water and telephone, separately supplied, metered, consumed or connected to, in or on the Premises; and

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- (c) all charges by any Authority or by any contractor engaged by the Lessor for the removal and disposal of all waste and general garbage from the Premises.

4.3.2 Without derogating from the preceding clause 4.3.1, the Lessee's covenants that:

- (a) Charges for Electricity

All charges for electricity imposed or charged in respect of electric current consumed on the Premises during the term of this Lease will be paid by the Lessee to the relevant assessing authority on or before the due date if assessed directly against the Lessee but otherwise to the Lessor within seven (7) days of the Lessee being billed by the Lessor at the tariff rates which would have been chargeable by the relevant assessing authority to the Lessee had the electricity been supplied direct to the Lessee in the first place.

- (b) Charges for Gas

All charges for gas imposed or charged in respect of gas consumed on the Premises during the term of this Lease will be paid by the Lessee to the relevant assessing authority on or before the due date if assessed directly against the Lessee but otherwise to the Lessor within seven (7) days of being billed by the Lessor at the standard rates which would have been chargeable by the relevant assessing authority had the gas been supplied direct to the Lessee in the first place.

- (c) Charges for Water

If a separate water meter is at any time at the option of the Lessor installed in respect of water consumed on the Premises the Lessee will pay the meter rental (if any) and all charges and assessments for water consumed on the Premises to the relevant assessing authority on or before the due date if assessed directly against the Lessee but otherwise to the Lessor within seven (7) days of being billed by the Lessor.

4.4 Future Taxes on Premises

The Lessee will pay and discharge without exception all rates, taxes (including land tax), charges, assessments, outgoings, and impositions (whether parliamentary, municipal, or otherwise and whether assessed, charged, or imposed by or under Federal or State law or by Federal State or Local Authorities and whether on a capital or revenue basis or any other basis and even though of a novel character) which may at any time during the term of this Lease be assessed, charged, or imposed upon or in respect of the Premises or the use and occupation of the Premises. Whether assessed against the Lessor or directly against the Lessee they will be paid to the relevant assessing Authority not later than the due date for the payment. If assessed against the Lessor they will be paid by the Lessee to the Lessor upon demand.

4.5 GST

"GST", "GST Law", "Tax Invoice", "recipient" have the meanings given to them in the GST Act.

"GST Act" means *A New Tax System (Goods and Services Tax) Act 1999* (Commonwealth).

For the avoidance of doubt, for the purposes of this clause 4.5:

- 4.5.1 any expression used in this Lease that is defined in the GST Act has that defined meaning; and
- 4.5.2 the reference to GST Law is also deemed to include any delegated legislation and any applicable public rulings and determinations issued by the commissioner of taxation.

Unless otherwise expressly stated, all consideration and other amounts payable under or in connection with this Lease are taken to be exclusive of GST.

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The parties agree that if the Lessor is liable to pay GST on any supply arising under or in connection with this Lease, then any consideration payable under or in connection with this Lease by the Lessee will be increased by an additional amount calculated by multiplying the prevailing GST rate by the amount of consideration payable (without any deduction or setoff). The Lessee must pay this additional amount to the Lessor at the same time as payment of any consideration under this Lease or upon demand, provided that the Lessor has provided the Lessee with a Tax Invoice.

Despite anything to the contrary in this Lease, the Lessee is not required to reimburse the Lessor for any GST in respect of which the Lessor is entitled to receive an input tax credit.

**4.6 Air Conditioning Equipment**

The Lessee will pay the whole of the cost to the Lessor of operating, maintaining, servicing and repairing such Air Conditioning equipment (including any fees and/or premiums payable to specialist contractors) servicing the Premises. The Lessee will be solely responsible for such operation, maintenance, servicing and repairs and will enter into a service and maintenance agreement with a recognised Air Conditioning firm approved in writing by the Lessor (which approval shall not be unreasonably withheld), which maintenance and service agreement will provide that the Air Conditioning equipment be thoroughly and properly serviced on at four (4) least a monthly basis in accordance with accepted industry standards, and the Lessee will be responsible for the cost of such service and maintenance items and the cost of any capital expenditure arising as a result of a failure to properly maintain the Air Conditioning equipment. The Lessee will produce to the Lessor evidence of the existence of such agreement at the commencement of each period to which the service and maintenance agreement applies. The parties expressly agree that the Air Conditioning equipment will remain the property of the Lessor. This clause does not preclude the Lessor's responsibility of replacement of the air conditioning units where normal wear and tear would require their replacement as a capital item due to their age or normal use.

**4.7 Special Services**

The Lessee will pay to the Lessor upon demand the amount of any additional or unusual costs, charges, and expenses incurred by the Lessor at the request of the Lessee in having any alterations, repairs, or maintenance to the Premises or to the appurtenances in the Premises effected outside the normal working hours of the tradesmen concerned or in providing any special, additional, or unusual services for the Lessee.

**4.8 Cleansing Dues**

If the relevant Local or other Authority provides any cleansing or refuse service for the Premises (whether at the request of the Lessee or by direction of any officer of that Authority), the Lessee will pay the cost of the service to the relevant assessing Authority on or before the due date if assessed directly against the Lessee but otherwise to the Lessor within seven (7) days of being billed by the Lessor.

**5. USE**

**5.1 Use of the Premises**

The Lessee will not use or permit the Premises to be used for any purpose other than the purpose specified in Item 7 of the Reference Data. The Lessee acknowledges that:

- 5.1.1 it is the responsibility of the Lessee to obtain the consent of any planning or other authority which may be required for the Lessee to carry on its business on the Premises and the failure of the Lessee to obtain that consent does not relieve the Lessee of its obligation to pay Rent and otherwise to perform its obligations under this Lease;
- 5.1.2 no promise, representation, warranty, or undertaking has been given by or on behalf of the Lessor in respect to the suitability or adequacy of the Premises for any use or business or to the fixtures, fittings, furnishings, finish, plant, machinery, and equipment of or in the Premises; and
- 5.1.3 any warranties as to the suitability, fitness, and adequacy of the Premises implied by law are negated.

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5.2 Compliance with Statutes, Regulations, etc.

- 5.2.1 The Lessee will duly and punctually comply with and observe all Statutes and all orders, ordinances, regulations, and by-laws relating to the Premises or to the Lessee's use or occupation of the Premises and all requirements and orders lawfully given or made by any public body or authority relating to the Premises within the time required by the notice or order.
- 5.2.2 The Lessee will not do or omit to do any act or thing whereby the Lessor may become liable to pay any penalty imposed or to bear the whole or any part of any expenses incurred under any statute, ordinance, regulation, by-law, order, requirement, or notice.
- 5.2.3 The Lessee is not required by this clause to make any structural improvements or structural alterations unless they are required or made necessary by reason of any neglect or default by the Lessee or any person claiming under the Lessee or by reason of the business carried on in the Premises or the number or sex of the employees or persons at the Premises.

5.3 Annoying or Injurious Conduct

The Lessee will not:

- 5.3.1 carry on in any part of the Premises any annoying, noxious, offensive, or illegal business, occupation, or practice; or
- 5.3.2 do any act or thing or use any plant or machinery which through noise, odours, vibrations, or otherwise may be or grow to the annoyance, nuisance, grievance, damage, hazard, or disturbance of the Lessor or of the occupiers of neighbouring premises; or
- 5.3.3 use the Common Areas or Common Property in a way that unreasonably interferes with its use by others.

5.4 Use of Appurtenances

The Lessee will not use the water closets, drains, and other water apparatus, and other appurtenances in the Premises for any purposes other than those for which they were constructed and will not place in them any sweepings, rubbish, rags, ashes, or other deleterious substances.

5.5 Drains and Waste

All blockages which may occur in any Pipes originating within the Premises will be cleared by licensed tradesmen employed by the Lessee at the Lessee's cost.

5.6 Interference with Services

Except as otherwise provided in this Lease, the Lessee will not interfere with any appurtenances, Pipes, water supply, gas, electrical, plumbing, or other services contained in or about the Premises or the Air Conditioning Equipment or the Fire Equipment without first obtaining the consent in writing of the Lessor.

5.7 Erection of Signs

The Lessee will not cause any advertising or other sign or advertisement or hoarding to be painted or erected or otherwise placed on the Premises without the consent of the Lessor. The Lessor's consent will not be withheld unreasonably to the using or exhibiting of any advertisement or sign customary to the Lessee's class of business if the advertisement or sign strictly complies with the by-laws of the Body Corporate and local or other authorities.

5.8 Prohibition on Erection of Blinds and Shop Fittings

The Lessee will not erect or affix any blinds or awnings to the outside of any improvements on the Premises (venetian or otherwise) or affix any fittings to the exterior walls or ceilings of the Premises without the written consent of the Lessor which may be granted or refused or granted subject to

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conditions in the absolute discretion of the Lessor. Where required by by-law the Lessee will obtain the consent of the Body Corporate.

**5.9 Prohibition on Marking or Damaging Walls**

The Lessee will not deface or damage any parts of the Premises except so far as may reasonably be necessary for the erection of approved signs, blinds, or awnings. On the removal of signs, blinds, or awnings, the Lessee will make good any damage or unsightliness caused in or about the erection or removal of them even if the Lessor has consented to them.

**5.10 Rodents and Vermin**

The Lessee will at its own cost and expense keep the Premises free and clear of rodents, termites, cockroaches, and other vermin.

**5.11 Overloading of Floors**

The Lessee will observe the maximum floor loading weights nominated by the Lessor and will not permit the floors of the Premises to be broken, strained, or damaged by overloading them. In particular the Lessee will not install any safes or other heavy equipment except in positions and subject to conditions approved in writing by the Lessor.

**5.12 Infectious Diseases**

If any infectious disease happens upon the Premises which may require notification by virtue of any statute, regulation, or ordinance, the Lessee will:

5.12.1 give all the necessary notices and any other information which may be required to the proper authorities;

5.12.2 give a copy of the notification to the Lessor; and

5.12.3 at its own expense thoroughly fumigate and disinfect the Premises.

**5.13 Inflammable Substances**

The Lessee will not use any chemical, burning fluids, oil, acetylene, or alcohol in lighting the Premises or, except in the ordinary course of the Lessee's business, for any business or other purpose.

**5.14 Not to Make Voidable Insurance Policies**

The Lessee will not do or permit anything to be done on the Premises or bring or keep anything in the Premises that may in any way:

5.14.1 make void or voidable any policy of insurance applicable to the Premises; or

5.14.2 conflict with any laws or regulations or with any insurance policy applicable to the Premises; or

5.14.3 cause the amount of premium payable in respect of any insurance policy to be increased.

Without prejudice to the rights of the Lessor to determine this Lease, the Lessee will pay to the Lessor on demand any increase of premium which may be occasioned by a breach of this clause.

**5.15 To Observe Fire Laws**

The Lessee will at all times in its use of the Premises comply with the requirements of the Insurance Council of Australia and the laws and regulations for the time being in force relating to fires and the provisions of every relevant Statute, regulation, and ordinance.

**5.16 Fire Safety Equipment**

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5.16.1 The Lessee acknowledges that the Fire Safety Equipment is the property of the Lessor and must not be removed by the Lessee when the Lease ends. This does not affect the Lessee's obligations to have the Fire Safety Equipment serviced and maintained, tested, inspected and replaced in accordance with the following clauses.

5.16.2 The Lessee must:

- (a) have the Fire Safety Equipment inspected, serviced and maintained by reputable and qualified contractors every six months or otherwise as required by law;
- (b) after each inspection, provide to the Lessor a copy of the report provided by the contractor;
- (c) replace fire extinguishers, fire blankets and other first response fire equipment as and when required by law or otherwise as required by the service contractors maintaining the Fire Safety Equipment and provide written details of those replacements to the Lessor;
- (d) immediately report any defect in the Fire Safety Equipment that comes to its attention;
- (e) comply with insurance, sprinkler and fire alarm regulations and all laws and regulations for the time being in force relating to fires and the provisions of every relevant Statute, regulation and ordinance, and any lawful directions given by the Lessor or competent authority;
- (f) pay to the Lessor the cost of any alterations to the sprinklers or fire alarm installation that are necessary because the Lessee has not complied with the regulations and requirements of a local authority, the Insurance Council of Australia or the Lessor's insurer;
- (g) not interfere with the operation of Fire Safety Equipment in the Premises or the Building; and
- (h) pay any costs incurred by the Lessor as a result of any damage caused to the Fire Safety Equipment (including sprinklers) as a result of any action by the.

**5.17 Fire Drills and Procedures**

The Lessor and the Body Corporate may require the Lessee to perform fire drills and to observe all necessary emergency evacuation procedures and the Lessee and all persons under its control will cooperate with the Lessor and the Body Corporate in performing those drills and procedures.

**5.18 Auction Sales**

The Lessee will not hold or permit to be held any auction sale in or about the Premises.

**5.19 Security**

The Lessee will cause all exterior doors and windows in the Premises to be locked securely at all times when the Premises are not being used. The Lessor's representatives may enter the Premises for the purpose of locking any doors or windows left unlocked or unfastened or checking the general security of the Premises.

**5.20 Overloading of Electricity**

The Lessee will not without the written consent of the Lessor install any electrical equipment on the Premises that overloads the cables, switchboards, or sub-boards through which electricity is conveyed to the Premises. If the Lessor grants that consent any alterations which may be necessary to comply with the requirements of the insurance underwriters of the Premises or any Statutes, regulations, ordinances, or by-laws will be effected by the Lessor at the expense of the Lessee and the entire cost of



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the alterations will be paid by the Lessee to the Lessor upon demand. The Lessor may require the Lessee to deposit with the Lessor the estimated cost of the alterations before they are commenced.

5.21 Use of External Areas

The Lessee must not use the Premises or Common Property for parking or storage of motor vehicles, caravans, boats, demountable buildings, or containers of any kind other than in the day to day use of the Premises authorised by this Lease.

5.22 Body Corporate

The Tenant will comply with:

5.22.1 the by-laws of the Body Corporate; and

5.22.2 all lawful directions of the Body Corporate; and

5.22.3 all obligations imposed on occupiers by or in accordance with the *Body Corporate and Community Management Act 1997*; and

5.22.4 all obligations imposed on occupiers by the community management statement for the Scheme.

5.23 Common Property

The Tenant must obtain the approval of the Body Corporate before doing anything that physically or aesthetically affects the Common Property.

6. MAINTENANCE AND REPAIR

6.1 Notice of Damage

The Lessee will advise the Lessor promptly in writing of any damage sustained to the Premises or the defective operation of any of the appurtenances in the Premises.

6.2 Maintenance of Premises

The Lessee will repair the Premises and keep them in good repair except damage caused by:

6.2.1 fair wear and tear; or

6.2.2 an Insured Risk other than where the insurance money is irrecoverable because of any act or default of the Lessee or anyone who is at the Premises expressly or by implication with the Lessee's consent.

Where the policy of insurance for the Insured Risks requires payment of excess or deductible by the Lessor or Body Corporate, the Lessee will pay the excess or deductible (or where the damage is to the Premises and other areas a fair proportion of the excess or deductible) to the Lessor or Body Corporate on demand where the Lessee has caused the damage.

6.3 Inspection by Lessor

The Lessee will permit the Lessor at all reasonable times and upon giving the Lessee not less than 24 hours prior written notice to enter upon and view the condition of the Premises and immediately upon notice being given to the Lessee by the Lessor will execute all repairs and work agreed to be done by the Lessee. The Lessee will also permit the Lessor at all reasonable times to enter upon the Premises for the purpose of effecting any alterations, remodelling, or repairs which the Lessor may wish to carry out provide that the Lessor takes all reasonable care to cause as little inconvenience as possible to the Lessee's conduct of its business.

6.4 Lessor's Right to Repair

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If the Lessee at any time makes default in the performance or observance of any express or implied covenants in this Lease relating to the repair of the Premises, the Lessor may (but without prejudice to the Lessor's right of re-entry) enter upon the Premises and repair them at the expense of the Lessee.

**6.5 Lessee to Redecorate**

If the Lessee exercises the first option the the Lessee will, during the last three (3) months of the first option term of this Lease, Redecorate the Premises to the reasonable satisfaction of the Lessor. If the Lessee fails to Redecorate the Premises, the Lessor may Redecorate them at the Lessee's expense.

**6.6 Glass**

The Lessee will replace all glass in the Premises that is broken during the term of this Lease.

**6.7 Cleaning**

The Lessee will:

- 6.7.1 keep the Premises in a thorough state of cleanliness;
- 6.7.2 not allow any accumulation of useless property or rubbish; and
- 6.7.3 at its own expense employ staff for the regular cleaning of the Premises and the interior and exterior surfaces of windows and glass.

**6.8 External Areas**

The Lessee will:

- 6.8.1 weed all gardens and landscaped areas (if any) within the Premises;
- 6.8.2 mow all lawns on the Premises and keep them neat and tidy; and
- 6.8.3 generally maintain the grounds (if any) of the Premises neat and free from rubbish and in good order and condition.

**7. ALTERATIONS**

**7.1 No Alterations Without Consent**

The Lessee will not make any structural or other alterations or additions to the Premises or appurtenances in the Premises or the Air Conditioning Equipment or the Fire Equipment other than those previously agreed to with the Lessor in the intention to lease document without first submitting full detailed drawings and other specifications of the proposed works and particulars of the materials proposed to be used and obtaining the Lessor's consent in writing. The Lessor's consent may be granted upon whatever terms and conditions the Lessor in its absolute discretion thinks fit. If the Lessor grants its consent it will be a condition of that consent that the works are carried out under the supervision of the Lessor's architect. The Lessee will pay to the Lessor immediately on demand all costs and expenses incurred by the Lessor including architect's and other consultants fees payable by the Lessor whether consent is granted or not.

**7.2 Alterations Required for Lessee's Business**

Any alterations which may be required to the Premises, or to the Air Conditioning Equipment, the Fire Equipment or the water, gas, electrical, plumbing, or other services to make or keep the Premises suitable for use by the Lessee in its business or required by reason of the number or sex of the persons employed in the Premises will be effected by and at the expense of the Lessee. The Lessee must first submit full detailed drawings and other specifications of the proposed work and class of materials proposed to be used and obtain the Lessor's consent in writing (which consent will not be unreasonably refused having regard only to the interests of the Lessor if the alterations are required by law). The Lessee indemnifies the Lessor against all injury or damage to the Premises caused in or about the

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erection or construction of the alterations or additions or in the removal of the alterations and additions even though the Lessor may have consented to them.

7.3 Internal Partitions

The Lessee will not install any internal partitions in the Premises or make any alterations or modifications to any internal partitions other than those previously agreed to with the Lessor in the intention to lease document without the written consent of the Lessor. The Lessor's consent will not be unreasonably withheld if the following conditions are complied with:

- 7.3.1 the Lessee is to submit to the Lessor full detailed drawings and specifications of the proposed works;
- 7.3.2 the drawings and specifications are to meet with the approval of the Lessor's architect;
- 7.3.3 the materials to be used in carrying out the works are to be of a standard as to type, quality, colour, and size as the Lessor determines;
- 7.3.4 the works are to be carried out by a builder approved by the Lessor;
- 7.3.5 the works are to be carried out under the supervision of the Lessor's architect;
- 7.3.6 the Lessee is to pay to the Lessor immediately upon demand all reasonable costs and expenses incurred by the Lessor including architect's and other consultants' fees payable by the Lessor whether any Approval is granted or not; and
- 7.3.7 if required, the Lessee will obtain the consent of the Body Corporate.

Any partitions erected by the Lessee remain the property of the Lessee who is responsible for their maintenance and insurance.

7.4 Costs of Internal Works

Any works Approved under clause 7.3 will be effected by and at the expense of the Lessee including the costs of all additional lights and power outlets, switches, telephone outlets, and alterations or any other services which may be required by reason of the position of partitions. The Lessee indemnifies the Lessor against all injury or damage to the Premises caused in or about the execution of those works.

7.5 Lessee's Fixtures

Unless otherwise agreed to between the Lessor and the Lessee that the fixtures and fittings may remain in the premises at the expiration of the Term and if the Lessee has paid all Rent and observed and performed all the covenants, agreements, and provisions contained in this Lease which are the Lessee's responsibility and on the part of the Lessee, any fixtures and things which with the consent of the Lessor have been installed by the Lessee on the Premises may at the expiration of the term of this Lease be taken down and removed from the Premises for the Lessee's own benefit but always only upon the condition that the removal can be carried out without danger to the stability of the structure of the Premises. The Lessee will make good to the satisfaction of the Lessor or the architect of the Lessor any damage done or unsightliness occasioned to the Premises by or as a result of the installation or removal of any of these fixtures and things. Any fixtures and things not removed by the Lessee and all other goods of the Lessee left on the Premises will be deemed abandoned by the Lessee and become the property of the Lessor. The Lessor may in its discretion sell or otherwise dispose of abandoned fixtures, things, and goods in any manner the Lessor thinks fit.

8. INDEMNITY, RISK, INSURANCE, LIABILITY

8.1 Indemnities

The Lessee shall indemnify and hold indemnified the Lessor against all direct actions, claims, demands, losses, damages, costs, and expenses excluding any consequential loss or damage which the Lessor

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may sustain or incur or for which the Lessor may become liable during the term of this Lease in respect of or arising from:

- 8.1.1 loss, damage, or injury from any cause to property or person inside or outside the Premises occasioned or contributed to by the neglect or default of the Lessee or any servant, agent, licensee, invitee, sublessee, or other person claiming through or under the Lessee to observe or perform any of the covenants, conditions, regulations, and restrictions on the part of the Lessee in this Lease whether positive or negative, expressed or implied;
- 8.1.2 the negligent use, misuse, waste, or abuse by the Lessee or any servant, agent, licensee, invitee, sublessee, or other person claiming through or under the Lessee of any water, gas, or electricity, or other services to the Premises;
- 8.1.3 the overflow, leakage, or escape of water, fire, gas, electricity, or any other harmful agent in or from the Premises caused or contributed to by any negligent act or omission on the part of the Lessee, its servants, agents, licensees, invitees, sublessees, or other persons claiming through or under the Lessee;
- 8.1.4 the failure of the Lessee to notify the Lessor of any defect in any of the Air Conditioning Equipment, the Fire Equipment, or other appurtenances in the Premises of which the Lessee is aware or ought to be aware;
- 8.1.5 loss, damage, or injury from any cause to property or person caused or contributed to by the use of the Premises by the Lessee or any servant, agent, licensee, invitee, or sublessee and arising out of the neglect or default of the Lessee or any servant, agent, licensee, invitee, or sublessee;
- 8.1.6 the improper or faulty erection or construction of facilities, trade fixtures, or equipment installed on or in the Premises by the Lessee; or
- 8.1.7 any personal injury sustained by any person in or about the Premises however caused other than by the wilful or negligent act of the Lessor, its servants, or agents.

8.2 Insurances

8.2.1 The Lessee will during the term of this Lease at its sole cost and expense obtain and keep in full effect in the name of the Lessee, noting the interests of the Lessor, and all mortgagees of the Premises (as their interests may appear) the following insurances:

(a) Property

Insurance upon all property situated in the Premises owned by the Lessee or for which the Lessee is legally liable and on all fixtures and improvements installed in the Premises by the Lessee. The policies must be for an amount not less than ninety per centum (90%) of the full replacement cost with coverage against at least fire with standard extended coverage.

(b) Business Interruption Insurance

Business Interruption insurance in an amount sufficient to reimburse the Lessee for direct or indirect loss of earnings attributable to perils commonly insured against by prudent lessees or attributable to prevention of access to the Premises.

(c) Public Risk

Public Risk Liability insurance applying to all operations of the Lessee and which will include bodily injury liability and property damage liability, personal injury liability, products liability, , and lessee's legal liability with respect to the occupancy by the Lessee of the Premises. The policy will be written on a comprehensive basis with limits of not less than the Public Risk Insurance Amount per occurrence.

(d) Plate Glass

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Insurance of all plate glass in the Premises or forming part of the boundary walls of the Premises for reinstatement following breakage or damage from any cause.

8.2.2 All insurance policies required by this clause will be taken out with insurers acceptable to the Lessor and on policies and in forms satisfactory from time to time to the Lessor. Certificates of insurance, or if required by the Lessor or its mortgagee certified copies of each insurance policy, will be delivered to the Lessor as soon as practicable after they are taken out. All policies will contain an undertaking by the insurer to notify the Lessor and its mortgagee in writing not less than thirty (30) days prior to any material change in terms, cancellation, or other termination of the policies.

8.2.3 If the Lessee fails to take out or to keep in force any insurance required by this clause, or if the insurance is not reasonably approved by either the Lessor or its mortgagee, the Lessor may effect the insurance at the sole cost of the Lessee and all outlays by the Lessor will be payable by the Lessee to the Lessor as additional rent on demand without prejudice to any other rights and remedies of the Lessor under this Lease. The Lessor confirms that a blanket corporate insurance policy which otherwise meets the requirements of this clause 8.2 will be acceptable to the Lessor.

**8.3 Assumption of Risk by Lessee**

8.3.1 The Lessee agrees to occupy and use the Premises at the risk of the Lessee. The Lessor will not in any circumstances be liable to the Lessee for any damage to the plant, equipment, fixtures, fittings, merchandise, stock-in-trade, or any other property of any description of or in the possession of the Lessee and contained in or about the Premises occasioned by:

- (a) water, heat, fire, electricity, vermin, explosion, tempest, riot, civil commotion, bursting pipes, or by the entry of water from any source;
- (b) by the operation, non-operation, or malfunction of the Air Conditioning Equipment or the Fire Equipment; or
- (c) by any other cause.

**8.4 Interruption of Services**

Despite any implication or rule of law to the contrary, the Lessor will not be liable to the Lessee for any loss or damage suffered by the Lessee for any malfunction, failure to function, or interruption of or to the water, gas, or electricity services, the Air Conditioning Equipment, or the Fire Equipment, or any of the appurtenances contained in the Premises, or for the blockage of any sewers, wastes, drains, gutters, downpipes, or storm water drains from any cause unless caused by the wilful act or omission of the Lessor, its servants or agents.

**8.5 Condition Precedent**

Despite anything contained in this Lease or any implication or rule of law to the contrary, the Lessor will not be liable for any damage or loss the Lessee may suffer by reason of the neglect or omission of the Lessor to do any act or thing to or in respect of the Premises of which the Lessee is or ought to be aware and which (as between the Lessor and the Lessee) the Lessor might be legally liable to do unless the Lessee gives to the Lessor notice in writing of that act or omission and the Lessor without reasonable cause fails within a reasonable time to take proper steps to rectify the act or omission.

**8.6 Lessor's Insurance**

Except where the Body Corporate insures the structure of the Premises, and subject to insurance for such risk being available from reputable insurers at reasonable rates, the Lessor will insure the Premises against damage by:

- 8.6.1 fire;

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8.6.2 lightning;

8.6.3 impact by aircraft:

- (a) earthquake;
- (b) explosion;
- (c) impact by vehicles and animals;
- (d) malicious damage other than by persons in or about the Premises with the actual or implied consent of the Lessee, any sublessee, or licensee;
- (e) rainwater; or
- (f) storm and/or tempest; or
- (g) Flood

in broad cover form with repair and replacement terms on terms and conditions reasonable in the market at the time the insurance is effected. The obligation to insure against any risk is conditional upon insurance for that risk being available from reputable insurers at reasonable rates.

9. ASSIGNMENT

9.1 Covenant Against Assignment, Subletting and Franchising

The Lessee will not:

- 9.1.1 mortgage or otherwise charge the Lessee's interest in this Lease;
- 9.1.2 assign, underlet, grant any license over or part with the possession of the Premises; or
- 9.1.3 share with any person the occupancy of the Premises,

without first obtaining the written consent of the Lessor. The consent will not be unreasonably withheld, in the case of the proposed assignment or subletting of the whole of the Premises, to a respectable and financially responsible assignee or sublessee. As a condition precedent to the Lessor's consent to any assignment or subletting and prior to the execution of any consent, the Lessor may require the assignee or sublessee:

- 9.1.4 to enter into a covenant with the Lessor that the assignee or sublessee will observe, perform, fulfil, and keep all covenants, conditions, and restrictions contained in this Lease and on the part of the Lessee to be observed, performed, fulfilled, and kept; and

the covenant to be prepared by the Lessor's solicitors at the cost and expense of the Lessee. The Lessee will pay all other costs and expenses of the Lessor arising out of or in relation to the assignment or subletting. If the intended assignee is a limited liability company then upon the Lessor's demand at least two (2) (or more if the Lessor so requires) of its directors or shareholders of satisfactory standing will join in the deed as sureties for the company in order jointly and severally to covenant with the Lessor as sureties that:

- 9.1.5 the company will pay the Rent and perform and observe the covenants by the Lessee and conditions contained in this Lease;
- 9.1.6 they indemnify the Lessor against all loss, damages, costs, and expenses arising by reason of any default by the company;
- 9.1.7 any neglect or forbearance of the Lessor will not release or exonerate the sureties; and

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- 9.1.8 the sureties will accept a new lease of the Premises upon disclaimer of this lease by the company or on its behalf or on dissolution of the company the new lease to be for the residue then unexpired of the term of this Lease and at the Rent payable under this Lease and subject to the same Lessee's and Lessor's covenants respectively and the same provisos and conditions in all respects as are contained in this Lease. The onus of proving the respectability and financial responsibility of any proposed assignee, sublessee, or surety is upon the Lessee at its expense.

The liability of the Lessee under the covenants, provisions, and conditions contained in the Lease will not be impaired or discharged by reason of any time or other indulgence, now or at any time after, granted by the Lessor to any assignee or sublessee..

**9.2 Subleases**

The Lessor's consent to a subletting of part only of the Premises may be granted or refused in the absolute discretion of the Lessor and every permitted sublease of the whole or part of the Premises may be granted at a rent equal to the then open market rental value of the underlet premises and will contain covenants:

- 9.2.1 for the upwards only review of the rent reserved on the basis on which the Rent is to be reviewed in this Lease;
- 9.2.2 prohibiting the sublessee from doing or allowing any act or thing in relation to the underlet premises inconsistent with or in breach of the provisions of this Lease; and
- 9.2.3 by the sublessee with the Lessor not to assign or sublet the underlet premises without the consent in writing of the Lessor.

**9.3 Concessions, Licences, etc.**

Without in any way limiting the generality of clause 9.1 and 9.2, the Lessee will not permit any business to be operated in or from the Premises by any concessionaire, franchisee, licensee, or others without the written consent of the Lessor in each instance. The Lessor's consent may, despite any statutory provision or provisions to the contrary, be arbitrarily withheld. The consent by the Lessor to any concession, franchise, or licence will not constitute a waiver of the necessity for the consent to any subsequent concession, franchise, or licence. If the Lessor agrees to grant its consent to any concession, franchise, or licence each concession, franchise, or licence will only be granted upon and subject to the following conditions that:

- 9.3.1 the concession, franchise, or licence will be subject to the terms covenants and conditions contained in this Lease;
- 9.3.2 the aggregate area of all concessions, franchises, or licences will not at any one time exceed a percentage of the area of the Premises as the Lessor, in its sole discretion, considers advisable;
- 9.3.3 each concessionaire, franchisee, or licensee will carry on business under the trade name and style of the Lessee and in a manner so that to all intents and purposes, the business will appear as an integral part of the Lessee's business operations;
- 9.3.4 the Lessee will provide the Lessor with an executed copy of each concession, franchise, and licence agreement and the Lessor will have the right to Approve the terms of the agreement or to request changes to the agreement which the Lessee covenants to make or have made prior to its grant; and
- 9.3.5 at the option of the Lessee, the Lessee and any concessionaire, franchisee, or licensee will execute any document or instrument which the Lessor requires including, without limitation, a sublease of the Premises substantially in the form of this Lease.

**9.4 Corporate Lessee**

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Where any person who holds a substantial interest in the Lessee (the Lessee being a corporation) at the time of the execution of this Lease ceases to hold a substantial interest, the Lessee will immediately give notice in writing of that fact to the Lessor. This lease expires on the expiration of the notice. For the purposes of this Clause, a substantial interest in the Lessee is a holding of not less than thirty per centum (30%) of the issued share capital of the Lessee or a holding of shares in the Lessee which entitle the holder to not less than thirty per centum (30%) of the voting power of all shares represented at any meeting of members of the Lessee.

9.5 Change of Corporate Ownership Deemed Assignment

Where the Lessee is a corporation not being a company whose shares are listed on any Stock Exchange in Australia, the following circumstances will constitute or be deemed to constitute an assignment of this Lease (requiring the prior consent of the Lessor under clause 9.1):

- 9.5.1 if at any time during the term of this Lease any corporation or any related corporation (as defined by the legislation regulating corporations as at the Date of Commencement) not holding or holding between them more than fifty percent (50%) of the issued capital or voting rights of the Lessee, acquires or acquire between them so much of the issued capital or voting rights of the Lessee as when added to the issued capital or voting rights (if any) previously held by that corporation or related corporations represent in the aggregate more than fifty per cent (50%) of the issued capital or voting rights of the Lessor;
- 9.5.2 if at any time during the term of this Lease any person or any persons (as defined in the *Income Tax Assessment Act 1936* as at the Date of Commencement) not holding or holding between them more than fifty percent (50%) of the issued capital or the voting rights of the Lessee acquires or acquire between them so much of the issued capital or voting rights of the Lessee as when added to the issued capital or voting rights (if any) previously held by that person or those persons represent in the aggregate more than fifty per cent (50%) of the issued capital or voting rights of the Lessee; or
- 9.5.3 if at any time during the term of this Lease, the changes referred to in clause 9.5.1 and 9.5.2 occur to any holding company (as defined in the legislation regulating corporations as at the Date of Commencement) of the Lessee or in any holding company of any holding company of the Lessee.

10. COSTS

10.1 Costs of Litigation

If without fault on its part, either Party is made a party to any litigation commenced by or against the other (other than litigation between the Lessor and the Lessee) and arising directly out of the acts or omissions of the other in relation to the Premises, the Party not at fault will be paid by the other Party on demand all reasonable legal fees and disbursements (as between solicitor and own client) incurred in connection with the litigation.

10.2 Costs to be Borne by Lessee

The Lessee will pay:

- 10.2.1 the Lessor's costs of and incidental to the negotiation, preparation, execution, stamping and registration of this Lease on an indemnity basis;
- 10.2.2 all stamp duty (if any) and registration fees payable in respect of this Lease;
- 10.2.3 the cost of the Lessor obtaining the consent of the Lessor's mortgagee to this Lease;
- 10.2.4 all costs, charges, and expenses (including for example, legal costs and fees payable to a surveyor or architect) incurred by the Lessor for the purpose of or incidental to the preparation and service of any notice under section 124 or section 127 of the *Property Law Act 1974* even if forfeiture is avoided otherwise than by relief granted by the Court;



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10.2.5 all costs of and incidental to the grant or refusal of any consent or authority of the Lessor which may be requested by the Lessee under the terms of this Lease; and

10.2.6 all monies the Lessor may expend or be put to in consequence of any default by the Lessee in the performance and observance of any covenant or agreement contained or implied in this Lease or which is authorised or entered into or made by the Lessee.

**11. MORTGAGEE OF FREEHOLD**

**11.1 Mortgagee's Consent**

In consideration of the Lessor granting this lease to the Lessee, the Lessee covenants and agrees with the Lessor, for the benefit of all present or future mortgagees of the whole or any part of the Land (the Mortgagee), that the consent of the Mortgagee to this Lease is subject to the following conditions and provisions:

11.1.1 if the Rent is paid strictly in accordance with the terms contained in this Lease and the covenants, conditions, and provisions in this Lease are fully observed and performed, the Mortgagee will, in the event of the exercise of the power of sale or other power or remedy of the Mortgagee or its assigns on default under the relevant bill of mortgage, exercise the power subject to the then subsisting rights of the Lessee its successors and permitted assigns under this Lease;

11.1.2 that so long as the Mortgagee is registered as Mortgagee of the Land, the Lessee will obtain the consent or approval of the Mortgagee or its assigns in addition to the consent or approval of the Lessor in all cases where the consent or approval of the Lessor is required;

11.1.3 that upon the Mortgagee or its assigns giving notice to the Lessee demanding to enter into receipt of the rents and profits of the Land or any part of them, the covenants on the part of the Lessee expressed or implied in this Lease will be deemed to have been entered into by the Lessee with the Mortgagee and its assigns and all the rights, powers, and remedies of the Lessor under this Lease will vest in and be exercisable by the Mortgagee and its assigns until the notice is withdrawn or the relevant mortgage is discharged;

11.1.4 the consent will, at the option of the Mortgagee, be void and of no effect if the Lessor or the Lessee fails to observe and perform all or any of the conditions contained in this clause.

**11.2 Applying for Consent**

11.2.1 This Lease is conditional on the written consent of the Mortgagee under any mortgage registered over the Land prior to the date of this Lease.

11.2.2 If the Mortgagee's consent is not obtained for any reason other than the default of the Lessor within a reasonable time after the Commencement Date, then the Lessor may terminate this Lease without compensation to the Lessee.

11.2.3 The Lessor and the Lessee must enter into a deed containing the reasonable terms and conditions of consent required by the Mortgagee.

**12. LANDLORD'S ASSURANCES**

**12.1 Quiet Enjoyment**

If the Lessee promptly pays the Rent and observes and performs the covenants and agreements in this Lease, the Lessee may peaceably hold and enjoy the Premises during the term of this Lease without any interruption by the Lessor or any persons lawfully claiming under or in trust for the Lessor.

**12.2 Lessor to Pay Rates**

The Lessor will pay all municipal rates and land tax payable in respect of the Land except those rates and taxes (if any) which the Lessee has covenanted to pay in whole or in part.

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13. DEFAULT

13.1 Essential Terms

It is agreed that the following obligations of the Lessee are essential terms of this Lease:

- 13.1.1 The covenants to pay Rent, Outgoings and GST;
- 13.1.2 The covenants in clause 5 dealing with the use of the Premises;
- 13.1.3 The covenants in clause 8.2 in relation to insurance;
- 13.1.4 The covenants in clause 9 in relation to dealings with the Lease (including assignment and subletting);
- 13.1.5 The covenants in clauses 19.1 and 19.2 in respect of the Lessee's obligations at the end of the Lease;
- 13.1.6 The covenants in clause 6 for repair and to replace glass and lights;
- 13.1.7 The covenants in clause 20 to pay the bond;
- 13.1.8 The covenant in clause 10.2 to pay costs and interest.

13.2 Default by Lessee

13.2.1 Events of Default - Right to Re-Enter

If:

- (a) the Rent or any part of it is unpaid for seven (7) days after it has become due whether any formal or legal demand is made for it or not;
- (b) the Lessee breaches any of the covenants or agreements (whether expressed or implied) in this Lease and on the part of the Lessee to be performed or observed (including covenants and agreements of a negative character);
- (c) without limiting clause 13.2.1(b), the Lessee breaches any essential term of this Lease;
- (d) the repairs required by any notice given under clause 6.3 are not completed within the time specified in the notice;
- (e) judgment for an amount exceeding five thousand dollars (\$5,000.00) is obtained or entered up against the Lessee in any court of competent jurisdiction and is not satisfied within twenty-one (21) days;
- (f) the Lessee does or suffers to be done any act whereby the estate or effects of the Lessee may become liable to be taken in execution; or
- (g) the Lessee, being a corporation, enters into provisional liquidation or liquidation whether voluntary or otherwise (except for the purpose of reconstruction or amalgamation) or has a receiver and/or manager appointed,

**THEN** subject to the Lessor giving notice under section 124 of the *Property Law Act 1974*, the Lessor or any person duly authorised by the Lessor may, at any time on three (3) days written notice or without notice, re-enter the whole or part of the Premises in the name of the whole and determine this Lease but without prejudice to the right of action or other remedy of the Lessor in respect of any antecedent breach of the Lessee's covenants, stipulations, or agreements contained or implied in this Lease.

13.2.2 Damages

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If the Lessor determines this Lease under clause 13.2.1, the Lessor may recover from the Lessee in addition to damages and amounts recoverable apart from this clause:

- (a) any Rent and Outgoings due but unpaid at the date of the determination;
- (b) the amount by which the Rent and Outgoings between the date of determination and the date of expiry of this Lease by effluxion of time exceeds the rent and outgoings received or likely to be received from any other lessee to whom the Premises are relet or may be relet during that period;
- (c) any other amount necessary to compensate the Lessor as a result directly of the Lessee's default and the Lessor's determination of the Lease including, for example:
  - (i) costs and expenses incurred in maintaining the Premises;
  - (ii) costs of recovering possession of the Premises;
  - (iii) expenses of reletting including necessary renovation or alteration of the Premises;
  - (iv) legal costs; and
  - (v) real estate commissions charges and fees.

For the purposes of clause 13.2.2(b), the onus of proving that the Premises are likely to be relet and the amount of the rent likely to be received is upon the Lessee. For the purpose of calculating the rent and Outgoings that would have been payable after the determination of this Lease and to the extent that the Rent and Outgoings that would have been payable cannot be established certainly, it will be assumed that the Rent and Outgoings would have increased annually by five per centum (5%) cumulative on each anniversary of the Date of Commencement.

**13.2.3 Lessor's Right when Lessee Abandons Premises**

If the Lessee vacates or abandons the Premises or otherwise repudiates this Lease without lawful excuse prior to the expiration of the term, the Lessor may without being under any obligation so to do seek to find another lessee for the Premises. For that purpose the Lessor may from time to time enter upon the Premises and permit prospective lessees to view them and may otherwise do all acts and things necessary in the opinion of the Lessor to renovate, restore, clean, and secure the Premises without accepting or being deemed to have accepted a surrender of this Lease. It is the intention of the parties that this Lease and the obligations of the Lessee under this Lease subsist until another person enters into occupation of the Premises as lessee or the Lessor expressly accepts a surrender of this Lease. For the purpose of this clause, the Lessee is deemed to have vacated the Premises if it ceases to carry on its permitted use for a period of seven (7) consecutive days without having paid in advance the instalments payable on account of Rent and contributions to Outgoings in respect of that period of seven (7) days.

**13.2.4 Reservation of Rights**

The rights and powers conferred on the Lessor by this clause 13.1 are in addition to any other right or power which may be conferred upon the Lessor at law or in equity.

**13.2.5 Non-Waiver**

No delay or omission to exercise any right power or remedy accruing to the Lessor upon any continuing breach or default under this Lease impairs any right, power, or remedy of the Lessor and it will not be construed to be a waiver of or acquiescence in any continuing breach or default or of or in any similar breach or default occurring subsequently; and no waiver of any single breach or default will be deemed a waiver of any earlier or later breach or default. Any waiver, permit, consent, or approval of any kind or character of any breach or default under this Lease or any waiver of any provision or condition of this Lease must be in writing and will be effective

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only to the extent set out in the written waiver. All remedies either under this Lease or by law or otherwise afforded to the Lessor are cumulative and not alternative.

13.2.6 Accord and Satisfaction

No payment by the Lessee or receipt by the Lessor of a lesser amount than the Rent stipulated in this Lease will be considered to be other than on account of the stipulated Rent. An endorsement or statement on a cheque or in a letter accompanying a cheque or payment as Rent will not be considered to be an accord or satisfaction. The Lessor may accept a cheque or payment without prejudice to the Lessor's right to recover the balance of the Rent or pursue any other remedy.

13.2.7 Performance of Lessee's Covenants by Lessor

If the Lessee makes default in payment of any moneys covenanted by the Lessee to be paid or in the observance or performance of any of the covenants contained or implied in this Lease and on the part of the Lessee to be observed and performed, the Lessor may pay that money and observe and perform those covenants and the Lessee will pay to the Lessor immediately upon demand all moneys which the Lessor expends in that behalf with interest calculated at the Stipulated Rate from the time of those moneys having been so expended to the date of payment.

13.2.8 Interest on Arrears

The Lessee will pay to the Lessor interest on any Rent or other moneys which are in arrears calculated at the Stipulated Rate from the time of the Rent, or other moneys respectively falling due, to the date of payment.

14. DAMAGE OR DESTRUCTION

14.1 Substantially Unfit or Substantially Inaccessible

If the Premises are damaged by an event beyond the control of the Lessee or by an Insured Risk so as to render the Premises substantially unfit for the occupation and use of the Lessee or (having regard to the nature and location of the Premises and the normal means of access) substantially inaccessible, then:

14.1.1 **EXCEPT** where the damage has been caused by the negligent act or omission of the Lessee or of any servant, agent, licensee, invitee, customer, or visitor of the Lessee or of any sublessee, licensee, or other occupier claiming by, through, or under the Lessee:

- (a) A proportionate part of the Rent and other moneys payable under this Lease according to the nature and extent of the damage sustained, abates and all or any remedies, for recovery of that proportionate part of the Rent and other moneys falling due after the damage, are suspended until the Premises have been restored or made fit for the Occupation and use of the Lessee or accessible to the Lessee as the case may be.
- (b) Within fourteen (14) days of the Premises being rendered unfit or inaccessible, the Lessee may serve on the Lessor written notice that the Premises have been rendered unfit or inaccessible (a Damage Notice). Unless within the period of thirty-one (31) days after being served with a Damage Notice, the Lessor serves written notice on the Lessee that the Lessor will restore the Premises or make them fit for the occupation and use of or render them accessible to the Lessee (a Restoration Notice), the Lessee may (not before the expiration of the period of thirty-one (31) days and not after the expiration of the period of seventy-five (75) days from the date of service of the Damage Notice on the Lessor) terminate this Lease by notice in writing to the Lessor.
- (c) If the Lessor gives a Restoration Notice to the Lessee and does not within a reasonable time substantially commence and diligently proceed to restore the Premises or make them fit for the occupation and use of or render them accessible to the Lessee, the Lessee may serve on the Lessor notice of intention to terminate this Lease. Unless the

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Lessor upon receipt of that notice proceeds with reasonable expedition and diligence to restore the Premises or make them fit for the occupation and use of or render them accessible to the Lessee as the case may require, the Lessee may terminate this Lease by giving not less than one (1) month's notice in writing to the Lessor and at the expiration of the last mentioned notice this Lease terminates.

14.1.2 If in the Lessor's sole opinion the damage to the Premises is such that it is impractical or undesirable to restore the Premises or make them fit for the occupation and use of the Lessee or render them accessible to the Lessee, the Lessor may terminate this Lease by giving not less than one (1) month's notice in writing to the Lessee and at the expiration of that notice this Lease terminates.

14.1.3 No liability attaches to the Lessor by reason of termination of this Lease under clause 14.1.1 or clause 14.1.2, and otherwise any termination is without prejudice to the rights of either party in respect of any antecedent breach or non-observance of any covenant or provisions of this Lease.

**14.2 Wholly Unfit or Totally Inaccessible**

If the Premises are taken for any public purpose or are destroyed or so damaged that the Premises are rendered wholly unfit for the occupation and use of the Lessee or totally inaccessible:

14.2.1 the Lessor may, despite anything contained or implied in this Lease, terminate this Lease by giving not less than one (1) month's notice in writing to the Lessee and at the expiration of that notice this Lease terminates and no liability attaches to the Lessor by reason of the termination;

14.2.2 except where the destruction or damage has been caused or contributed to by the negligent act or omission of the Lessee or of any servant, agent, licensee, invitee, customer, or visitor of the Lessee or of any sublessee, licensee, or other occupier claiming by, through, or under the Lessee, the Lessee may terminate this Lease by giving not less than one (1) month's notice in writing to the Lessor and at the expiration of that notice this Lease terminates; and

14.2.3 any termination under clause 14.2.1 or clause 14.2.2 is without prejudice to the rights of either party in respect of any antecedent breach or non-observance of any covenant or provision of this Lease.

**14.3 Resolution of Disputes**

Any dispute arising under clause 14.1 or 14.2 will be determined by a member of the API appointed by the President for the time being of that Institute on the application of the Lessor or the Lessee. The person so appointed will in making their determination act as an expert and not as an arbitrator and their determination will be final and binding on both parties. The cost of the determination will be borne by either or both of the Parties (and if by both of the Parties in the proportion between them) as the person making the determination decides.

**15. GENERAL**

**15.1 Time Essential**

Time is essential for all obligations of the Lessee in this Lease. The Lessee indemnifies the Lessor against all losses, costs, and expenses which the Lessor may sustain or incur as a consequence of any failure by the Lessee to perform and observe on the due date any obligations on its part contained or implied in this Lease.

**15.2 Entire Agreement**

The terms and conditions set out in this Lease contain the entire agreement as concluded between the Parties despite any negotiations or discussions prior to the execution of this Lease and despite anything contained in any brochure, report, or other document prepared by the Lessor for submission to potential lessees of the Premises. The Lessee also acknowledges that it has not been induced to enter into this

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Lease by any representation verbal or otherwise made by or on behalf of the Lessor which is not set out in this Lease.

15.3 Negating of Moratorium

To the fullest possible extent, the provisions of all statutes now existing and subsequently to come into force and operating directly or indirectly to lessen or otherwise modify or vary or affect in favour of the Lessee the obligations of the Lessee or to stay, postpone, or otherwise prevent or prejudicially affect the exercise by the Lessor of all or any of the rights, powers, and remedies conferred on the Lessor by this Lease are expressly negated and excluded from this Lease.

15.4 New Guarantor

Within fourteen (14) days of the death of any Guarantor during the term of this Lease, or of any Guarantor becoming bankrupt, or having a receiving order made against them, or becoming insane, or being a company passing a resolution to wind up, or entering into liquidation, or having a receiver appointed, the Lessee will give notice of this to the Lessor. If required by the Lessor, the Lessee, at their own expense, must, within twenty eight (28) days, procure some other person acceptable to the Lessor to execute a guarantee in respect of the Lessee's obligations contained in this Lease in the form of the Guarantor's covenants which are contained in this Lease or in any guarantee separate from this Lease.

15.5 Inspection by Purchaser or Lessee

The Lessee will:

- 15.5.1 allow the Lessor to exhibit on the Premises notices advertising the Premises for sale;
- 15.5.2 at all reasonable times upon prior reasonable notice permit the Lessor to show the Premises to prospective purchasers; and
- 15.5.3 within the six (6) month period immediately preceding the expiration of the term granted by this Lease, permit the Lessor to show the Premises to prospective lessees at all reasonable times, and on prior reasonable notice, and allow the Lessor to affix and exhibit on the Premises where the Lessor thinks fit the usual For Sale and/or To Let notices. In each case the notices may display the name and address of the Lessor and its agents.

The Lessee will not remove any notice without the prior written consent of the Lessor.

15.6 Modification of Implied Covenants

The obligations and powers implied in leases by section 105 and section 107 of the *Property Law Act 1974* are negated. All other covenants on the part of the Lessee implied by the *Property Law Act 1974* are not negated but are modified to the extent of any inconsistency with the provisions of this Lease.

15.7 Notices

15.7.1 A notice, approval, consent or other communication concerning this Lease:

- (a) may be given by a party, an authorised officer or by a party's solicitor; and
- (b) must be in writing; and
- (c) must be left at the address of the addressee or sent by pre-paid ordinary post (air mail if posted to or from a place outside Australia) to the address of the addressee or sent by fax or email to the fax number or email address of the addressee shown in the Reference Schedule or, if the addressee notifies another address or fax number, then to that address or fax number; and
- (d) may be served on the Lessee by delivering or sending it to the Premises.

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15.7.2 A notice, approval, consent or other communication takes effect from the time it is received, unless a later time is specified.

15.8 Holding Over

If the Lessee with the consent of the Lessor remains in occupation of the Premises after the expiration of the term of this Lease then:

15.8.1 the Lessee will be a lessee from month to month of the Lessor of the Premises on the terms of this Lease so far as they are applicable to a monthly tenancy;

15.8.2 the monthly tenancy may be determined by either party in the manner prescribed by Div. 4 of Part VIII of the *Property Law Act 1974*; and

15.8.3 the rent payable in respect of the monthly tenancy will be the amount of Rent payable monthly under this Lease immediately prior to the expiration of the term and will be payable in advance.

15.9 Severability

If it is held by a Court of competent jurisdiction that:

15.9.1 any part of this Lease is void, voidable, illegal, or unenforceable; or

15.9.2 this Lease would be void, voidable, illegal, or unenforceable unless any part of this Lease were severed,

that part will be severable from and will not affect the continued operation of the rest of this Lease.

16. TRUSTS

16.1 Trusts

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

16.1.1 This Lease extends to all rights of indemnity which the Lessee now or subsequently may have against the Trust and the trust fund.

16.1.2 The Lessee has full and complete power and authority under the Trust to enter into this Lease and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Lessee against the Trust or the trust Fund. The Lessee will not release that right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity.

16.1.3 Despite the terms of any deed of trust or settlement or other document, the Lessee will be and at all times remain personally liable to the Lessor for the use performance fulfilment and observance of the obligations in this Lease.

16.1.4 During the currency of this Lease the Lessee will not without the consent in writing of the Lessor cause, permit, or suffer to happen any of the following events:

- (a) the removal replacement or retirement of the Lessee as sole trustee of the Trust;
- (b) any alteration to or variation of the terms of the Trust;
- (c) any advancement or distribution of capital of the Trust; or
- (d) any resettlement of the trust property.

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

17. OPTION

17.1 First Option to Renew

If the Lessee:

- 17.1.1 not more than six (6) months and not less than three (3) months prior to the expiration of this Lease gives written notice to the Lessor that it wishes to renew this Lease; and
- 17.1.2 has at the time of exercising the option to renew no unremedied breaches of this Lease, then the Lessor will grant to the Lessee a further lease of the Premises on the following conditions:
- 17.1.3 the term of the further lease will be the period referred to in Item 10(a) of the Reference Data (the Further Term);
- 17.1.4 the Rent for the first year of the Further Term will be determined by applying the review type for the relevant Review Date referred to at Item 6 of the Reference Data;
- 17.1.5 the terms and conditions will be the same as the terms and conditions of this Lease except for the changes specified in the Modification Schedule at the end of this clause; and
- 17.1.6 the Lessee will pay all costs of the Lessor including the legal costs of the Lessor calculated on an indemnity basis of and incidental to the grant of the new lease.

Modification Schedule

- A. This clause 17.1 will be deleted.
- B. Clause 24.1 will be deleted.
- C. Item 10(a) of the Reference Data will be omitted.

17.2 New Guarantee

If at the date of exercise of the option contained in clause 17.1 the obligations of the Lessee under this Lease are the subject of guarantee or indemnity, the Lessee must:

- 17.2.1 procure from the persons who provided the guarantee or indemnity another guarantee or indemnity in respect of the Lease for the renewed term on the same terms apart from necessary changes; and
- 17.2.2 produce the properly executed, valid and enforceable guarantee or indemnity to the Lessor within thirty (30) days after the Lessor provides to the Lessee the documentation or the new guarantee or indemnity for the renewed term.

The time limit referred to in clause 17.2.2 is essential. If the Lessee fails to comply with the time limit, the Lessor may terminate the new lease for the renewed term by notice in writing to the Lessee.

17.3 Second Option to Renew

If the Lessee:



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- 17.3.1 not more than six(6) months and not less than three (3) months prior to the expiration of this Lease (as extended by the Further Term) gives written notice to the Lessor that it wishes to renew this Lease; and
- 17.3.2 has at the time of exercising the option to renew no unremedied breaches of this Lease,
- then the Lessor will grant to the Lessee a further lease of the Premises on the following conditions (the Second Further Term):
- 17.3.3 the term of the further lease will be the period referred to in Item 10(b) of the Reference Data;
- 17.3.4 the Rent for the first year of the Second Further Term will be determined by applying the review type for the relevant Review Date referred to at Item 6 of the Reference Data;
- 17.3.5 the terms and conditions will be the same as the terms and conditions of this Lease except for the changes specified in the Modification Schedule at the end of this clause; and
- 17.3.6 the Lessee will pay all costs of the Lessor including the legal costs of the Lessor calculated on an indemnity basis of and incidental to the grant of the new lease.

Modification Schedule

- A. This clause 17.3 will be deleted.
- B. Item 10(b) of the Reference Data will be omitted.

17.4 New Guarantee

If at the date of exercise of the option contained in clause 17.3 the obligations of the Lessee under this Lease are the subject of guarantee or indemnity, the Lessee must:

- 17.4.1 procure from the persons who provided the guarantee or indemnity another guarantee or indemnity in respect of the lease for the renewed term on the same terms apart from necessary changes; and
- 17.4.2 produce the properly executed, valid and enforceable guarantee or indemnity to the Lessor within thirty (30) days after the Lessor provides to the Lessee the documentation or the new guarantee or indemnity for the renewed term.

The time limit referred to in clause 17.4.2 is essential. If the Lessee fails to comply with the time limit, the Lessor may terminate the new lease for the renewed term by notice in writing to the Lessee.

18. POWER OF ATTORNEY

- 18.1 The Lessee irrevocably appoints the Lessor and (if the Lessor is a corporation) the Directors, the General Manager, and the Secretary for the time being of the Lessor jointly and each of them severally to be the attorneys of the Lessee at any time after the power contained in this Lease to re-enter has been exercised to:
- 18.1.1 execute and sign a transfer or a surrender of this Lease;
- 18.1.2 procure the transfer or surrender to be registered;
- 18.1.3 appoint, from time to time, a substitute or substitutes and revoke those appointments; and
- 18.1.4 do, execute, and perform any act, deed, matter, or thing in accordance with this clause as fully and effectually as the Lessee could do. The Lessee will ratify and confirm everything the attorneys or any substitute or substitutes lawfully do or cause to be done in accordance with this clause.

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- 18.2 A statutory declaration by an attorney that the power of re-entry contained in this Lease has been exercised will be sufficient proof of that fact.

19. TERMINATION OF LEASE

19.1 Yield Up

The Lessee will at the expiration or sooner determination of the term of this Lease yield up the Premises in the order and condition described in clause 6.

19.2 Remove Fittings

If the Lessee does not do so as of right under the provisions of clause 7.5 the Lessee will, if so required by the Lessor, remove from the Premises within fourteen (14) days from the expiration or sooner determination of the term of this Lease all fixtures, fittings, floor coverings, signs, and notices, or contents of every description erected or installed by the Lessee and requested to be removed by the Lessor unless the Lessor and the Lessee mutually agree that they can remain after the expiry of the Lease. The Lessee will make good any damage caused to the Premises by the removal and if required by the Lessor will re-alter any alterations made by the Lessee so that the Premises are converted back to their original layout. The Lessor may at its option cause the fixtures, fittings, floor coverings, signs, and notices, or contents to be removed and to be stored in a public warehouse or elsewhere at the risk of the Lessee and any damage to be made good and any alterations to be re-altered. The Lessor may recover the costs of removal, storage, making good, and/or re-alterations from the Lessee as a liquidated debt payable on demand.

19.3 Abandoned Fittings

Any fittings or fixtures not removed by the Lessee under clause 7.5 and clause 19.2 will be deemed abandoned by the Lessee and will be and become the property of the Lessor. Nothing contained in this clause relieves the Lessee from, and except where the Lessor agrees in writing to the contrary the Lessee will be liable to the Lessor for, the cost and expense of and associated with any removal by the Lessor of fittings and fixtures not removed by the Lessee from the Premises and the cost and expense of and associated with the making good of any damage to the Premises caused by that removal by the Lessor.

19.4 Stock-in-Trade

19.4.1 The Lessee will remove from the Premises all stock-in-trade and other movable chattels prior to the expiration of the term of this Lease except that if this Lease is determined prior to the due date of expiry by effluxion of time the Lessor will if requested so to do by the Lessee allow the Lessee, its servants, and contractors access to the Premises during any one (1) of three (3) days (excluding Saturdays, Sundays, and public holidays) next following the date of determination between the hours of 9.00 am and 5.00 pm for the purpose of removing stock-in-trade and movable chattels from the Premises. If the Lessee fails to remove stock-in-trade or chattels as mentioned in this clause, the Lessor may at its option:

- (a) cause the stock-in-trade or chattels to be removed and stored in a public warehouse or elsewhere at the risk and at the cost of the Lessee; or
- (b) treat the stock-in-trade or chattels as if the Lessee had abandoned its interest in them and deal with them in any manner the Lessor thinks fit.

19.4.2 The Lessee indemnifies the Lessor in respect of any damage done to the Premises in or about the removal of stock-in-trade or chattels by the Lessee, its servants, or contractors and also in respect of any costs incurred by the Lessor in the removal and storage of them. The Lessee also indemnifies in respect of all claims, demands, actions, costs, judgments, and expenses which the Lessor may suffer or incur at the suit of any person (other than the Lessee) claiming an interest in the stock-in-trade or chattels by reason of the Lessor acting in accordance with this clause.

19.5 Removal of Signs

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At the expiration or earlier determination of this Lease, the Lessee will remove or clean off any advertising or other sign, advertisement, or hoarding painted, erected, or placed on or in the Premises and restore the Premises to the condition they were in immediately before the advertisement, sign, or hoarding was painted, erected, or set up.

**20. SECURITY**

- 20.1 On or before the Commencement Date, the Lessee must provide or cause to be provided to the Lessor as security for the due and punctual observance and performance of the Lessee's obligations under this Lease, a Bank Guarantee in the amount specified in Item 11 of the Reference Data. The Lessor may at its sole discretion accept a cash security deposit in lieu of a Bank Guarantee ("the Security Deposit").
- 20.2 If the Lessee fails to duly and punctually observe and perform any of its obligations under this Lease, then the Lessor may in its discretion, and at any time without notice to the Lessee, call on, appropriate and apply so much of the Bank Guarantee (or Security Deposit as the case may be) as the Lessor considers necessary to compensate it for loss or damage sustained or suffered as a result of the breach by the Lessee. . Any appropriation by the Lessor will not waive the Lessee's breach and will not prejudice any other right of the Lessor arising from such breach.
- 20.3 The Lessee must make an additional payment or deliver to the Lessor a replacement or additional Bank Guarantee (or an additional Security Deposit) so as to maintain the Bank Guarantee (or Security Deposit as the case may be) at the amount specified in Item 11 of the Reference Data, within 14 days after the Lessor's written request if:
- 20.3.1 the Lessor calls on the Bank Guarantee (or Security Deposit as the case may be); or
- 20.3.2 due to a Rent increase, the amount specified in Item 11 of the Reference Data is greater than the amount of the Bank Guarantee (or Security Deposit) then held by the Lessor; or
- 20.3.3 the Land has been sold and the Bank Guarantee requires replacement to reflect the name of the new Lessor.
- 20.4 When this Lease ends, the Lessor may use the Bank Guarantee (or Security Deposit) to cover outstanding amounts under this Lease and must, provided the Lessee is not indebted or otherwise liable to the Lessor for non-observance or non-performance of the Lessee's obligations under this Lease, then return the Bank Guarantee or pay to the Lessee any unused part of the Security Deposit or funds obtained under the Bank Guarantee within three (3) months after the Lease ends.
- 20.5 If the Bank Guarantee has an expiry date, the Lessor may give notice requiring the Lessee to provide a replacement Bank Guarantee within 60 days before the Bank Guarantee is due to expire. The Lessee must provide this replacement Bank Guarantee within fourteen (14) days of receiving the Lessor's notice, failing which the Lessor may call on the Bank Guarantee and hold the funds as the Security Deposit.

If the Lessor assigns or transfers the Land, the Lessor may transfer to the new owner of the Land, the Security Deposit (or the balance of any Security Deposit) and any Bank Guarantee then held by the Lessor, and after doing so, will be discharged from all liability to the Lessee or any other person with respect to the Security Deposit or Bank Guarantee as the case may be. At the Lessor's request, the Lessee must enter into any documentation required to assign the Bank Guarantee to the new owner of the Land. If the Bank Guarantee is not assignable, the Lessee is required to provide a replacement Bank Guarantee in favour of the new owner of the Land within fourteen (14) days of being requested to do so by the Lessor in exchange for the return of the Bank Guarantee to the Lessee. If the Lessee does not provide the replacement Bank Guarantee within fourteen (14) days of being requested to do so by the Lessor, the Lessor may call on the Bank Guarantee and hold the funds as the Security Deposit and may transfer that Security Deposit to the new owner of the Land in accordance with this clause.

**21. RULES**

The Lessor may make Rules which are not inconsistent with this Lease as it considers appropriate for:

- 21.1 the management, safety, security, protection, care or cleanliness of the Land;

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- 21.2 the preservation of good order in the Land;
  - 21.3 what the Lessor considers to be conducive to the general convenience, comfort and health of the occupiers or invitees in respect of the Land; and
  - 21.4 compliance with requirements of any Authority or any law relating to the Land,
- and may amend, add to, cancel or suspend the Rules. The Rules bind the Lessee from the time that written notice of the Rules is given to the Lessee.

22. **RETAIL SHOP LEASES ACT**

The parties agree that this Lease is not a retail shop lease under the *Retail Shop Leases Act 1994*.

23. **PPSA**

- 23.1 This clause applies to the extent that this Lease constitutes a PPSL or the Personal Guarantee in clause 25 constitutes a Security Interest.
- 23.2 The Lessor may register its Security Interest on the PPSR.
- 23.3 The Lessee and the Guarantor must do anything which the Lessor requires for the purposes of:
  - 23.3.1 ensuring the Lessor's or any related or associated party's Security Interest is enforceable, perfected and otherwise effective under the PPSA;
  - 23.3.2 enabling the Lessor or any related or associated party to gain priority for its Security Interest; and
  - 23.3.3 enabling the Lessor or any related or associated party to exercise its rights in connection with its Security Interest.
- 23.4 The Lessor may recover from the Lessee or Guarantor the cost of doing anything under this clause including but not limited to the payment of registration fees.
- 23.5 The Lessor's rights under this Lease and Guarantee are in addition to and not in substitution for its rights under any other law and the Lessor may choose whether to exercise rights under this Lease, the Guarantee or under any other law as it sees fit.
- 23.6 To the maximum extent permitting by law the Lessee and the Guarantor agree that the following sections of the PPSA have been contracted out of:
  - 23.6.1 Section 95;
  - 23.6.2 Section 96;
  - 23.6.3 Section 121(4);
  - 23.6.4 Section 125;
  - 23.6.5 Section 129(2) & (3);
  - 23.6.6 Section 130;
  - 23.6.7 Section 132;
  - 23.6.8 Section 134(2);
  - 23.6.9 Section 135;
  - 23.6.10 Section 142; and

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23.6.11 Section 143.

- 23.7 The Lessee and the Guarantor waive their rights to receive a verification statement in relation to registration on the PPSR.
- 23.8 Each of the Lessee, Guarantor and the Lessor agree not to disclose information of the kind that can be requested under section 275(1) of the PPSA. The Lessee and the Guarantor must do everything necessary on their part to ensure that section 275(6)(a) of the PPSA continues to apply. The agreement in this subclause is made solely for the purposes of allowing the Lessor the benefit of section 275(6)(a) and the Lessor shall not be liable to pay damages or any other compensation or be subject to injunction if it breaches this subclause.

24. SPECIAL CONDITIONS

24.1 Rent Free

Notwithstanding clause 3.1 and 4.1 the Lessor waives the payment of monthly instalments of Rent, GST and contributions to Outgoings for the months of July and August 2020, only.

24.2 Alterations

Notwithstanding clauses 7 and 19 the Lessor consents to the Lessee effecting internal changes to the Premises as indicated on the sketch plan attached and marked "A" provided such works are otherwise undertaken in accordance with the terms of this Lease and the Lessor further acknowledges that those changes marked in brown on Sketch A will not be required to be the subject of make good under clause 19.2 at the end of the Lease. To avoid doubt any new wall added by the Lessee as part of the changes approved under this clause must be consistent with existing walls in the Premises or otherwise approved by the Lessor (acting reasonably).

24.3 Covid-19

The parties acknowledge:

- 24.3.1 That the terms of this Lease have been negotiated during the declared Coronavirus Covid-19 Pandemic pursuant to the Biosecurity Act (Commonwealth) 2015 (the Pandemic);
- 24.3.2 The terms of this Lease have regard for the Commonwealth National Cabinet Mandatory Code of Conduct relating to SME Commercial Leasing Principles during Covid-19;
- 24.3.3 The terms of this Lease have regard to the Retail Shop Leases and other Commercial Leases (Covid-19 Emergency Response) Regulation 2020 (the Regulation);
- 24.3.4 The proposed rental terms reflected in this Lease take into account the ability of the Tenant to meet its obligations during the Pandemic

The Lessor and Lessee acknowledge and agree that the Rent contained herein together with any other benefit reflected in this Lease (including in these special conditions) constitute a negotiated agreement for the purpose of Section 15 of the Regulations and the Lessee acknowledges that it is not entitled to any further relief or concession as a consequence of the Pandemic.

25. GUARANTEE AND INDEMNITY

- 25.1 **IN CONSIDERATION** of the Lessor at the request of the Guarantor entering into this Lease with the Lessee the Guarantor covenants and agrees with the Lessor the following:

- 25.1.1 The Guarantor will be liable jointly and severally with the Lessee for the due and punctual payment of all Rent and other moneys to be paid by the Lessee under this Lease and for the due performance and observance by the Lessee of all the covenants, terms, and conditions of this Lease on the part of the Lessee to be performed and observed.

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- 25.1.2 The Guarantor indemnifies the Lessor from and against all losses, damages, costs, and expenses which the Lessor may suffer or incur in consequence of any breach or non-observance of any of the covenants, terms, and conditions of this Lease on the part of the Lessee to be performed or observed. The Guarantor agrees that the Guarantor will remain liable to the Lessor under this indemnity despite the fact that, as a consequence of any breach or non-observance, the Lessor has exercised any of its rights under this Lease including its rights of re-entry and even though the Lessee (being a corporation) may be wound up or dissolved or (being a natural person) may be declared bankrupt and even though the guarantee given by the Guarantor may for any reason be unenforceable either in whole or in part.
- 25.1.3 On any default or failure by the Lessee to observe and perform any of the covenants terms and conditions of this Lease, the Guarantor will immediately on demand by the Lessor pay all Rent and other moneys and make good to the Lessor all losses, damages, costs, and expenses sustained or incurred by the Lessor by reason or in consequence of any default in performing or observing any of the covenants, terms, and conditions of this Lease. The Guarantor will also pay to the Lessor interest at the Stipulated Rate from the time of any Rent or other moneys respectively falling due to the date of payment added without the necessity of any prior demand having been made on the Lessee.
- 25.1.4 The liability of the Guarantor under this guarantee and indemnity will not be affected by the granting of time or any other indulgence to the Lessee; or by any assignment or purported assignment of the interest of the Lessee under this Lease; or by the compounding, compromise, release, abandonment, waiver, variation, or renewal of any of the rights of the Lessor against the Lessee; or by any variation of this Lease; or by the filling-up of this Lease by the Lessor or its solicitors under the terms of any agreement for lease; or by any neglect or omission to enforce those rights; or by any other thing which under the law relating to sureties would or might but for this provision release the Guarantor in whole or in part from its obligations under this guarantee and indemnity.
- 25.1.5 Even though as between the Guarantor and the Lessee the Guarantor may be a surety only, as between the Guarantor and the Lessor the Guarantor is deemed to be a primary debtor and contractor jointly and severally with the Lessee.
- 25.1.6 To the fullest extent permitted by law the Guarantor waives its rights as surety or indemnifier (legal equitable statutory or otherwise) as may at any time be inconsistent with any of the provisions of this guarantee and indemnity.
- 25.1.7 The covenants and agreements made by the Guarantor are not conditional or contingent in any way or dependent upon the validity or enforceability of the covenants and agreements of any other person and remain binding even though that any other person does not execute this Lease or this guarantee and indemnity.
- 25.1.8 The obligations of the Guarantor under this guarantee and indemnity continue until all Rent and other moneys payable under this Lease have been paid and until all other obligations and indemnities have been performed observed and satisfied. Those obligations will not be reduced or affected by any notice to quit given by either Party to this Lease or the death, insolvency, liquidation, or dissolution of the Lessee or the Guarantor or either of them.
- 25.1.9 The Guarantor does not execute this guarantee and indemnity as a result of or by reason of any promise, representation, statement, information, or inducement of any nature or kind given or offered to the Guarantor by the Lessor or on the Lessor's behalf whether in answer to any enquiry by or on behalf of the Guarantor or not. Except as provided in this guarantee and indemnity, the Lessee was not prior to the execution of this guarantee and indemnity by the Guarantor and is not subsequently under any duty to disclose to the Guarantor or to do or execute any act matter or thing relating to the affairs of the Lessee or its transactions with the Lessor.
- 25.1.10 In the event of the Lessee during the term of this Lease entering into liquidation (or being a person, entering into bankruptcy) and the liquidator or trustee in bankruptcy disclaiming this Lease, or if the Lessee should be dissolved, the Guarantor will accept from the Lessor a lease of the Premises for a term equal in duration to the residue remaining unexpired of the term of this

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**Lease.** The new lease will contain the same lessee's and lessor's covenants respectively and the same provisos and conditions in all respects (including the proviso for re-entry) as are in this Lease contained together with such other covenants, provisos, and conditions as the Lessor may reasonably require. On the execution by the Lessor of the further lease, the Guarantor will pay all costs of the further lease (including all costs of and incidental to the preparation, execution, and stamping of the lease and all stamp duty and registration fees) and will immediately execute and deliver to the Lessor the lease in triplicate.

- 25.1.11 In the event of a further lease of the Premises being granted by the Lessor to the Lessee (including to any successors of the Lessee or to its permitted assigns) consequent upon the exercise of any option to renew contained in this Lease or in the event of the Lessor granting to the Lessee any extension of the term of this Lease, then this guarantee and indemnity will be deemed to extend to the further lease or the extension of the term as the case may be. This guarantee and indemnity will be read and construed as if the further lease were this Lease and the lessee holding under it were the Lessee referred to in this Lease.
- 25.1.12 All notices or demands to be given or made to or upon the Guarantor will be deemed to be duly given and served on the Guarantor if signed by the Lessor or the solicitors for the Lessor or if the Lessor is a corporation then by any officer of the corporate Lessor or the solicitors for the corporate Lessor and delivered to the Guarantor (or if there is more than one Guarantor then to any one or more of them) personally, or if the Guarantor is a corporation then to any person at its registered office or principal place of business in this State or if left at the last known place of business or abode of the Guarantor or if left at or sent to the Guarantor through the post in a prepaid envelope addressed to the Guarantor at the address (if any) of the Guarantor set out in Item 12 of the Reference Data. A notice or demand which is posted will be deemed to have been served on the Guarantor on the day following the date of posting.
- 25.1.13 In the event of the invalidity of any part or provision of this guarantee and indemnity that invalidity will not affect the validity or the enforceability of any other part or provision of this guarantee.
- 25.1.14 Where there is more than one person or corporation which together constitute the Guarantor to this Lease, the obligations and liabilities of each of those persons or corporation are joint and several.
- 25.1.15 This guarantee takes effect immediately upon its execution and continues to be of full effect whether or not the Lease is subsequently registered in the Department of Natural Resources Mines and Energy. References to this Lease include any equitable lease agreement for lease or periodic tenancy arising upon execution or acceptance by the Lessee of the instrument to which this guarantee is annexed.
- 25.1.16 In the event of the Lessor transferring the Land or otherwise assigning the Lessor's rights and obligations as Lessor under this Lease, the Lessor's rights under this guarantee (whether or not there is any express assignment of the rights) will be deemed to be assigned to the owner from time to time of the Land or other assignee of the Lessor's rights and obligations.

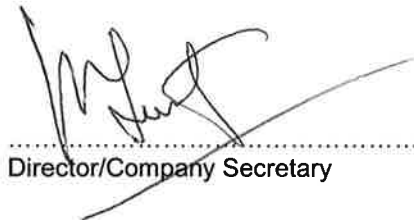
SIGNED, SEALED AND DELIVERED this 17<sup>th</sup> day of July 2020.

EXECUTED on behalf of THE FIVE GROUP PTY LTD  
ABN 61 161 098 951 in accordance with its  
Constitution, by:



Director/Company Secretary

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Director/Company Secretary